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Four alumni and one current partner explore the challenges and opportunities of energy transition

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Scott Cochrane on how AI will transform legal services

ALUMNI

matters

2023

WELCOME FROM THE CEO



I'm sure this year's *Alumni Matters'* theme – Staying Ahead of the Curve – is on all of our minds at the moment.

Every day a new challenge emerges, accelerated by technological innovation and business or political disruption.

The firm has always moved quickly to ensure our clients can manage risk and make the most of technology to meet these challenges.

Digital transformation is one of the pillars of our Ambition 2025 strategy, and this

renewed focus is already benefitting the firm's performance.

But investment in our people remains at the heart of our strategy.

The best technologies still require the best people to maximise the potential, to tailor them for clients and industries.

We ask a lot of our people, and recognise the firm's duty to look after them in return.

This commitment is now embedded in Life@HSF, launched this year to formalise that balance of high performance with care.

You can read more about it on page 15.

And you, our alumni, remain an important part of the firm too.

Every one of you has contributed in your own way to the success of the firm today.

We follow your progress with pride and are delighted to profile your successes in *Alumni Matters* each year.

I hope you enjoy this edition.

Justin D'Agostino
CEO

Credits

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INTRODUCTION

It falls to me to welcome you all to the 2023 edition of *Alumni Matters*, and to thank those across the HSF network, particularly my colleagues Kym Somers and Olivia Troop, who have brought us such an absorbing collection of new alumni stories.

This year's introduction must start on a sad note, and pay tribute to my predecessor, John Farr, who died this year after a short battle with cancer. He has been taken from us far too early. John was a hugely respected litigation and employment partner in London, and subsequently the inspiration behind the development of our thriving alumni network. He was also a great person to be around, and those who knew him will remember him with affection. His obituary appears on page 54. John's memorial service in Kew in October was a fitting tribute and drew a huge turnout of former colleagues from the firm.

In *Alumni Matters*, we aim to reflect the firm's global reach, which includes all the different places our alumni are based. In this issue, we speak to alumni based far and wide, from Australia to Colombia (A View from Bogota, page 14), via Hong Kong, Japan, Europe and the UK. They bring their international perspective and insight into how to solve some pressing issues.

The energy transition away from reliance on fossil fuels is one of the biggest global challenges currently facing us. We have spoken to a number of our alumni who either in-house (Amos Carrington, Ben Hargraves and Jerome Hamilton) or in other capacities (Mark Rigotti, the firm's former global CEO and now CEO of the Australian Institute of Company Directors) are investing their expertise into this huge endeavour. Hear their views in the roundtable (page 20). Their conclusion? Much change is happening, although perhaps not as fast as we would like.

It is often said that data is the new oil, the management and protection of which is increasingly important to how business operates. Control of data is also vital in helping First Nations peoples in Australia, Canada and elsewhere tell their own stories and eradicate centuries-old discrimination, as Barbie-Lee Kirby explains (page 42).

It is not only climate change and data management impacting business; companies face challenges from multiple



directions – greater regulation, focus on corporate governance, activist shareholders, not to mention the volatility of the global economy. That has led to a spotlight on the general counsel role. We spoke to two GCs (Henrietta Rowe and Minchu Wang) working in different sectors (healthcare and private equity) to see how they are responding – and thriving (page 46).

Similarly, the role of non-executive directors has become more critical in recent years. Lawyers and former lawyers can play a very valuable role as board members, as much for their expertise in risk management as their legal background, as Carol Shutkover and Selina Lightfoot explain (page 49).

What about the regulators? It is all too easy to assume that regulators have little regard to the impact of new regulations and are merciless enforcers. The truth is far more nuanced, as we hear from Tim Parkes, former longstanding partner and now chair of the UK Financial Conduct Authority's Regulatory Decisions Committee (page 10).

As well as their contribution to boards, lawyers and our former business services staff are bringing their experience and knowledge to bear in new businesses. In this issue we hear from Michelle Ridsdale and Alex Cook, who have each started a healthcare-related business (see page 30).

Alumni Matters strives to bring our readers up to date with important firm developments. This issue, we report on the excellent progress of the firm's Alternative Legal Services (ALT) offering. Reflecting clients' desire for their law firms to deliver efficient, technologically focused services, ALT is busy meeting that demand. Nicola Heaney describes how her involvement in ALT in the Belfast office has helped set up her subsequent career (page 16).

ALT aside, former partner Scott Cochrane says that from a client's vantage point, law firms could and should be doing more to harness the technology potential in their services (page 26).

It is always gratifying when our people return to the firm after working elsewhere, and we are interested to know what draws them back, finding out what they have done while away from the firm, what they have learned and how their experience enriches the firm (Jon Ford and Heather Kelly, page 38).

We hope you enjoy reading our alumni stories.

The alumni team are always pleased to hear from you, so do contact us and let us know what you're up to, bring us news of other alumni, give us ideas for our publications and events and suggest ways in which we can enhance the value we bring to our alumni network. On that note, a big thank you to those who took the time to complete our 2023 [alumni survey](#) and if you haven't yet managed to do so it's not too late.

I'm happy to say that our various reunion events are now all back up and running and we hope to see many of you at the events scheduled for the coming year. Make sure we have your up-to-date contact details. Part of John's legacy is that the alumni network should not only be useful but also fun, so do come along to enjoy the company of old friends and perhaps make some new ones. Photos from this year's events can be found on page 5.

One final request from me. By necessity, given data privacy laws, the alumni network is an "opt in" association which requires people to register. If you encounter fellow HSF alumni who have yet to register, do please encourage them to do so, so that we can keep in touch and include them in our activities. It can be done in a few clicks on the firm's [Alumni website](#).

Wishing you and your families health, happiness and success over the year ahead.

Adrian Clough
Senior Alumni Ambassador

GETTING TOGETHER

A collection of photographs from alumni events held across the globe over the past year.

10-Year Trainee Anniversary, London



Alumni Reunion, Cayman Islands



20-Year Trainee Anniversary, London



Hong Kong Alumni Reunion, London



Former Partners Reception, London



Alumni Reunion, Perth





A CONVERSATION WITH TIM PARKES



After 38 years with Herbert Smith Freehills, including 28 years as a partner, Tim Parkes became chair of the UK Financial Conduct Authority's Regulatory Decisions Committee (RDC) in January 2016. In conversation with Humphrey Keenlyside, who also practised in commercial litigation (for far fewer years), like Tim, lived in Hong Kong, and also shares a passion for tennis, Tim reflects on his time with the firm and the challenges he now faces in his current role.

HK: You studied languages at university, so how come you became a lawyer?

TP: I had thought I was going to join the Foreign & Commonwealth Office and applied at the end of my second year but didn't get in. Then some friends, who had previously been at Oxford with me, one training to be a solicitor and the other a barrister, encouraged me to apply to City law firms. I think the real reason was they wanted someone else to share a flat in London with them!

I duly applied to various firms and chose Herbert Smith (as was) after an interesting interview. I was due to be seen by the recruitment partner, John Goble, but when I arrived to my surprise I was told he was abroad! The kindly receptionist told me to wait whilst she found someone, and then said I could see a Mr. Higginson. We had a very easy-going chat, and only later did I find out that he was the senior partner. He was really nice and I thought, if everyone is like him, it must be a good place to work.

HK: As an articled clerk, you will have gone round the various seats, so why did you choose litigation?

TP: Litigation was my first seat. I worked under David Natali and with John Farr. I liked the people in the team very much and enjoyed the work and responsibility you got quite early on, such as arguing issues before High Court masters. I was less well-suited to spending my time poring over commercial contracts and M&A documentation, as you might do in corporate.

HK: I also did litigation as a qualified solicitor, but didn't like the emphasis on procedure. We never really took a strategic view on the litigation.

TP: Fortunately, David Natali, as well as having an encyclopaedic knowledge of High Court procedure, was a great strategic thinker. I watched him advise clients about what they wanted to achieve and the best way to get there. He was a brilliant mentor. But one of the things that I really learned from him in my early days came from working in the team led by him on two big trials. It was only by experiencing a long and complex trial – with all its ups and downs – that I really came to understand and make sense of all the procedural steps which preceded it.

Tim Parkes
Alumnus of London and
Hong Kong offices
1977 - 2015



HK: Of course, the other real advantage for you at Herbert Smith was it having such an amazing litigation reputation. You must have got the best cases and worked with interesting clients.

TP: We certainly got more than our fair share of the most difficult cases – and we were always conscious that we were inheriting a terrific reputation which we could be a part of, both continuing it and hopefully making it even better. By the time I left, there were many good firms doing high-end commercial litigation in London, but when I started many of the big City firms wouldn't really touch litigation or, if they did, litigation would be handled by clerks and junior solicitors, not by partners.

The other aspect of litigation that I really enjoyed was access to the senior people at clients, from the CEO down. As a young lawyer you could find yourself talking with people who were very eminent in their own fields but were unfamiliar with the litigation process and the world in which it operates. You had to communicate clearly but also in a way that was enlightening without sounding patronising. It was an educational process, helping clients reach decisions on a properly informed basis.

HK: How did the opportunity to work in the Hong Kong office present itself?

TP: I had become a partner in 1987 and always wanted to work abroad. I asked if I might go to either our New York or Paris offices but instead was offered a chance to go to Hong Kong. So, in June 1989 Wendy and I went out for a recce.

HK: That was an interesting time. I was also there then, having moved to Hong Kong from Beijing after Tiananmen.

TP: It certainly was. We were much taken with the place on first impressions, moving there in March 1990 with one child and another on the way. It was like going on a huge adventure. I took over from one of the litigation partners, the wonderful Robert Neill, who was returning to the UK.

HK: Hong Kong was also a logical choice for an "overseas posting" because the legal system was very close to the England and Wales one. Did you have to qualify as a Hong Kong solicitor?

TP: Well, in those days you got automatic admission on the basis of your English qualification. So, I was duly admitted as a Hong Kong solicitor but it required little more than a short attendance (suitably gowned-up) before a High Court judge in Hong Kong.

HK: Who did you act for?

TP: This was the early 1990s and pre-globalisation, if I can put it that way. We did act for some international clients in Hong Kong, but our litigation clients were mainly local corporates and businesspeople involved in local disputes. It was challenging because not all disputed contracts were in writing or, if they were, clear in their intention. I was in Hong Kong first time round for five years, returning in 1995, but went back in late 2001 as Asia managing partner, for another four years or so.

HK: When people return from offices outside London, sometimes they find that they have to start again building their practice from scratch. Although law firms say they are one firm, and that therefore the returning lawyer or partner will be accommodated, that is not always the case. Did that happen to you?

TP: I was lucky the first time I returned from Hong Kong, because I returned to the same group that I had left. David Natali immediately handed over a bunch of cases which got me going straightaway, and then I had a great piece of good fortune. The firm was instructed by the Singapore office of the accountants Cooper & Lybrand (pre-PwC days) to advise on the ramifications of the Barings Bank collapse in 1995 – they had audited Barings' Singapore branch where Nick Leeson worked – and I led the team in a big and complex auditors' negligence case. So, coming back to London then was not difficult from a professional point of view.

HK: Was that also the case when you returned after your second spell in Hong Kong in 2005?

TP: No, it wasn't. Things had moved on in London and it took me about two years to rebuild my practice. It was not a comfortable feeling during that time, knowing that you were not contributing at the level you felt you should be. Later, especially when I was on the Partnership Council, I used to bang the drum about the need for us to be better at reintegrating those coming back to London, being more proactive about it, and I think the firm now does this much better than before.

HK: That said, coming back in 2005 could be seen to be good timing, since you were on site for the global financial crisis, which presumably created a huge demand for dispute resolution lawyers.

TP: I remember vividly after I got back talking to people, reading reports and generally picking up the sense that there was going to be a big problem in the financial markets. I read a Banque de France report which said the problem lay with the exponential growth of assets under management in hedge funds and all the risks inherent in that. And that's where many people expected a crash of some sort. But it turned out to be a problem with the banks and the severe contraction of liquidity in the global financial markets that originated in the US, driven by sub-prime lending and the US housing market. That's really what gave rise to the crisis and introduced commercial litigators like me to the weird and wonderful world of credit derivatives! So, yes, lots of work stemmed from that, which for me included work deriving from the problems facing some of the UK's biggest banks.

HK: At some point, you also became head of London Disputes, including Litigation.

TP: Yes, but so far as I was concerned, it only needed light touch management, because the practice was so full of first-rate partners with excellent client relationships and great young associates in their teams. The main challenge was to maintain and grow our reputation in a world where there was much more competition for work than there had been historically. And a big issue in doing that was to help get people out of their silos and to create a more integrated firm, between different parts of the firm and even within Disputes itself.

HK: I've spoken to people who were quite happy with their client practice their entire careers and didn't want anything to do with management. But how did that present itself for you?

TP: After I was back in the London office for the first time in 1997, I was asked by Edward Walker-Arnott, then the senior partner, to take on a role as executive partner. That meant having responsibility for all the firm's back-office functions, such as HR, finance, marketing and so on. I did that for about five years and was very impressed with the operations and the quality of the people who supported the lawyers. I also sat on the Partnership Council for a number of years. So the short answer is, unlike many people, I did rather take to management. But I also enjoyed the client work and felt I was able to do both.

HK: How did you come to your current role as chair of the Regulatory Decisions Committee (RDC) in January 2016?

TP: Almost unintentionally! I had been with the firm for 38 very happy years. But I was turning 60 and I had got to the stage where I thought, if I am going to do anything else, I had better do it now. Then, by chance, I got a call from a headhunter with information about the job at the FCA. This involved financial regulation about which I really knew very little; after all I was essentially a commercial litigator with some banking experience, and thought I was bound to be rather low on the list of desirable candidates. However, I was interested in the process, so said I would throw my hat into the ring. I enjoyed the interviews and then, to my great surprise, I was offered the job! It was a real wrench, though, to leave the firm and the people I had worked closely with for so long – including the brilliant young partners like Chris Bushell who you could see were going to be the stars of the future.

HK: I am sure the role at the RDC was not beyond you, was it? It's not like financial regulation would be beyond your capacity to understand.

TP: Well, I had to learn fast, but you are right, I was able to get to grips with a new area of law – and I had (and have) fantastic support at the FCA, which is now coincidentally chaired by Ashley Alder who had been a partner out in Hong Kong, when I was there. I have been at the FCA for nearly eight years and enjoyed it a lot. The RDC is a group of about 15 senior and experienced people from the financial services industry and related professions. We work in panels of three and, while we are a committee of the FCA Board, we are operationally independent of the FCA. In contested cases, we decide on the FCA's behalf whether enforcement action will be brought against a financial services firm or its employees and, if so, what the appropriate penalties should be.



HK: What is the process?

TP: The FCA's Enforcement division brings the case to us and we are responsible for deciding whether it should go forward or not. If it does, the case with its related papers goes to the individual or the firm in order to get their side of their story. At this stage 'representations' can be made to us in writing and at an oral representations 'meeting' – they are not called hearings as they would be in court (since we're not judicial decisionmakers) – after which we decide whether the proposed action is justified and, if we do, what the appropriate penalty should be. That can range from fines to imposing prohibitions on people, effectively banning them from working in the financial services industry.

What we are looking at, essentially, is people's conduct, and that usually requires us to consider why people were doing what they were doing – was it deliberate, negligent or reckless? That can be challenging. You have to reach decisions based on the evidence before you but the evidence may only take you so far in some of the situations we are dealing with. So we often have to draw reasonable inferences from the facts we do know and decide contested matters on the balance of probabilities. That certainly requires much thought and care.

HK: The regulations often lag market practice, so making decisions in that void adds an extra dimension to the decisions you are taking.

TP: That can be true and you can see it starkly in the new and innovative areas of finance, such as crypto. The regulators everywhere really have been struggling to work out how best to respond to the challenges which crypto has brought to the surface.

HK: Does that sort of challenge lead to extra pressure on you and the committee?

TP: From a personal point of view, the pressure I feel is more from wanting to get it right. We are taking decisions that affect individuals, perhaps irreversibly. It's a different sort of stress from working in private practice where you want to do the best job you possibly can for your client, but there you are not the ultimate decision maker.

HK: So, what next?

TP: I will be at the FCA till the autumn of next year which will mean very nearly nine years in the job. When I finish, I am ever-hopeful of having more time to travel, paint, read and get back on to the tennis court – at least that's what I tell Wendy!

YOUR GROWTH. OUR AMBITION.

Life@ HSF



Herbert Smith Freehills articulates values and culture with the firm's most extensive Employee Value Proposition project to date.

Herbert Smith Freehills' Life@ HSF initiative draws an explicit link between high performance and wellbeing.

There is no doubt that the world of law is changing – and the conventional thinking that a firm can only be a high performer by pushing its people to the limits is thankfully changing too. So too is the traditional career path which sees achieving partnership as the only definition of "success".

Taking on this challenge and continuing its longstanding leadership on people and culture, Herbert Smith Freehills has reviewed (and refreshed) its differentiators, including its relationship with its people. Following extensive research including a global survey of its people as well as focus groups, the outcome is Life@HSF, an approach that aims to match and mirror the firm's ambitions with those of its people. In other words, its people will benefit from the firm's significant ambitions, and the firm will in turn benefit from the ambitions of its people – a virtuous cycle.

"When our people's growth is aligned with the firm's ambition, we can unleash tremendous energy towards a shared vision, fostering our capacity to thrive. We know – both intuitively and from the research – that sustained high performance requires that we pay attention to our own wellbeing, and that of our teams." says Helen Anthony, Chief People Officer.

At a high level, this means:

- Providing the professional and personal support to help sustain performance and wellbeing
- Being part of serious work and leaving room for fun
- Working seamlessly internationally, responding creatively to local differences and enjoying variety, constant change and 'no two days the same'

Danielle Kelly, Global Director of Culture & Inclusion, notes that Life@HSF provides greater clarification of Herbert Smith Freehills' value proposition for its people, particularly when considered against its competitors. "What we offer our people, and what we can expect in return, is an iterative process requiring adaptability and agility – particularly when considered against the backdrop of

the changing legal sector."

The firm has also unveiled a new set of values - Human, Bold, Outstanding. The "Human" value incorporates the commitment to diversity, equity and inclusion. "Bold" highlights ambition and entrepreneurialism. And "Outstanding" reflects client impact and leadership.

In a further clarification of the relationship between the firm and its people, the firm speaks of the "deal" with its people as including the following:

- We provide and support opportunities for exposure to our international network and across our lines of business
- We support traditional and non-traditional career paths
- We are committed to diversity, equity and inclusion

In return, we ask our people to:

- Be constructively open and honest, valuing the different perspectives and contributions of your colleagues around the world
- Define ourselves and one another by what we are and can be, rather than what we are not
- Embrace all you are and all you can be, and encourage your colleagues to do the same

All in all, Life@HSF signifies, if not a change of direction, an explicit clarification of how Herbert Smith Freehills looks at the careers of its people both while they are at the firm as well as in careers beyond.

“

Exceptional performance and being human and kind are not mutually exclusive”

- Justin D'Agostino



A VIEW FROM BOGOTA

Maria Fernanda Florez was an associate with Herbert Smith (legacy) from 2005 to 2006, working as a foreign lawyer in London and having completed a master's at the London School of Economics. She is now thrilled to work for a company promoting foreign language learning.

What is it like living in Bogota?

I love it! It is at quite a high altitude so it can get quite cold, but it is a fabulous city. Mind you, the rest of Colombia is great, too!

Did you always want to be a lawyer?

No, there was no one in my family who was a lawyer. They were mostly engineers, economists, researchers. I was good at social sciences at school. Then in 1991 Colombia introduced a new constitution which incorporated individual human rights. The school had to teach kids about the constitution and so when I got told off at home, I would plead that my constitutional rights were being breached! I studied law and particularly enjoyed learning about law in different jurisdictions. I wanted to carry this through into my practice, which, happily, has happened.

How did you enjoy your course at the LSE?

I did my LLM there. I had wanted to go to Europe and London was my dream. I wanted exposure to diversity. The LSE was very international, which I liked. It was a great course, too. I learned a lot but I also wanted to have fun!

How did the opportunity to work for HSF come about?

That was a challenge because the Colombian law firms, including the one I was then working for, tended to have arrangements with law firms in New York, not in London. Before going to London, I wrote to a number of law firms and, happily, was invited to an interview with Herbert Smith Freehills. Three partners of the Corporate group, including Nigel Farr, met me. We had a discussion, but I had no idea whether I was making an impression, because I was so nervous, until Nigel invited me for coffee and said, 'See you next year'. I was over the moon, and being Latin, wanted to hug him to thank him!

I then joined as a foreign lawyer, and was only due to stay a year, but it got extended. It was an amazing experience. I was like a sponge, learning everything I could. The firm was also so welcoming. It was so diverse, that I never felt out of place.

Why did you leave?

I had to leave because of Brexit, which led to a number of transactions being put on hold. The firm tried to keep me, but by then I thought it would be good to go back to Colombia. My now husband was here. It was bittersweet for me, but I keep in regular touch with my former colleagues.

Who do you remember as having the most influence on you?

Nigel [Farr] definitely, because I joined his team and he wanted me to stay. I also was helped a lot by Ian Williams, who was the first lawyer who introduced himself and Shantanu Naravane, who has recently been made partner and with whom I shared an office.

Why did you move to Open English/Next U?

Two reasons: the passion of the executive team when I discussed with them the work and, second, the fact that it is an Edtech company where you combine two worlds: technology where you have to maintain, improve and update a platform to be able to compete and grow, and education where you can make a difference and change lives (a very important impact on people's personal and professional growth).

We have different lines of business – Open English, a platform for teaching English to



Maria Fernanda Florez
Alumna of London office
2015 - 2016

adults and to children; Next U, focusing on new trends such as programming, advertisements and so on; and Open Mundo, dedicated to expanding knowledge in other languages, such as Spanish, French and Portuguese.

What makes the business different?

We are well-known and have been operating in Latam for more than 10 years, as well as in parts of Canada and the US. We are expanding into India, Turkey and other places. We have native speaker teachers, a value proposition that other comparable companies don't offer. We are growing into new markets and that is what is amazing and challenging for me. I love the global nature of the role.

What is your role?

I manage the legal affairs worldwide. Each jurisdiction is different. For some you need approval, some you don't. We have to do analysis, maybe through an M&A, or licence, or we can enter from scratch. IP, taxation, compliance – all kinds of issues that fall to me. We use external law firms, where necessary, depending on the jurisdiction and then maybe local lawyers. I manage all the teams and the firms worldwide.

Do you do that all from Colombia?

After Covid, everything changed. Previously, I travelled a lot. However, I was already in a hybrid role – partly in the office, and partly at home. So, with Covid, I just switched to operating full-time from my home. I adapted easily, but I always make sure that I separate work from home. You need to set priorities and manage your time.

What are the challenges of operating from Colombia, if any?

A common comment from foreign entities that enter the Colombia market and Latam in general is that people are excellent professionals and hard workers, but the level of English is not great. People lose great opportunities because of that. Even getting people in Latam that speak English well enough for day-to-day legal-related activities remains a challenge.

What are your ambitions?

That is an interesting question because I think goals are not fixed in time. A few years ago, my dream was to be a partner at a law firm. Now, it also includes fulfilling my passions, one of which is mastering other countries' legal systems, how to expand services and products abroad and having

the possibility to interact with different countries. Another thing that I enjoy is mentoring and training people. Finally, now that I have a family of my own, my personal ambition is to help them achieve their ambitions and goals and be there to support them in the process.

What do you like to do outside work?

I like to walk and hike. It gives me the chance to think, clear my mind and be creative. I take advantage of the fact that my home is in the mountains and is surrounded by a forest making it easier to enjoy constantly. It is also a great opportunity to take a look at the city from the outside, giving me a new perspective on things.

“The firm (HSF) was also so welcoming. It was so diverse, that I never felt out of place.”

“

Nicola Heaney relates how her time with Herbert Smith Freehills in Belfast, and her participation in the earliest days of ALT, set her up for her subsequent career. “Joining HSF was the best decision I ever took,” she says. I don’t remember ever wanting to ‘be’ anything else growing up but a lawyer. Because I also like – and am good at – languages, I studied law and Spanish at Queen’s University Belfast.

After I graduated, I trained and worked in a local firm in Belfast practising mostly civil litigation. I dealt with all aspects of case management, drafting and issuing legal proceedings, and saw the cases through to court. However, after qualifying, I did not feel I was growing or learning as much as I needed and did not see much prospect of career development in that area of law.

When the opportunity arose to join a world-class disputes practice such as that of Herbert Smith Freehills, and to

benefit from the training and resources it could provide, it seemed like a no-brainer. I applied for a position even though I was only one-year qualified and had no experience of commercial law. Happily for me, I was taken on.

When I joined the firm in 2012, it was just one year after the firm’s trailblazing opening in Belfast. The firm’s Belfast office was still quite small at the time at around 50 people and ALT did not exist as a distinct brand or global team. In those early days, the team’s initial focus was disputes work for the firm’s global client base and efforts were directed at embedding new technologies and workflows in order to deliver large-scale document review as efficiently as possible.

Initially, I worked on large-scale commercial disputes - from commercial litigation and international arbitration to FCA investigations. When the Belfast office expanded into delivering corporate work, in early 2013, I was asked to go on secondment to the in-house legal team at Man Group in London, together with one other solicitor and four legal assistants, whom we supervised. I had no prior investment funds’ experience and it was my first time doing non-contentious work. I also found myself very much embedded in a client team for the first time - so it was very much learn-on-the-job. The project involved drafting, negotiating and updating a large volume of documents across approximately 300 funds domiciled in multiple legal jurisdictions.

This experience really built the foundation of my investment funds’ knowledge that I still use on a daily basis today. It also was my first time working on regulatory implementation and allowed me to work closely with operational, product strategy and sales teams, and become a business-aligned

HOW ALT WAS A STEPPING STONE

lawyer. We were supposed to be there for two or three months to do a one-off project, but we ended up working on the project, on and off, for almost two years.

The intention was that I would then move to London to be embedded in HSF’s investment funds team, but I was then offered the opportunity of a secondment to BlackRock’s London team for a period of three months. Having thoroughly enjoyed the secondment, Blackrock offered me a full-time role. By then, I had also met my partner, which meant a return to Belfast was out of the question.

While I had not intended to leave Herbert Smith Freehills, and will always be very grateful for the experience I gained at the firm, I also feel that one should grasp opportunities when they come along. I had settled in well at BlackRock and had made friends and was also very excited about a career in asset management. I would go on to spend eight years there during which time BlackRock’s funds legal team continued to instruct my previous colleagues at HSF - for example on AIFMD implementation and rollout of regulatory changes impacting distribution in Switzerland.

I left BlackRock earlier this year following an internal move which led to me having a regulatory change management role (rather than day-to-day advisory). However, I realised I missed the variety of transactional work and so, when an opportunity came up (another opportunity!) to join Macquarie - I jumped at the chance.

Currently, I am a senior manager at Macquarie Asset Management and, as a lawyer, I am specifically aligned to the public investments business spanning the multi-asset, equities and fixed income asset classes. I work closely with

the distribution (client solutions) and fund operations teams. In this role I am closer to the business I support (both literally and metaphorically). This was hugely important to me; the legal team I am part of is genuinely embedded within the public investments business and I am able to see the impact I make and the value I add.

I have also taken a great interest in ESG issues and have gained a certificate in ESG investing. This was mainly to give myself a foundational understanding or degree of fluency so that I could better serve my internal clients like the investors, the traders, and the strategists who are now required to incorporate ESG factors into their investment decision-making.

My interest in ESG dates from my time at BlackRock, when, in 2020, sustainability became the firm’s number one priority. The feeling was that sustainability should be the new standard for investing and portfolio managers should be accountable for appropriately managing exposure to ESG risks and documenting how those considerations have affected investment decisions.

At Macquarie, the effective management of ESG risks and opportunities is also central to our decision-making and investment processes, especially with the influx of new sustainability-related regulation in the UK and beyond.

Joining the HSF Belfast office was instrumental in my career. It was the first and most important stepping stone to everything that came afterwards; without my time at HSF Belfast, I would never have the opportunities that have shaped my life - both professionally and personally - over the last decade. HSF quite literally opened doors for me and my experience there, the excellent training and exposure to interesting work, provided me with an opportunity to step into the world of finance - about which I had always been intellectually curious.

More than that, my time at HSF taught me how to run a project and how to build a good team. I also learned how to interact with corporate clients, how to present effectively and how to influence in the workplace - valuable skills which I still use daily in my working life.

Looking back, I also appreciate the value of being part of an innovative market-leading alternative legal services team at HSF Belfast. Those early days of the HSF Belfast office were very exciting and solutions-focused and I saw first-hand what it meant to push boundaries - using cutting-edge technologies on our legal work and being part of innovative resource models that were being presented to our clients for the first time.

FOR ME

I have kept a keen eye on the development of the HSF Belfast office and it has been great to see their continued evolution and growth, alongside the firm’s global ALT team. And given the acceleration in demand from clients for ever-more innovative and competitive legal services offerings, I have no doubt the team will continue to push forward.

Above all, I am extremely grateful to Lisa McLaughlin and Libby Jackson for hiring me back in 2012. I could never have imagined the twists and turns my career has taken. It has been an amazing journey so far.

”



Nicola Heaney,
Alumna of Belfast office
2012 - 2015

“Digital literacy, and the ability to harness the benefits of technology for clients, has remained at the core of ALT’s offering.”

As clients continue to look to their law firms to push the boundaries of service delivery in pursuit of greater efficiency and quality, Herbert Smith Freehills’ (HSF) Alternative Legal Services (ALT) practice stands out. A fully integrated and integral practice in Herbert Smith Freehills’ international network, ALT combines cutting-edge technology with legal expertise to deliver innovative services for the high-volume, document-intensive elements of legal work.

As the first UK-based international law firm to create its own “captive” Alternative Legal Services Provider (ALSP), HSF has ensured that its clients have benefitted from a compelling combination of sophisticated technology and process-led legal expertise for over a decade now.

In the wake of the global financial crisis in 2008, clients’ demands grew for their legal advisors to demonstrate efficiencies and value for money. In parallel, the demands of regulatory change and compliance began to mushroom – as did the volume of data at play in legal matters. HSF responded early and decisively – with the launch of what would eventually become known as its ALT practice.

ALT was initially borne out of the firm’s desire to efficiently deliver services to its disputes clients – primarily in relation to the significant document review exercises often required by large-scale litigation or investigations.

Fast forward to today, and ALT is embedded as a practice in HSF with an international presence across 10 hubs – allowing a seamless, “follow the sun” service. Comprising lawyers, technologists and legal analysts, ALT offers a broad range of services to clients across Corporate, Real Estate, Finance, Employment and Disputes disciplines – working both directly with in-house teams and in collaboration with colleagues from across the firm.

Digital literacy, and the ability to harness the benefits of technology for clients, has remained at the core of ALT’s offering throughout its growth.

In line with global business shifts, and the firm’s Ambition 2025 strategy, ALT is also adapting to serve the growing demand from clients as they address their environmental, social and governance concerns, adapt to the energy transition and look to private capital increasingly to support these transformations.

AN ALTERNATIVE WAY TO FOLLOW THE SUN



ALT Services

Corporate Transactions, Projects and Commercial Contracting

Our ALT team, in partnership with specialist teams across the HSF network, has developed a range of products focusing on transactions, projects and commercial contracts to support our clients’ business and resourcing needs.

Disputes, Regulatory & Investigations

Our ALT team has developed a range of products focusing on a broad range of contentious matters and work streams, ranging from large-scale class actions to regulatory response solutions and discrete investigations.

Legal Technology and Data Management

Understanding the challenges our clients are experiencing with big data, particularly when there is a need to capture hard-to-find documents, we review large or complex data sets or produce documents to third parties, including counterparties, courts or regulators. These exercises are notoriously time-consuming and expensive for in-house legal and compliance teams.

Our ALT technology experts and specialist lawyers work closely together to introduce new ways of working, and have developed a range of products, including end-to-end eDiscovery support, contract lifecycle management and cyber incident response.

HSF’s Managed Data Services have been designed to address these challenges. Our managed data service can be tailored to clients’ particular business needs.



ENERGY TRANSITION ROUNDTABLE

IN SEARCH OF ALTERNATIVE ENERGY SOURCES

“**Humankind is extremely adaptable, and when there’s a real crisis we’re pretty good at finding solutions.**”

- Amos Carrington



Amos Carrington
Alumnus of London and Tokyo offices
2004 - 2015

As the world faces possibly its biggest challenge ever with global warming, there is huge pressure to phase out fossil fuels and switch to renewable sources of energy. How are businesses adapting, what challenges do they face and what should we as individuals do for our part to help accelerate that change? We brought together four alumni, Amos Carrington, Ben Hargraves, Mark Rigotti and Jerome Hamilton, and a current Herbert Smith Freehills partner, Irina Akentjeva, to offer their views.

What is your interest in energy transition?

Amos: I’m general counsel and company secretary for Low Carbon, a company I joined five years ago. Low Carbon is a renewable energy, independent power producer (IPP) and investment company. For the company’s first 10 years, we developed greenfield sites and then sold on at the ready-to-build stage. More recently, we have partnered with a US insurance company, Massachusetts Mutual Life Insurance Company, that has enabled us to transition to what you would call the IPP model. That means we are now holding

our projects beyond development, through construction and into operation, including a growing portfolio of solar projects (some with co-located battery storage) in the UK and Netherlands. We are also actively developing a number of onshore wind, battery storage and waste-to-energy projects across Northern and Eastern Europe, and North America. We have set ourselves the ambitious target of creating 20 gigawatts of new renewable energy capacity by 2030 (for context, total installed energy capacity in the UK in 2022 was about 107 gigawatts, around half of which was renewable).

Irina: I am a partner in the Herbert Smith Freehills Energy group, based in Singapore, and I advise on a range of energy sector matters, including renewable energy projects, in the region. I moved to Southeast Asia about 13 years ago. Over the years, my practice has evolved, from predominantly coal mining, to oil and gas and LNG work, and then power and the renewable sector. Increasingly, we see projects and transactions in the energy transition space, from renewables, to hydrogen, carbon capture and storage and carbon trading. Our clients are looking at all types of energy transition projects to reposition their own businesses.

Jerome: I am Head of Legal, Japan for ENGIE, a leader in low-carbon electricity production and centralised and decentralised energy networks in electricity, natural gas and energy transition. ENGIE’s purpose is to act to accelerate the transition towards a carbon-neutral economy, through reduced energy consumption and more environmentally-friendly solutions. Specifically, and in addition to my role in Japan focusing on physical power trading,

I lead the team helping create green solutions – including green power purchase agreement, ammonia and battery storage – in APAC and the Middle East. Previously, I worked for ENGIE for about five years, working out of our regional headquarters in Bangkok/Singapore, and then moved to the Macquarie group’s offshore wind platform, Corio Generation, in Singapore, before returning back to ENGIE in Tokyo in late 2023.

Mark: I am the managing director and CEO for the Australian Institute of Company Directors (AICD). Energy transition is one of four policy areas that we focus on at the AICD, educating and helping directors to make them aware of the issues, what best practice is and how best to connect to a community which is going to allow them to be at the forefront of contemporary governance practice.

Ben: I am head of contract management for Volta Trucks, a start-up that is developing electric trucks. Founded in Sweden, the aim of the company is to build trucks with zero tailpipe emissions, that improve working conditions for drivers and make cities safer for pedestrians and cyclists. We’re concentrating at the moment on 16-tonne trucks, with a range of 200+km so ideal for last-mile deliveries in city centres. Our trucks are manufactured in Austria and we’re focusing our operations in France, Germany, the UK and Spain. We help clients across the board, from charging infrastructure, financing and insurance to supply of the trucks, maintenance and servicing.

We all know how important it is to move away from fossil fuels, but there are quite a few entrenched positions that seem to make that difficult in the short term. What is your take?

Irina: I think the first thing to highlight is that energy transition means different things in different parts of the world. In Southeast Asia, transition to a fully decarbonised economy and away from fossil fuels is likely to take more time. For example, in many Southeast Asian jurisdictions (like Malaysia and Vietnam and, to a large extent, China), a significant proportion of power generation still comes from coal, so for those jurisdictions part of energy transition is moving away from coal and on to cleaner fossil fuels like gas or LNG. Whilst this change still results in use of fossil fuels in power generation, it represents an intermediate step towards fully decarbonising. This transition also ensures that there is a stable base load generation, to balance out intermittency issues resulting from renewable power generation. That said, Southeast Asia has taken great strides towards energy transition and we have seen a lot of investment from a diverse group of clients into development of renewable power projects across the region, in particular in Philippines, Vietnam and Indonesia.

Jerome: As Irina says, certain countries, in particular within the APAC region, will require more time to transition away from a reliance on fossil fuels, namely coal and LNG. One of the key takeaways from COP27 was the creation of a “loss and damage” fund, which is being set up for the purposes of “assisting developing countries that are particularly vulnerable to the adverse effects of climate change”. I think this initiative may be key to encourage some countries in Southeast Asia to accelerate their efforts to move away from fossil fuels.

We have also seen from last year’s events in Ukraine and its impact in Europe that it poses a risk for countries to rely to a great extent on energy produced in other



Irina Akentjeva
HSF partner, Singapore

“**I think the first thing to highlight is that energy transition means different things in different parts of the world.**”

- Irina Akentjeva



Jerome Hamilton
Alumnus of Paris and Tokyo offices
2008 - 2013

countries. I think that this risk highlights the need for certain countries to move away from the import of fossil fuels and instead focus on renewable energy produced at home.

Amos: I think it's important to recognise what has got us to where we are today, and the reality is that we wouldn't be in a position to decarbonise the world were it not for the technological and other advances that the fossil fuel industry has enabled, both directly and indirectly. For me, this recognition is key to unlocking the currently very polarised and polarising debate. This doesn't in any way diminish my firm belief that renewables represent our best hope for the future of electricity generation, but context is everything.

Ben: The other point I would make is that our sector - electric vehicles - is still in its infancy and there is huge potential for improvements, particularly in battery technology. Whilst there are entrenched positions, there's also healthy competition to get the best product to market: Renault Trucks have electric versions of some of their trucks, for example. Others, like BP Pulse, are building on their strengths and seizing market opportunities in the charging infrastructure space.

Jerome: Yes, the development of battery technology is key. An interesting debate is the one taking place in relation to the role of hydrogen within the energy mix and whether it is realistic to place too much hope on this particular solution due to its inherent disadvantages. I strongly believe that hydrogen (for instance, as feedstock for the production of ammonia) will have an increased role to play in many countries in the years to come. Blending hydrogen within existing gas networks is also a relatively straightforward solution in certain countries where the infrastructure can withstand it. On the other hand, shipping hydrogen in liquid form over long distances remains technically challenging for now.

What is your attitude from a personal point of view? Are you personally committed?

Mark: I'm interested in terms of legacy for future generations. Will we leave behind a sustainable environment for those who follow us? I'm also interested in it being in

Australia, frankly, from a commercial and national interest base. We are a large fossil fuels producer: our three biggest exports in Australia are iron ore, coal and gas. We need to come up with a way to replace those over time. Getting on board with climate change and energy transition in Australia, even if you are climate change denier, means we are going to have to do something different just to preserve and enhance our commercial and national interests.

Irina: Absolutely. As I mentioned earlier, my own career has developed over the years towards lower and then low carbon energy. Environmental protection is something I have always been passionate about and it's a conversation I have with my nine-year old daughter a lot, encouraging us to make choices - to walk, rather than drive, turn off air conditioning and so on. She is taught about climate change at school and they go on projects, such as beach clean-ups, and from there learning where the rubbish is coming from. And they're talking a lot about what we as individuals can do to reduce that type of rubbish.

Ben: That's interesting to hear of your daughter's experience, Irina. When I lived in Singapore we did beach clean-ups as a family. Not only were you doing something good for the environment, but getting healthy at the same time. That sparked my interest in plastic waste and led to me joining The Ocean Cleanup - a great non-profit that has meaningful impact on the problem. My next career move, into the EV sector, was motivated by a desire to marry positive impact with the for-profit sector.

Amos: Absolutely. Embracing the transition to low carbon energy in an effort to tread more lightly on the planet definitely aligns with my personal values. At Low Carbon, everybody shares, to some degree, that kind of passion around trying to do something to tackle the causes of climate change. There's a clear goal driving what we do as an organisation, which makes the workplace and work ethic very positive and focused.

Jerome: I am proud and happy to have been working in the renewable energy industry for several years, for the environment, for the future of our planet and for future generations. This didn't happen as an epiphany but rather naturally and gradually.

How do you deal with the climate change deniers?

Ben: I've just finished re-reading *Doughnut Economics* by Kate Raworth. It seems pretty self-evident, but we can't continue with perpetual growth. On a finite planet, we need to respect certain planetary boundaries (raw materials, pollution, etc). It also makes sense to me that we should maintain social foundations and protect the most vulnerable (education, healthcare, etc). If we respect these principles then we should be able to thrive. I don't say it's easy, but she makes some pretty compelling arguments.

Amos: We are in a climate emergency, there is no doubt about it. There are still sceptics, and even if they're not denying climate change, they may feel that renewables isn't currently the solution, so there's definitely a challenge there. But I do feel that, compared to 10 years ago, climate change is getting a lot more mainstream attention, demonstrating the increasing seriousness with which this crisis is being taken.

Jerome: I usually make the point that regardless of one's opinion on climate change, you cannot deny that fossil fuels create pollution which has negative effects on the environment and on people's quality of life and ability to enjoy it. This in itself should be reason enough to prioritise renewable energy over fossil fuels.

Mark: One big issue in Australia is greenwashing. The government regulator has got several cases on the go against companies for alleged greenwashing. These tend to be in two areas. Energy companies and fund managers marketing "green" products and funds. The spotlight is on those who attempt to say they're doing something good when they're not. The dilemma is to not overregulate or over enforce such that you discourage people from doing something good. That just produces green hushing.

Is it the case that the switch to non-carbon generating power etc will only happen when there is a strong commercial case, such as when renewables are cheaper than oil and gas?

Amos: Of course, any long-term solution has to make commercial sense. When I interviewed with Low Carbon, the leadership

was keen to highlight that the company isn't about environmental activism. While we are very much mission-driven, we have to be competitive with other sources of electricity production. The really good news is renewables now are not only competitive, but in many instances they are the cheapest source of electricity production. The economic case for renewables really stacks up now, and we're seeing that tipping point with the investment community now leaning in hard.

Mark: Market dynamics will ultimately determine the way forward. The question is, does there need to be an intervention to bring forward the market dynamics? Do you need to subsidise renewables so that the average cost comes down to match fossil fuels or even better?

Irina: It is important that renewable projects need to be commercially viable - although I think that governments have a role to play here. We have seen a number of jurisdictions take energy transition seriously and put in place support mechanisms to help encourage development of renewable projects, for example Philippines and Vietnam have in the past provided generous feed-in tariffs for renewable power. The challenge is regulatory change needed to enable diversity of supply, structures that allow you to buy renewable electricity indirectly or directly from a producer in other markets that are heavily regulated.

Ben: Personally, I think governments should be leading to set favourable conditions so all sectors can transition more easily to renewables. Not only does this make sense from a climate perspective, but also in terms of energy security - as can be seen by the impact on oil and gas prices from current conflicts in Ukraine and Israel.

Can't businesses be proactive, though?

Mark: Yes, they can. In Europe, it has traditionally been governments not business that are driving change. In Australia, it has been the opposite; it is the corporate sector, particularly the large listed companies, that are leading change. Our organisation, the AICD, has been in the middle of this thinking. We're working side-by-side with large corporates irrespective of the way government was going. As it's happened, government

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- Jerome Hamilton

“ Another issue is that many companies think of energy transition as a cost, which of course it is, but it also presents huge opportunities.”

- Mark Rigotti



Mark Rigotti
Alumnus of Sydney and London offices
1996 - 2022



Ben Hargraves
Alumnus of Paris office
2005 - 2010

has caught up on that particular issue in the last 12 months. Having said that, we are pushing back on overregulation by government wanting to force companies to change, with the prospect of sanctions and imposing personal liability on directors. We emphasised that the key was awareness, capacity building, education, so as to show business a pathway to change they can navigate. You don't want to force people to act so as to achieve a minimum compliance standard, you want to incentivise people to aim for best practice, the maximum standard. The federal government, to their credit, listened. For example the business sector supports mandatory climate reporting as a way to drive behavioural change which will then help drive towards decarbonising the environment, but without imposing personal liability on directors by way of new and additional liability provisions.

Irina: What we have noticed is the commitment from the private sector, as Mark has just said. There are large-scale corporates who have made their own commitments about their net zero targets. They want to be part of the RE100 club where they certify 100% of the electricity they use is coming from renewable sources. That means that they are willing to pay a bit of a premium on renewable power if it helps to meet their own goals.

Is it unrealistic to expect countries to make a full energy transition to renewables away from fossil fuels as it were overnight?

Jerome: I do believe that we should be pragmatic in pursuing our collective efforts to move away from fossil fuels and understand that fossil fuels will still have a role (although progressively diminishing) in the ongoing transition. We should understand that certain countries, in particular emerging markets, will need more time and undergo more efforts than other, more developed ones. More developed nations should encourage these efforts and incentivise the move away from fossil fuels.

Irina: Absolutely, particularly when you look at renewables' intermittency issues, by which I mean uneven power supply for example in solar and wind, not so much geothermal or large-scale hydro, but then that is not available to all countries.

Unless you get to a stage where you can have large-scale storage solutions that are economically viable, you are going to have to get a stable base load from somewhere.

Ben: In terms of challenges with intermittency, I think here is where technology can step in along with the creativity of the private sector and favourable conditions set by government. For example, if energy production is decentralised, small-scale storage becomes more viable. And in some cases, even EVs can store energy and release them back into the grid when needed. As I said earlier, it's not easy! But I'm optimistic the solutions can be found.

Mark: Another issue is that many companies think of energy transition as a cost, which of course it is, but it also presents huge opportunities. For Australia, there is a further debate, about whether we should just mine the minerals that are good for energy transition (for example to use in batteries). Or whether we should seek to extract and then manufacture those minerals and maybe even produce the end products like batteries - to do the whole cycle from extraction to sale. The thinking is that we could build new industries. That's complicated, because there are also national security issues, as well as huge capital investment. However, this highlights the opportunity within energy transition despite the costs that are involved.

Irina: Another challenge is consistency of approach over time, as different governments or stakeholders may have different levels of commitment to energy transition. This in turn can create uncertainty for investors. Take Indonesia, for example: the Indonesian government has recently unveiled a \$20 billion programme for energy transition. This government has generally been supportive of introducing measures to encourage energy transition - for example, they have established a carbon market, published regulations to enable carbon capture and storage projects and introduced reforms to encourage development of renewable power generation. However, it remains a little unclear whether the next government (which will come to power next year) will remain similarly committed.

Is there plenty of scope for renewables in Australia?

Mark: Yes, we have lots of things needed for renewable energy like wind and sun, lithium and other minerals that can be used for renewable energy solutions. One of the biggest problems facing renewable energy in Australia is the skills shortage, for example obtaining enough engineers to deliver the proposed installation of new wind turbines. With the whole world engaged in transition, there is a huge demand for those with the right skills. It used to be the technology that was not good enough. Now the technology is good enough, but there aren't enough skills to deploy it at the pace we would like.

Jerome: I would add to that a key sector in which companies such as ENGIE have been focusing on quite aggressively over the past few years, with the help of government and governmental organisations, is green hydrogen, i.e. hydrogen produced from renewable energy. Since the release of Australia's National Hydrogen Strategy in 2019 there is now a AUD127 billion pipeline of announced hydrogen investment in the country. As an example of an early success story in the sector, ENGIE and Mitsui have been developing one of the world's first industrial-scale green hydrogen projects, providing hydrogen as feedstock into the offtaker's existing ammonia operations in Western Australia. The offtaker then exports the ammonia from Australia to the Asian markets. The team and I worked quite extensively on the first phase of the project, which is scheduled for completion in 2024, and the team is now preparing for the next phase of the project's implementation.

What about in Singapore, Irina?

Irina: Singapore is limited in its ability to develop renewable projects itself given its small land area. Instead, the government has announced plans to import renewable energy from neighbouring countries. The hope is that it will encourage development of renewable power projects in the neighbouring countries as well as development of interconnectors to transmit that electricity, or some of it, into Singapore. We are currently working on a number of projects that are part of this import scheme.

What can we do as individuals?

Amos: A lot! And it doesn't have to cost anything, involve huge effort, or require painful lifestyle sacrifices. Right now, there is no excuse to be on a non-green electricity tariff - there are plenty of competitively priced 100% renewable deals out there (in the UK, at least). If you have a pension fund, check where it's invested; most providers should offer an investment profile that avoids the big polluters without impacting target returns - consider making the switch (with advice from an IFA, of course!). Try using Ecosia (www.ecosia.org) as your default search engine; they have a tree-planting programme linked to the volume of searches made via its platform - maybe use it to search for more ideas for making easy, impactful changes like these.

Ben: A colleague in France sent round a website where you can assess your own carbon footprint <https://nosgestesclimat.fr>. There are loads of things we can do as individuals, from changing diet to reducing flights and car journeys.

Jerome: It can range from relatively straightforward solutions such as buying an EV, carpooling or installing solar panels on your rooftop to more proactive ones such as joining and putting time and efforts into focused NGOs.

What does the future hold?

Amos: Ultimately, I'm an optimist. I believe that renewables are now a compelling alternative to fossil fuels, not just from a carbon perspective, but also from a broader economic perspective, particularly when considering individual and international net zero commitments. Humankind is extremely adaptable, and when there's a real crisis we're pretty good at finding solutions.

Amos Carrington is general counsel & company secretary, Low Carbon.

Jerome Hamilton is head of legal, Japan/Green Solutions APAC for Engie Global Energy Management & Sales.

Irina Akentjeva is a partner, Herbert Smith Freehills.

Mark Rigotti, formerly CEO of HSF, is managing director & CEO, Australian Institute of Company Directors.

At the time of the interview, Ben Hargraves was head of contract management, Volta Trucks. Volta Trucks has since gone into administration.

Energy transition and net zero

With the energy industry needing trillions of dollars annually and a string of technical breakthroughs required to decarbonise the business of power, the opportunity of net zero is as exhilarating as it is daunting.

Read our insights here: www.herbertsmithfreehills.com/insights/key-topics/energy-transition-and-net-zero

“In terms of challenges with intermittency, I think here is where technology can step in along with the creativity of the private sector and favourable conditions set by government.”

- Ben Hargraves

AWAITING THE REVOLUTION:

HOW WILL AI TRANSFORM LEGAL SERVICES?

Scott Cochrane was a partner in the Asset Management practice, moving to BlackRock after nearly three decades with Herbert Smith Freehills in 2021. After having a number of management roles at the firm and studying change management at business school, he believes that, in the wake of technological revolution and changing client demands, law firms are not adapting as quickly as they should.

Generative artificial intelligence has created an inflection point for legal services providers. While the reaction among many lawyers is dismissive of the AI potential (“we have always done things our way and will continue to do so”), there are now quite a few who believe that the application of ChatGPT and other generative AI programs, which combine phenomenal data analysis with the ability to generate natural, believable language and reasoning, has the capacity to do many tasks that lawyers believe that only they as humans are capable of. Scott Cochrane is certainly one of those in the second camp.

As someone who has long been interested in change management in organisations – not just in law firms – he has many ideas on how law firms can adapt and benefit from generative AI. “I am fascinated by the way organisations face up to change and how senior leaders can materially impact, positively or negatively, the way change happens,” Scott says. “I am constantly curious about

how change affects people and how it stimulates helpful and destructive emotions.”

Interestingly, Scott believes that many law firms talk a good talk when it comes to harnessing technology when delivering legal services, but now that he is in the position of a client, he doesn’t immediately see that manifesting itself in their services. “It is certainly the case that the communications technology has improved vastly, and that is of course very helpful, but my view is that there is much that can be done to put technology to better use when advising clients. There are of course exceptions – Herbert Smith Freehills being one of them,” he says.

Scott should know. He was with Herbert Smith Freehills for nearly 28 years. He originally wanted to be an orthopaedic surgeon, but changed to law when he read about doctors working 100-hour weeks and thought law would be an easier option. (How little did he know...) He studied law at Durham University and, showing debating aptitude, applied to Herbert Smith (as was) based on its reputation as a leading litigation firm where he thought he could put his debating skills to good use. Plus, he was impressed with the firm’s recently opened offices in Exchange Square.

In fact, he didn’t practise litigation, but gravitated to asset management having done his first seat as a trainee with Nigel Farr (who now heads the firm’s Asset Management practice). Scott became interested in this particular practice area, initially because he felt it was an area of law which hadn’t really been focused on and where it potentially provided practitioners with scope to have greater control. “As a product lawyer, you tended to be the person running the transaction rather than taking instructions from others,” Scott says, “but, at a more straightforward level, I liked Nigel and enjoyed working with him!”. He was made partner in 2002.

As well as practising asset management law, Scott also had a number of management roles at the firm. At various times, he was a member of the Global Partnership Council, Head of the London Corporate practice, International Partner for Clients and Sectors, and Global Head of the Corporate practice. He was therefore closely involved in managing the practice of the merged firm, with

“ I am constantly curious about how change affects people and how it stimulates helpful and destructive emotions.”



Scott Cochrane
Alumnus of London office
1993 - 2021



the many facets that involved, including integration, setting up well-functioning processes, client management and technology efficiencies, all in the context of a rapidly changing legal environment and fiercer competition.

The fact that the funds practice was not a 'mainstream' team provided a different perspective, requiring different approaches to practice building where they couldn't completely rely on the firm's existing franchise and to be more creative in matters such as billing and developing relationships with clients. That experience came in very useful when Scott took on the corporate management roles ("if you like, I stepped into management bringing a slightly left-field perspective that helped me to challenge a number of accepted historic views").

"Added to that, I have never felt that 'the law' per se is either particularly interesting or useful. My starting point was always focused on how we use the tools at our disposal to solve the problems the client has. Drawing a comparison, a patient doesn't want a surgeon who simply stands at the operating table and takes pride in their ability to name all the bits, they want someone to fix them. And yet, there are still lawyers who tell you what the law is, which I absolutely hate. I thought that this had gone out of fashion, but it is astonishing how often this is still what you get back. Good lawyers apply the law to real life problems."

Delving deeper

At the same time, Scott delved deeper into his interest in management, including taking a master's degree in change at the INSEAD business school, with a focus on organisational behaviour and development. For his thesis, Scott wrote on "complexity theory" and "complex adaptive systems", taking as his study field a drug rehabilitation unit in Glasgow, looking in particular at how complex (for which read, chaotic) management systems, when properly supported, can create the conditions for real creativity and adaptive change - what Scott summarises as "productive chaos".

It was certainly an interesting choice of subject matter and not one you would necessarily associate with management at a top law firm. One feature that Scott observed in the Glasgow unit was the focus on how energy moves around an organisational system. "The staff at the unit always carefully managed the energy that existed or which they generated to create situations which helped with the recovery process. Choosing to study an organisation outside of the normal business school world was a bit of a risk, but I had a notion that the way complex systems work is actually a good model for professional services firms. You have lots of largely independent actors who all interact in complicated and unpredictable ways. You can't necessarily direct how the whole organisation moves but you can 'manage the spaces in-between' to keep the organisation in the best state to adapt and change.

"I think it used to be called herding cats, but I prefer to think of it like spinning plates. You have to carefully monitor the energy of all the plates and give them a spin where required so that the plates don't fall off their metaphorical poles."

As with many people, Scott took the opportunity of lockdown to take stock of where he was in his career. The BlackRock relationship partner mentioned that BlackRock were looking for someone to join their legal section, which was in need of some attention (a polite way of saying there had been some historic challenges in the team). Could he recommend anyone? Scott then realised that with his asset management experience, his practical knowledge of management and his recently completed master's on managing complex systems, he himself might be the right person.

He duly joined BlackRock in May 2021, as Head of Public and Private Funds Legal EMEA. In that capacity, he heads teams of lawyers advising on both public and private funds, as well as dealing with regulators and seeing how they can put new technology to best use. "In many ways, my role now is similar to private practice, managing teams of lawyers who are creating new fund structures, advising the business on law and regulation and dealing with day-to-day legal issues. What is very different is having to learn about the operational aspects of running an asset manager. BlackRock is a huge organisation and with scale comes operational complexity."

As already mentioned, Scott is in a prime position as a client to see how much law firms are adapting - both to deliver their services more efficiently and to provide good value for those services. And, perhaps no surprise here, there are no easy answers. What frustrates Scott is the inertia. "If you take away the communications tools, where there has clearly been progress, very little has changed. But, as a client, I need my legal providers to be bringing me new solutions."

He believes that sooner, rather than later, law firms will be forced to change as a result of the AI potential. "Clearly, ChatGPT can't deliver everything, but we want our legal services providers to be exploring possibilities. Lawyers need to get out of their comfort zone and recognise the need to challenge their own business model. I would much rather have law firms try things out, and be prepared to fail. We need to get beyond the mindset where lawyers believe that failure counts against them."

He applauds the approach taken by HSF in developing its capabilities in Belfast, and believes that more should follow suit: "Belfast provides HSF with a capability to offer solutions to some of my most pressing challenges. Often, these are not complex legal tasks - they might not appeal to the mind of a top City lawyer looking to challenge their professional capabilities - but to us, they are crucial. By being able to offer a way to help us with these issues,

HSF is building a deeper level of engagement which serves them well across the entire value chain of work we might instruct on."

But isn't that what many law firms are doing? No, says Scott, at least as far as he has noticed. "It continues to amaze me that the big firms haven't completely woken up to the real needs of their clients. I don't think any law firm now has the luxury of thinking it can pick and choose what work they would like to assist us with. This is where I think the big firms really need to focus on how emerging technologies can assist. This, in turn, asks some very fundamental questions about how lawyers perceive the value of what they deliver and how they price for that. For me, the chargeable hour has long outlived its usefulness - law firms hate e-billing, but it is the natural conclusion of continuing to look to charge by the hour."

So, much of interest for Scott as he pursues this stage of his career - and plenty of advice for law firms looking to improve their service. As a voracious reader, he has also many book recommendations (currently, *Colonialism, a Moral Reckoning* by Nigel Biggar, *Entangled Life* by Merlin Sheldrake, *The Culture Map* by Erin Meyer, and *Mindset: The New Psychology of Success* by Carol Dweck, among others). He continues to see much of his former colleagues with whom he worked at Herbert Smith Freehills, both professionally (instructing his asset management peers) and socially. Otherwise, he enjoys watching rugby and cricket with his two grown-up sons, and will resume his travels to exotic places (Everest Base Camp and Easter Island being his highlights so far).



“Clearly, ChatGPT can't deliver everything, but we want our legal services providers to be exploring possibilities.”

LAWYER TO FOUNDER



Alex Cook
Alumnus of Perth office
2019 - 2020



Michelle Ridsdale
Alumna of Melbourne office
2004 - 2007

There are a number of parallels – perhaps coincidences – between the businesses started by Alex Cook and Michelle Ridsdale. Both are healthcare-related. Both draw on personal, “lived-in” experience. Both businesses were founded in 2021. And, of course, both founders are Herbert Smith Freehills alumni.

Alex Cook is the co-founder of Samphire Neuroscience. The company is about to launch a truly innovative product – a medical device that targets pain and mood symptoms associated with chronic women’s health conditions, such as premenstrual dysphoric disorder and premenstrual syndrome. The headband uses low-current electrical pulses to stimulate certain parts of the brain to modulate pain sensations and stabilise mood. The underlying technology is already being used to assist people suffering from depression and has been extensively studied, but this is the first application of it for women’s health. Alex founded the company alongside his partner (both business and personal), Emilè Radyte, who is a neuroscientist.

Michelle Ridsdale has developed an app called Kaboose, which offers a safe space for the autistic and neurodiverse community to connect with peers around interests and find friends, mentors and jobs.

Michelle joined Freehills (as was) in 2004. Coming from a HR background, she was attracted by the idea of working for Freehills, which had recently merged with a patent firm, as HR manager for the patents and trademarks practice across Australia. Naturally interested in technical things, the role also appealed to the technophile in her. As with Alex, she liked the

problem-solving aspect of the particular practice and the culture of the firm.

After being with Freehills between 2004 and 2007 (she left because of an internal reorganisation which would have meant being based in the Sydney office, which didn’t suit her). Michelle has since had a number of other roles, including being chief people officer with Envato, a community for creative people, and national diversity and inclusion manager for KPMG. She also qualified as a coach.

The motivation for Michelle to start Kaboose was a highly personal one. Her son is autistic and her daughter, as well as being autistic, has also been diagnosed with ADHD. Michelle saw the impact that this was having on her son’s schooling and, in particular, his ability to find friends. Her son felt excluded, and she saw a need to create a place where autistic and neurodiverse people could belong – what she calls “finding your tribe”.

She also recognised that these challenges of social isolation would carry through to the workplace. “It struck me that the social part is such a big part of a workplace, and if you haven’t had the opportunity to make and find your tribe before becoming an adult, then it makes it much more difficult from a



mental health perspective,” she says. “Often, we find our tribe at work or through a shared interest. And if these kids don’t have that opportunity, that can leave them isolated.”

Her solution was to develop an app, knowing that apps are the most effective form of linking people – particularly her children’s generation. Michelle had absolutely no experience of designing or developing an app. However, she found a software engineer and also tapped into the local university in Melbourne, who provided extra support.

One problem that she hadn’t anticipated and which set her back was the effective theft of the name that she first proposed for the app, Tribefinder. She was in the process of registering the name as a trademark, when she was approached by someone on LinkedIn, who found out that the name had not been registered. That person deceived Michelle into expressing interest when his real intention was to register the name and then attempt to charge her to buy it off him.

Michelle didn’t succumb and came up with the alternative name of Kaboose, drawing on the idea of the caboose, which is the last car on a freight train where the train crew congregates to relax.

Alex had a somewhat unusual introduction and time at Freehills. Having studied commerce at university (in Western Australia), he switched to law after working as a transcript officer in the law courts and becoming interested. He was also drawn to the world of legaltech and, while at university, took the initiative to set up a club for law students to learn more about legal technology. He wrote his thesis on the commercial strategy for engaging with regulators on the impact of technology as it applied to law.

He then put his theory into practice, helping start a financial technology company called Bamboo, which developed proprietary mechanisms for investing in alternative assets, including cryptocurrencies. When Bamboo was acquired by a PE company (a deal in which Herbert Smith Freehills advised), Alex pondered his next move and did some academic research and consulting, including with the Australia Tax Office. It was this that brought him into contact with Freehills. He discovered that Freehills had – at the time – a legal technology joint venture with IBM, working on emerging legal technologies. To Alex, the Freehills team working on that joint venture seemed like a great example of how lawyers could effectively work on emerging technologies, and very unique in the market at that time.



samphire
neuroscience

Seizing an opportunity, Alex agreed to join that team, but, in discussions with managing partner Tony Joyner, said he would like to qualify as a solicitor at the same time. After this was agreed, he joined the Perth office in February 2019 and settled immediately in the commercial and technology practice group. Working directly under then Global Head of Digital Law Natasha Blycha, Alex was involved in establishing the firm's Digital Law Group. After the joint venture completed, and the Digital Law Group was established, and encouraged by both Tony and Natasha, Alex felt it was time to set his horizons a bit wider, leaving in September 2020.

Alex's wider horizons took him to Oxford University to study for a master's in both law and finance. He gained more than another academic qualification. He found himself neighbours with Emilè. Together, they pursued her idea to set up Samphire Neuroscience (so-named because samphire is shaped like a neuron, the parts of the brain targeted by the headband, and also because samphire grows best in salty terrains, and the way the product makes a channel for electricity is through ionised salts). The company was founded in September 2021.

Alex's role in the company is to manage the technical product development teams across many regulated domains and countries, using his legal, financial and entrepreneurial skills. They have a manufacturing partner in London. As with any new product, there are myriad issues to deal with, but this is particularly so when it comes to new medical devices. Alex leads the company's engagement with regulators across the EU, UK and US. This has followed months of tests and controlled trials to make sure not just that the headband works but is completely safe to use. He also manages relationships with core external stakeholders, such as the world's largest medical device investor (who is on their cap table), as well as government grant bodies.

Alex says: "I am not a woman, obviously, and I am not a neuroscientist, so it is really important that I listen more than I speak. At the same time, I have a lot of operational, regulatory and technical expertise that I can give to the cause, and I get a lot of meaning out of working on something that I know is impactful and deeply needed."

For Michelle, she has had to tap into the expertise of others to push her business forward.

In particular, she has worked with product developers, working from the sketches she drew up. An absolute priority has been to ensure data security and protection from potential abusers.

Having said that, she finds herself handling product strategy, project management and fundraising, among other things. Michelle is funding the business herself at the moment, but is hoping at some stage to attract investors and/or to be able to monetise the app. She is not looking to charge individual users, but to get support from employers. "More and more employers are recognising the need to have neurodiverse workforces, and so that should give scope to support my app."

She may be pushing at an open door there: many businesses, including Herbert Smith Freehills, take neurodiversity seriously and are putting appropriate policies in place. Another potentially good source would be national health services.

Meantime, Michelle is getting the word out about the app. She is using podcasts and social media, and is gaining traction not least because of the authenticity of her story. "I also find that videos of animals and small children do well!" she jokes.

For Alex, marketing involves specific targeting. "As a pre-market medical device, a lot of our community and patient engagement is happening through our partner clinics. We're involved in five different clinical trials across the world. Emilè is also extremely active within the local women's health and scientific communities."

Both reflect on how useful their time was at Herbert Smith Freehills and the skills they gained to equip them as they embarked on their business ventures. Michelle says, "Working at Freehills, specifically in the IP area, gave me a fantastic insight into innovation and the IP process. Having this knowledge as an entrepreneur is extremely valuable. As the people manager for the department, I was also exposed to presenting to executives and senior partners, which has helped my confidence to pitch Kaboose to investors and others."

Alex adds: "From my time with Freehills, I gained attention to detail, problem-solving, a strong work ethic and not being fazed when dealing with regulators! However, the real secret sauce I got from working at Freehills is that the people at the top of the organisation, were not just brilliant lawyers but were able to seamlessly add commerciality on top, to really deliver what businesses require."

There are obstacles to overcome, not least the disruptions the aftermath of a global pandemic, or complex geopolitical structures, can play on hardware supply chains. But Alex has taken these steps in his stride, motivated by the entrepreneurial drive that he and Emilè have developed a truly groundbreaking product that has the potential to help literally millions of women worldwide.

Michelle, too, is driven to succeed, in her case inspired to help those who have been excluded from mainstream settings draw comfort from linking with others and lead connected lives, particularly in the workplace.

Both say that, as their business could consume their every waking hour, it is important to relax. So how do they switch off? Alex: "Apart from the obvious ones of exercise, trying to eat right and not drink too much coffee (I'm succeeding or failing on all three of those to various degrees, depending on the intensity levels at Samphire), I've always been motivated by building new things. I try and do that in my downtime as well. I'm currently working on designing a smart mirror that incorporates facial recognition, generative AI and a number of environmental sensors to control things in the house."

Michelle: "I am very fortunate that my brain is able to compartmentalise, which is helpful because I have plenty going on with the children. I try to walk the dog a couple of times a day. I have made a pact with myself to get out to nature at least once a month. We are fortunate in that we live in Hampton in Melbourne within easy reach of the beach."

One final coincidence is that Michelle was also thinking of developing a wearable headband to help those with autism. Perhaps Alex and Michelle should collaborate!

Advice for others

Alex: "Make friends with scientists, engineers, artists and others who don't share your ways of working or thinking. It will be easiest to work in law, with other lawyers, but the hardest (and in my view, most fun) problems require a multidisciplinary approach."

Michelle: "I'd really encourage people to make sure they have good self-care practices and support around them. Managing a startup, particularly without a co-founder means it's hard to take a break in the early stages. You need to be really passionate about what you're building as it does consume a lot of your waking (and sometimes sleeping!) hours."

I'd also recommend leaning into the network groups and skill building workshops in the functional areas that you're not as comfortable with. You want to make sure you know how to 'do' before you outsource to someone else (where practical of course!)"



TALKING TECH

With Andrea Appella

Generative Artificial Intelligence (AI) describes algorithms that can be used to create new content, including audio, images, text, videos and more, based on the data they have been trained on, unlike traditional AI systems that are designed to recognize patterns and make predictions.¹ The rapid spread of Generative Artificial Intelligence resulting from recent breakthroughs in technology has raised many issues in various legal aspects, from competition to privacy, from consumer protection to intellectual property rights. Two positions are currently emerging: a liberal approach to protect the incentives to innovate through self-regulation is contrasted by those who call for legislative intervention to impose clear safeguards and regulations.



Article written by **Andrea Appella** who recently re-joined HSF as Consultant for TMT, Competition, Regulatory and Trade. Andrea's professional and academic expertise is competition/regulatory law and intellectual property law with a particular focus on the media/tech industries, where he held senior in-house positions in international groups including Head of Global Competition at Netflix. He is currently a Visiting Professor at Kings College Dickson Poon School of Law in London, where he teaches the course "Competition and Intellectual Property

in the Media Industry: Law and Practice" in the LLM program, and a member of the Innovation, Regulation and Competition Policy Centre at the Università Europea in Rome. He is a Non-Governmental Advisor to the International Competition Network appointed by the UK Competition and Markets Authority, and has collaborated with the Italian Ministry of Culture on audiovisual and movie policies, copyright and the impact of artificial intelligence on the creative industries.

THE RISE AND REGULATION OF GENERATIVE AI

AI tools and applications are trained on a great number of materials that are protected by copyright, like news, books, images, videos and music. The creative industries are, therefore, among the first where a number of important copyright questions have arisen, presenting practical problems that are subject to reflection and debate.

- How to identify the author of a work generated by AI?
- Is it lawful to use third-party (copyrighted) content to "train" AI models?
- Who holds the rights to exploit the works?
- Should AI app developers pay a licence for use of the copyright works as input into their models and on what basis?

These questions are giving rise to disputes, lawsuits and negotiations, with various nuances in each creative sector:

- AI is one of the main issues of contention in the current Hollywood strikes.
- A coalition of musicians and artists has launched the Human Artistry Campaign to ensure that AI supports human culture and art, emphasizing that copyright should protect only the unique value of human intellectual creativity. In parallel, some music labels have requested take downs of AI-generated music and started lawsuits.
- In January 2023, Getty Images sued Stability AI over copyright violations in the US and the UK alleging that Stability AI unlawfully copied and processed millions of images protected by copyright. The judgment in this case is eagerly awaited and will create a precedent beyond the specific circumstances of Stability AI.

- Some news publishers are in discussions to negotiate payments for use of their content to train generative AI models, while some book authors have already filed lawsuits, alleging that their books were unlawfully used.

In order to address the challenges set out above and provide answers to the rising concerns of the creative industries, policy-makers around the world have begun debating whether the regulatory and legislative frameworks need to be changed. The US has been active in providing guidance by the Copyright Office, stating that when an AI technology determines the expressive elements of its output, the generated material is not considered the product of human authorship and is therefore not eligible for copyright protection. The UK has taken a more pro-innovation approach, focusing at this stage on safety features and guardrails, on the basis that AI regulation currently does not necessarily require legislation immediately. Europe is emerging as the toughest standard of AI regulation with

the AI Act proposal, which would be the world's first comprehensive set of obligations and regulations in the wake of rising concerns (all AI systems will need to be assessed depending on the level of risk). Unsurprisingly, in this context AI companies are trying to be proactive by offering voluntary self-regulatory commitments to minimise the need for regulatory intervention, like the ones announced by the US Biden-Harris Administration in the summer. At global level, a number of initiatives are taking place to discuss a common and uniform framework of AI governance.

Given the fast pace of both technology and policy responses, all businesses need to stay up to date with the ongoing developments in legislation, regulation, consultations and litigation in this area. Based on their specific profiles, they should set out a strategy to understand the landscape and engage with policy-makers to influence the outcomes.


¹ See definition by McKinzie: <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-generative-ai>

SHOCK OF THE NEW

Our latest thought leadership campaign explores the emerging technologies reverberating through business and society. From cryptoassets and artificial intelligence, to the fledgling metaverse and cyber security, modern business is beset by technological change on multiple fronts. TechQuake provides digestible and insightful information for clients to ensure they aren't left behind in this fast changing world.

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In the second part of our TechQuake series, we ask what the 'Crypto Winter' means for the sector as the industry moves to mount a sustainable comeback.



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We delve into how growing ethical concerns are driving the push towards greater regulation and ask what the future holds for a technology that is set to refashion the world.



CYBER SECURITY - HOW TO SURVIVE THE ERA OF A CYBER SECURITY

In our final part of the series, exploring the digital tools that increasingly shape our world, we uncover what is driving these rising cyber risks and discuss and how businesses can enhance their resilience against the escalating threat.




DO BUSINESSES AND CONSUMERS TRUST AI? WE WANTED TO FIND OUT

Despite the hype, many consumers don't trust artificial intelligence, or claims about the benefits it brings.





Research conducted by Herbert Smith Freehills reveals that just 5 percent of UK consumers are unconcerned about the growing presence of AI in everyday life. Only 20 percent say they have a high level of faith that AI systems are trustworthy.

Undertaken to mark the launch of the firm's Emerging Tech Academy, the research surveyed a representative sample of 1,000 UK consumers between the ages of 18 and 80. Respondents were asked about the type of AI systems they use today, expectations about future usage, and comfort levels with the way machines gather data and operate.



THE RESULTS - FEW DOUBT AI'S POWER BUT TRUST CONCERNS REMAIN

The survey was conducted after last year's launch of the pioneering ChatGPT, and the results tell a clear story - despite being already considered transformative, AI has not completely won consumer trust.

 21%	of all respondents believe AI is welcome and will improve the world	 54%	believe it will improve certain aspects of society
 12%	believe it will make certain aspects of society worse	 37%	believe it can be biased against certain people or groups

CRACKING THE CODE - INSIGHTS FROM OUR RESEARCH AND THE FUTURE OF AI

To highlight and address the concerns of businesses and consumers, using elements of AI itself, watch the video to hear our three recommendations for enhancing confidence in AI among businesses and consumers. Digital avatar of Alexander Amato-Cravero, Regional Head, Emerging Technology Group.



To read our series, visit <https://insights.hsf.com/techquake/p/1>

WHY I CAME BACK

HEATHER KELLY



“

I proudly joined Herbert Smith Freehills (HSF) as a graduate in the Melbourne office in 2014. HSF stood out for its technical excellence and commerciality and as a workplace where staff thrived by bringing their whole selves to work.

I joined the firm's corporate practice, principally working on M&A transactions. I loved learning about how companies tick – operationally, financially, strategically and legally. The hours were sometimes tough, but the matters were cutting-edge and complex. The learning opportunities were unparalleled.

I have had the privilege of working alongside many exceptional lawyers and leaders. Among other things, they instilled in me the importance of integrity, kindness, keeping it real and following my nose. Senior female lawyers who have played particularly pivotal roles included Carolyn Pugsley, Kate Carlile (now chief legal officer at Toll Group), Sarah D'Oliveyra and Genevieve Levinson (now company secretary & senior legal counsel at ANZ Worldline Payment Solutions) just to name a few.

Working closely alongside our clients' legal teams was a distinct highlight for me. Intrigued by their roles, I jumped at an opportunity to be seconded to ANZ. I enjoyed being embedded in project teams and closely supporting exciting projects as they evolved from idea to integration. My secondment at ANZ confirmed my interest in moving from private practice into the corporate sector. When I was offered a corporate counsel role reporting directly to HSF alumna Kate Carlile, I couldn't turn it down.

My introduction to cyber was a dramatic one. In January 2020, amid extreme bushfires on the east coast of Australia and the onset of the Covid-19 pandemic, Toll was hit by a vicious cyberattack. Toll was hit

again in May 2020. The company's response to these attacks necessarily caused widespread disruption. The hackers dropped stolen data on the dark web for many months following the attacks.

I played a key role in coordinating Toll's legal response. Among other things, this involved reviewing compromised data, regulatory engagement, assessing contractual compliance risk and drafting communications targeting staff, customers and suppliers. We were expertly supported by Cam Whittfield and his team (then at PwC).

I was fascinated by the multifaceted impacts of a cyber crisis, and the integral role played by legal advisers in that setting. I decided to pursue further education and use the experience as an opportunity to commit my time to cyber and privacy risk management. This pivot took me to GenesisCare, an international cancer care provider, where I worked as senior legal counsel on the privacy and data side.

In the meantime, the Australian cyber risk landscape was rapidly evolving. High-profile cyberattacks were refocusing government, regulatory and industry attention on the risks posed by poor cyber resilience. Cam had returned to HSF in 2022 (see *Alumni Matters* 2022), entrusted with building out the firm's data, information security and cybersecurity practice in APAC. Cam asked if I could be tempted by returning to private practice and all of a sudden the band was back together.

On returning to HSF in 2023, I was delighted to see many familiar faces and the elevation of some of its finest to senior leadership roles in the global network, including Carolyn Pugsley and Nick Baker.

Cyberattacks are increasing in terms of scale, frequency and sophistication and their

consequences can be catastrophic for victims. In the context of increased scrutiny from government, regulators and the public, lawyers now play a lead role in coordinating an organisation's response to a cyberattack. Missteps managing the various response workstreams can have major legal and regulatory consequences.

In addition to incident response and recovery, much of our work is focused on preparing organisations for a cyber crisis before it arises, so they can respond more efficiently and minimise its impacts. We brief boards about their obligations, review policies and procedures and run elaborate cyber simulation exercises for clients to test their systems and decision-making under pressure.

Returning to HSF has been a breath of fresh air. There are many familiar faces and the facilities and support are truly outstanding. The firm's agile working policy is a distinct change. I 'grew up' at HSF at a time when junior staff did not have work laptops, let alone worked from home. There were no video calls with colleagues or clients, and the physical location of one's desk in the office was meaningful. Returning to a post-Covid HSF has been welcoming in that respect.

The new policy acknowledges the full and busy lives led by HSF staff, and trusting them to work remotely ultimately facilitates the delivery of outstanding outcomes for our clients. Now that I am raising young children in my personal life, I am very grateful for this flexible style of working.

I've also been pleased (but perhaps not surprised) to see the evolution of HSF's Alternative Legal Services practice. The service is particularly valuable for cyber risk management. It is now critical that businesses understand how their data is stored, used, secured and destroyed. And organisations impacted by a cyber incident need to understand what data has been accessed or exfiltrated, to assess the impact to individuals and other stakeholders and potential legal and regulatory risk. The ALT team is trained and resourced to support with these tasks.

I welcomed my second child in July 2023. The firm has been very supportive of me taking some time off to care for my growing family. When things are a little calmer, I love hiking, camping, and beach holidays with family, friends and our boisterous cocker spaniel.

“

I was fascinated by the multifaceted impacts of a cyber crisis, and the integral role played by legal advisers in that setting.”

- Heather Kelly



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I studied PPE at Oxford University, thinking that I might enter the world of politics. But when I thought of the day-to-day of political life in reality, I switched my interest elsewhere. Law offered much of the same points of interest – arguing your case, solving problems – and that turned out to be the right move.

Having said that, I was right to choose a subject I was interested in before pursuing law, and that is what we tell potential new recruits. Study what interests you and you can always take the courses afterwards to become a lawyer. We want people to come to the firm with diverse interests – and that also extends to those joining the firm, trying out something else and then coming back – as happened in my case. It’s important to have people with external perspectives, which is both helpful when dealing with clients but also in bringing in ideas for how the firm can improve. My advice for others thinking of coming back is, never discount the value of what you’ve experienced – there will always be scope to apply that experience in private practice.

I chose Herbert Smith, as was, because the firm was then, as now, famed for its disputes practice. I liked the idea of making arguments and applying myself in the commercial world. Herbert Smith seemed like the perfect place to put my ideas into practice.

After qualifying, I joined one of the commercial litigation groups. I followed in

the footsteps of other top litigators in the firm. One of the key things that impressed me was how it is always best to remain calm and be reasonable. I learned that from working with the likes of Tim Parkes and Adam Johnson. It’s very rare that you can persuade someone if you’re being unreasonable. As the saying goes, you get more flies with honey than with vinegar.

We have a reputation for putting our cases reasonably, which is especially important in my line of work now, where I am dealing with regulators. Added to that, clients are reassured if you demonstrate calmness, explaining the process and working with them to achieve the best outcome. However, we are not afraid to be robust in our arguments, where the case merits it.

I moved on to contentious regulatory work as a result of a secondment with BNP Paribas. There, I was brought into the bank’s litigation and investigations team. I liked the work, the extra responsibility and the interfacing with regulators I was given as a relatively junior lawyer, so I joined the bank permanently in 2013. There were more regulatory investigations, post-Libor, and I think there was an advantage of being in-house and being immersed in the company’s business when dealing with regulators. The variety of work, direct client contact and responsibility for matters gave me a great opportunity to grow as a lawyer.

In-house, whatever the particular issue is, you are a fixer. I tell people it goes from the

sublime, where you are handling global regulatory investigations, to the ridiculous, where you’d have bailiffs coming round to try to take paintings off the wall, even though any debt had long been paid by the bank.

I had always kept contact with people at the firm. Jenny Stainsby mentioned that there was an opportunity in the team. I rejoined in July 2018. Some of the people were new, and that was exciting to get to know them. The one thing that hadn’t changed was the furniture! However, that position has since improved.

Since I have come back I have been much more focused on contentious regulatory work. My background in commercial litigation is helpful. Clients tend to think in terms of risk rather than different specialisms, but it is always useful to bring in people with different specialist skills as needed, which we are able to do. I collaborate with colleagues throughout the firm and in different offices. I am currently working with colleagues in the corporate crime team on a skilled persons review of a bank’s financial crime controls and we often work with the employment team – for example, where internal investigations impact senior people within companies.

I enjoy being involved in regulatory work. There is the political angle, because regulators ultimately answer to politicians who have their own agendas, as well as what they think is important in the market. As a regulatory lawyer, you have to be aware of what’s going on in the outer world and how that’s impacting regulators and then, in turn, impacting clients that we are advising. Recently, I have been following closely the increasing use of artificial intelligence (AI) in financial services and worked with UK

Finance and their member firms to produce a white paper on the fair use of AI in financial services.

The sheer volume of regulations, the growing accountability placed on senior managers, the impact of non-compliance on companies’ reputations, the pressure imposed on companies to conduct investigations quickly and thoroughly have all combined to make the firm’s contentious regulatory practice a core one. We have a leading practice and the plan is continue to grow it to meet client demand.

I live in Wiltshire, so if I’m not working, I’ll take the opportunity to go out for some lovely walks over the Pewsey Downs and play sports with my son. He’s mad about football and cricket. And if at the end of all of that I have some time to sit down and have a glass of wine and speak to my wife, that’s a bonus!

“

My advice for others thinking of coming back is, never discount the value of what you’ve experienced.”

- Jon Ford



**JON
FORD**

WHY I CAME BACK

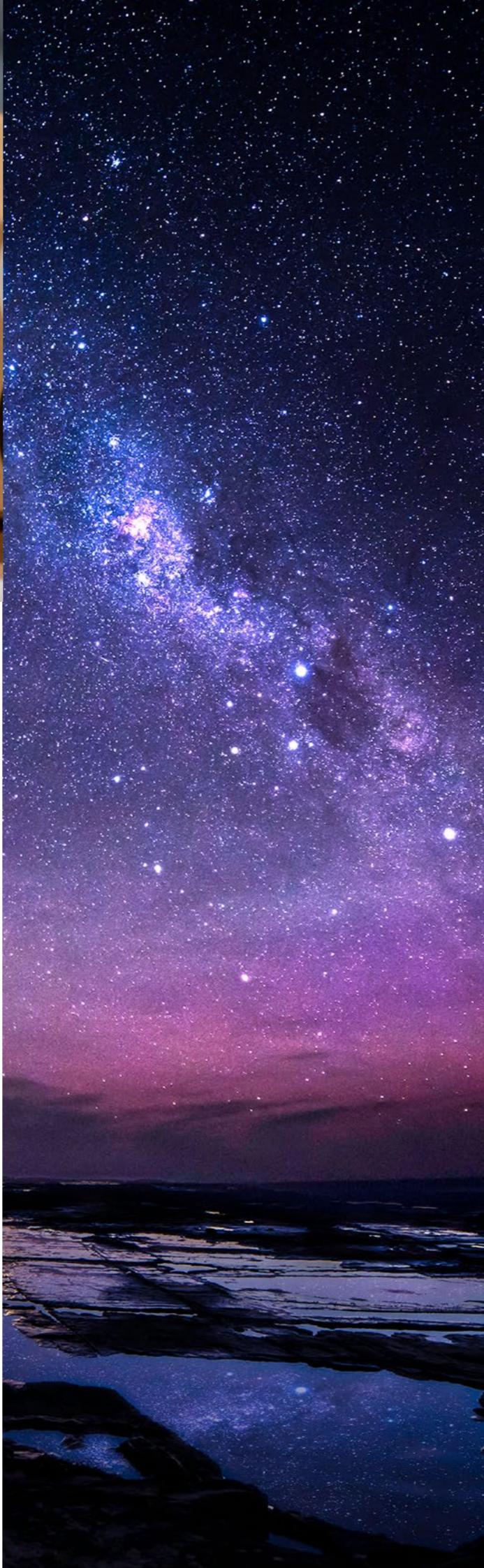
HOW DATA CAN EMPOWER AUSTRALIA'S INDIGENOUS COMMUNITIES

Aboriginal Australians represent the longest continuous cultures on Earth, dating back tens of thousands of years, yet First Nations Australians continue to face disadvantage. Barbie-Lee Kirby, who is a Ngiyambaa, Wailwan, Paakintji-Maraura, Gamilaraay and Yuwaalaraay First Nations woman from Brewarrina, New South Wales, is making it her mission to address that disadvantage and discrimination.

"Data is the language that the government, corporates and non-profit sector use," Barbie-Lee says, "yet, traditionally, most of that data has been kept from Indigenous communities. To empower ourselves - and to protect our rights - we need to access that data. We are looking for data sovereignty so that we can construct our own narratives and overcome the cycle of dependency on government funding and philanthropic support." That, in a nutshell, shows why Barbie-Lee, as director of data governance & evaluation at the Maranguka Community Hub, based near where she grew up in New South Wales, is doing such an important job.



Barbie-Lee Kirby
Alumna of Sydney office
2019 - 2022



Exchange and transfer of data is happening, but is not as seamless as it should be. Some communities have data sovereignty in action; however, policies and legislation are playing catch-up, and there is a need for government to mandate data-sharing with First Nations communities. Most data collected from First Nations communities sits outside of communities, with ownership and storage of data held by government and institutions. This means that data is often used to create narratives that lack nuance, are misinformed or negative of First Nations communities.

There are two obstacles, Barbie-Lee explains: the first is government and the second lies within the Indigenous communities themselves. "So far as the government and many institutions are concerned, they maintain, wrongly in our view, that the community data they hold is theirs. It is taking us years to get data-sharing arrangements in place."

The second challenge is to educate and upskill the communities themselves. "There is a huge gap in understanding," Barbie-Lee says. "Some people are scared by data, or else they think that it is a whole other world that doesn't concern them. One of my key tasks is to build data capability in communities and to support the understanding that access to data is our sovereign right."

Maranguka now operates a data platform, Palimaa, an asset that hosts data and is attempting to expand to assist other communities. "Data allows us to

make informed decisions, and actually take control of our own affairs. Data empowers cultural authority, ensuring that we get to decide what investments and programmes are needed in our community."

Key role

She should certainly know, having worked for Herbert Smith Freehills for three years between 2019 and 2022, although not in a legal capacity. With the firm, her title was Executive, Responsible Business & First Nations Engagement, coordinating a range of programmes and support for Indigenous communities. The firm also guided other corporates on their reconciliation action plans, as they are known. "It was brilliant being in the centre of the

firm's endeavours to support Indigenous communities," she says. "I was able to use my cultural knowledge and lived Indigenous experience to steer the firm and to make sure the support was well-targeted and impactful."

"What I particularly liked was that the firm wasn't throwing money at programmes and communities, as some corporates do. They were really

targeting good initiatives, working in collaboration with communities and making a real difference. They were supporting charities, non-profit organisations and programmes, both financially and with pro bono legal advice. It was definitely the most interesting job I have had so far."

Why, then, did she leave? "During Covid, I got to work back in my hometown. As much as Covid was disruptive, for me it was actually something of a blessing because it enabled me to work 'on country'



with my family for seven months. And I loved it so much that when I was asked to go back to HSF in Sydney after we all returned to work, it just wasn't the same. I wanted to be back home 'on country', as we say."

Early breaks

In her short career so far, Barbie-Lee can certainly look back on some other fascinating roles. She started her career with Qantas. After studying accounting and law at the University of Technology, Sydney, she opted for the accountancy side. Having done an internship with Qantas aimed at providing opportunities for Indigenous people, she joined the Qantas finance graduate programme. She was the first Indigenous candidate to join the finance graduate cohort.

After two years, she then moved to corporate governance as a manager. "It was transformational for me, because I came from a background where we didn't really know much about business, so I completely immersed myself in it. I have taken that knowledge forward with me."

Barbie-Lee now also has other roles where she can use her commercial experience and her knowledge of Indigenous communities. She is a director of The Crescent Institute, an Islamic organisation educating young Muslim professionals in Australia, and she is a director of NASCA, an Indigenous non-profit organisation that supports education for First Nations youth. NASCA is also seeking opportunities for Indigenous youth to have access to cultural resources, whether it's the revitalisation of Indigenous languages or cultural practices.

"NASCA is looking to help First Nations people not only to finish high school but actually to have a really great experience at school and to come through that experience understanding who they are as First Nations people and being strong in their culture," Barbie-Lee explains.

She is also an external adviser on the RAP Leadership Committee for Uber Australia, advising the company on its own reconciliation journey and responsible business programmes.

And another thing

As if that weren't enough, Barbie-Lee has started her own skincare business, Walaan Skin. The idea came to her during lockdown, when she realised that the native fruits and plants that her family uses for skincare and other healthcare applications could be made more widely available. "We harvest wild native fruit and plants that are incredibly beneficial in a number of ways, and it dawned on me, why not share this with the world?"

It was also important to her that the processing was done by Indigenous communities and not delegated to the well-established skincare product manufacturers. "I want people buying our products to know that they are buying authenticity and thousands of years of knowledge of native Australian plants."

She is already selling serums, and trials are underway to make lotions and cleansers. Oh, and she is also starting some other businesses that are still under wraps!

First Nations explained

The recently adopted term of "First Nations" is a better identifier for communities than Aboriginal or Indigenous. Australia is one nation when classified as a sovereign nation, but actually comprises 450 Indigenous nations, based on traditional lands lived in by different communities for centuries. Each has its own traditional law, its own language (including different dialects) and traditional ways.

IN-HOUSE IN-TOUCH



Henrietta Rowe
Alumna of Sydney office
2007 - 2016

The role of general counsel is becoming ever more complex. As the interface between management and the legal function, company leaders increasingly rely on their GCs to help them navigate complex regulation, evolving trends in shareholder activism and crisis management, not least the pandemic. We spoke to two Herbert Smith Freehills (HSF) alumni, Henrietta Rowe, who was with the firm in Sydney as a corporate lawyer for nearly 10 years up until 2016, and Minchu Wang, a US-focused securities lawyer in Hong Kong between 2009 and 2014, to ask them about their approach to risk management.

As often happens, lawyers make the transition from private practice to in-house via secondments. During their time with the firm, Henrietta was seconded to the Commonwealth Bank and Minchu to Goldman Sachs, and in each case they found that the in-house role suited them well. There are many reasons why in-house roles are attractive, but a commonly expressed one is that the lawyers feel they are closer to the business. Private practice lawyers, of course, benefit from gaining a good understanding of their clients' businesses, but that can never be the same as being in it, truly

understanding the company culture, risk profiles and internal practices. That is certainly Henrietta's and Minchu's view.

Henrietta became group general counsel & company secretary of the listed healthcare company, Ramsay Health Care Limited, in 2019, and is responsible for the group's legal, governance and secretariat functions. That is some responsibility, given the company is Australia's largest operator of private hospitals and the group employs over 89,000 people globally.

Minchu joined PAG, an alternative investment firm in October 2022, as general counsel of PAG's private equity arm. Previously, she was managing director with Blackstone and Hillhouse, as her entrée into the world of private equity. She now heads a team of four.

Both Henrietta and Minchu were drawn to the possibility of having a more executive role in the business. For Minchu, part of the appeal was working closely with Weijian Shan, the founder of PAG's Private Equity business in 2010 - and, incidentally, the writer of some fascinating books about China - and relishing the idea of being part of PAG's growth. Henrietta was also keen to participate in Ramsay Health Care's global growth and, in particular, to play a leading role in the people side of the business. Henrietta says: "Being a people leader is a privilege. I am passionate about mentoring team members, and supporting them to step up into executive roles and become leaders."

She is also an active member of Chief Executive Women (CEW), an influential organisation representing women leaders from the corporate, public service, academic and not-for-profit sectors, and a committed supporter of its mission - women leaders enabling women leaders.



Minchu Wang
Alumna of Hong Kong office
2009 - 2014

"Being a people leader is a privilege. I am passionate about mentoring team members, and supporting them to step up into executive roles and become leaders."

- Henrietta Rowe

"If people ask us for our advice, we make it our business to provide an answer, even if it is not strictly speaking a legal question."

- Minchu Wang

IN-HOUSE IN-TOUCH

culture, and the transformative power of evolving it (including to elevate the voices of customers and other stakeholders), was also highlighted during her time with the Commonwealth Bank which coincided with the APRA Prudential Inquiry into the bank and the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry in Australia.

Minchu was attracted by the culture of PAG, in which its people work hard – and count as a strength their strong professional relationships with clients – but are also relaxed, which all makes for an excellent working environment. “The private equity world is always demanding and fast-paced, but at PAG there is always deep respect for one another, which makes the role even more fulfilling,” she says.

Both recognise the need for their teams to deliver added value. Often, legal functions are viewed as a cost to the business – albeit a necessary one – that can make their position challenging. Adding value means more than just providing legal answers. As Minchu puts it, “I definitely don’t want my team to be just guarding the gate thinking where things may go wrong. If people ask us for our advice, we make it our business to provide an answer, even if it is not strictly speaking a legal question.”

For all that, responding to immediate challenges is part and parcel of the role, and, for Henrietta, the challenges don’t come much bigger than Covid. As a healthcare company, the pandemic put public and private healthcare providers on the front line, delivering treatment in unprecedented circumstances. Added to that, Ramsay Health Care launched a preemptive equity raising in order to ensure the company was well capitalised for the duration of the pandemic.

Judgment is key

Both Minchu and Henrietta underscore the importance of balancing legal judgment and advice with the commercial needs of the organisation. “At the heart of our advice is risk management,” Henrietta says. “We need to weigh up all manner of risks in the context of the business – not just legal and regulatory risks, but also reputational and other non-financial risks.” Minchu agrees: “The GC plays a pivotal role in helping their businesses navigate these risks.”

Both Henrietta and Minchu are motivated by wider issues than their business’s immediate legal or compliance requirements. With the increasing role that private capital is playing in economic development across many countries, Minchu is scouring the market for future opportunities that will appeal to investors. That requires extensive risk assessment to weigh up any number of factors, starting with geopolitical risks and extending right through to anticipated future regulation. “As we look to new markets, there are many interesting conversations to be had both internally and with clients. I find that fascinating as well as important for the business,” she says.

Henrietta’s wider interest is in corporate governance. That involves establishing sound systems, roles and responsibilities founded on integrity and accountability that mean not just that the company is well-managed but also that it can respond effectively during a crisis. She is extending her involvement to corporate Australia, as a Fellow of the Governance Institute of Australia and member of its Legislation Review Committee, and a member of the Australian Institute of Company Directors Law Committee.

The more the challenges, the greater the risks. Geopolitical uncertainty, climate change management, a volatile global economic environment and the threats and opportunities posed by artificial intelligence all make for macro risks – and that is before even considering fast-changing legal and regulatory regimes. All of which makes for a high-pressure working environment for both Minchu and Henrietta – which they are happy to be in.

Both agree that it is absolutely essential to remain calm, at all times. Henrietta recalls that this was modelled by the partners she worked with during her time at the firm, including in the context of high-pressure M&A deals. “No matter how pressured the situation, we learned to be resilient and adaptable. And, in my case, working on M&A deals, I got used to working long days and nights, which was good training for when I had children!”

Minchu agrees and adds a number of other qualities that were impressed on her from her time with the firm: demonstrate integrity; be a problem solver; and always communicate.

EXPANDING HORIZONS

Carol Shutkever and Selina Lightfoot have each carved out post-private practice (and post-Herbert Smith Freehills) careers as non-executive directors. As they explain, they offer boards the benefit of their experience, not so much as lawyers but as people who can offer judgment and guidance, particularly when it comes to risk management and governance. “It is important you only apply for positions where you think you can add value and make a difference,” they say.

Carol is currently a non-executive director of Companies House, is a director and trustee of the Agora Learning Partnership, a multi-academy trust which has responsibility for nine primary schools, a director and trustee for Herts Young Homeless, a charity based in Hertfordshire whose mission is to prevent homelessness among 16-24-year-olds, and a member of the finance and governance committee of the United Nations Association – UK. Taking on non-executive directorships was a logical next step following a long career with Herbert Smith Freehills, of 33 years. “I chose charities in Hertfordshire, where I had lived for 25 years, but had always worked in London, because I wanted to reconnect with my local community.”

Selina has also built up a portfolio of non-exec positions over the past 10 years, across a range of industries and company structures, including ASX-listed, government, private and not-for-profit organisations. Currently, her non-executive director roles include for Hydro Tasmania, a renewable energy generator; South East Water in Victoria; and Tasmanian Development and Resources. She is also an advisory committee member for TLC Aged Care Pty and a non-executive director of JDRF Australia, which promotes research into tackling Type 1 diabetes; Victorian Opera; and more recently, the North Melbourne Football Club.

“That sounds like a long list,” Selina jokes, “but the time commitment varies depending on the role. Some board schedules are heavier than others, but it is important to ensure

you allow enough time for issues as they arise. It’s not unlike allocating time between different clients and transactions as a practising lawyer – like fitting the pieces in a jigsaw puzzle!” Carol, too, has adapted easily to a different work routine to make sure she can meet the varying demands of her non-executive roles.

Both Carol and Selina moved into the non-executive part of their career, not because they were unhappy with their positions at Herbert Smith Freehills, but because they each were looking for new opportunities. As Selina notes, it was a chance to get to work with different-sized companies to those she had advised as a corporate and M&A lawyer, as well as not-for-profits and charities, and to see how her cross-sector experience and knowledge of business transactions, risk management and governance might assist them.



Carol Shutkever
Alumna of London office
1985 - 2018

Carol agrees. "There are essentially three main strands to the non-exec role: strategy, governance and finance. If you can bring your knowledge and experience in those areas, or at least in two of them, and apply them to the particular role, your input is likely to be very helpful. As lawyers, we can offer our own perspective, adding to the mix of skills on the Board."

Reasons for taking on the roles

Interestingly, both say that they quickly ruled out either going to another firm or moving in-house. Selina, who was a partner of HSF for 10 years and then a consultant, says: "What was attractive to me about a non-executive board career was the opportunity to work in different businesses on a longer-term basis, being one step closer to them, rather than being a legal adviser – as much as I enjoyed that. And that is how it has transpired for me: I have had the chance to become deeply involved in new sectors and industries that previously were not necessarily my core focus, which has been a great opportunity."

For example, Selina's board role with Hydro Tasmania has enabled her to become involved with a business very much part of the transition to renewable energy. She is also a great follower of Australian Rules football, which definitely encouraged her to become involved with the North Melbourne Football Club. Carol was not familiar with the world of primary school education (other than through her children) but was attracted to helping children and young people. She has enjoyed the huge amount of knowledge she has gained through her involvement in the Agora Learning Partnership.

Governance is the primary focus of Carol's roles. That links with her time at Herbert Smith Freehills where she was for many years responsible for the Corporate practice's knowledge management and also increasingly assisted clients with advice on compliance and governance, as companies have had to deal with more and more complex regulations. As she points out, corporate governance is constantly changing – and, indeed, the UK regulator is currently in the process of changing its corporate governance code once again.

"Corporate governance is an interesting mixture of law, regulation and best practice. And the challenge – and interest – is seeing how it is put into practice by individual companies and other entities," Carol says. She certainly has her work cut out at Companies House which is undergoing a big transformation, including an extensive digitalisation programme and preparing for new legislative objectives and powers which will significantly reshape its role.

For both Carol and Selina, an added motive for taking on non-executive or trustee roles was to see how their skills they had gained as corporate lawyers could be put to good use in the charitable or not-for-profit sectors – giving something back.

Even though each of Selina and Carol left the firm without having a definite board membership which they could take up, they both strongly recommend anyone thinking of doing non-executive director work to gain some prior experience, not only for insights into the workings of a board, but also to test whether a full-time board career is right for them. They recognise that achieving that, when working full-time at the law firm, may not always be possible. But it does not necessarily have to be a board role or something that comes with a significant time commitment. It could for example be a volunteering role, or involvement with industry bodies.

Both Carol and Selina are absolutely clear that they made the right choice in their career path and that others at the latter stage of their legal careers could benefit, too. Time to write those CVs!

HERE'S WHAT YOU SHOULD DO

Anyone contemplating the world of NED positions will need to put together a board CV more aligned to the skills that boards are looking for, rather than a "legal" CV ("I actually had to write mine for the first time in more than 30 years," jokes Carol) and spell out the skills they have built up during their legal careers. Both are absolutely clear that it is not enough simply to say that you have been a lawyer – and, in fact, that might count against you unless you are able to show the relevant skills and experience that you have gained as a result.

"Boards are for the most part looking for someone who can bring skills relevant to the business which the board is overseeing and to complement/add to the skills already present on the board – understanding risk, having sound judgment and the ability to bring strategic thinking and experience is all part of that", to which Carol adds, "and they don't want – generally – someone with pure legal skills. You are not there to give legal advice, you are there to give the benefit of your experience, knowledge and judgment."

Most businesses will have their own legal teams, headed by a general counsel, so it is not the NED's position to interfere even if they do have legal expertise. However, notes Carol, that should not stop them raising questions if they sense some potential legal jeopardy. "We are trained to spot legal issues and it is sometimes

appropriate and necessary to raise these with management, but it needs to be handled in the right way. Often the question is one of assessing risk, and risk management rather than the law."

Then, anyone looking at potential NED roles should speak to others for advice and hit the coffee shop circuit to get the word of mouth out. It is remarkable how often potential opportunities arise as a result of conversations over cappuccinos.

An interest in the business or sector for which you are applying is an obvious prerequisite for applying for a non-exec role, although you don't necessarily need to have a detailed knowledge, both Carol and Selina say. The information can be learned and it may take some time to achieve after you have joined a board, but it is definitely important to build up your knowledge base so you can perform the role effectively. That is not beyond the scope of lawyers who are used to informing themselves about matters about which, at the outset of a dispute or transaction, they know either little or nothing.

Equally, both say that anyone applying for non-executive board roles should go in with the right reasons – by which they mean, commitment, interest and willingness to contribute. You are unlikely to take on these roles just for financial reasons, Carol notes, and charity board roles are not remunerated, although people will obviously need to work out what rewards they would like to receive when deciding whether the NED route is one for them.

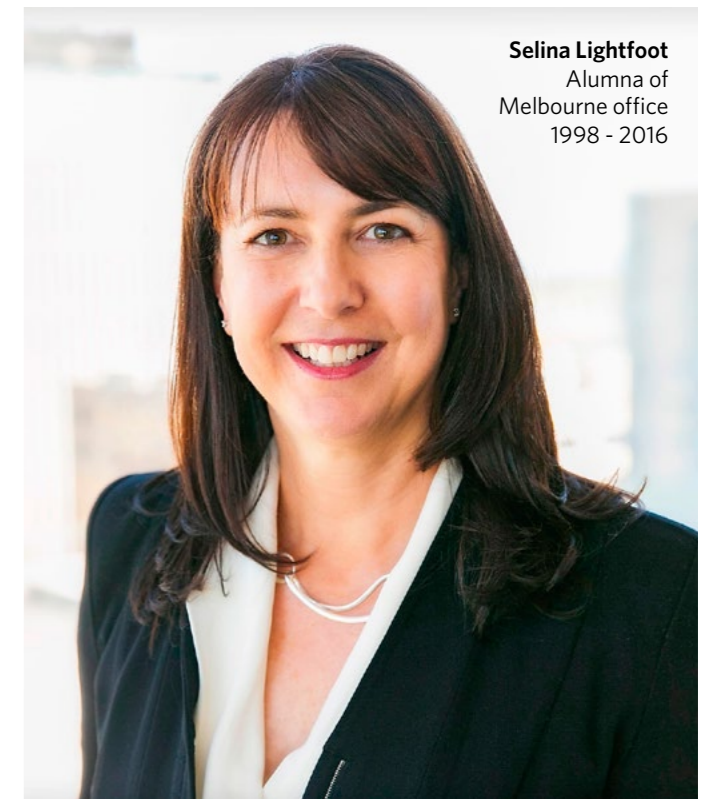
Adds Selina: "You have to have built up a good amount of executive experience, which enables you to add value to a board."

Both advise making sure that anyone looking for non-exec roles should carry out due diligence on the companies or bodies they approach, not just their finances but also the people, to see whether there is a good fit. There will always be a process where both sides sound each other out. That usually takes time, and may not always work out. "Don't take it personally if at the end of that

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What was attractive to me about a non-executive board career was the opportunity to work in different businesses on a longer-term basis."

- Selina Lightfoot



Selina Lightfoot
Alumna of
Melbourne office
1998 - 2016

process, they decide you are not right for them," says Carol. Selina agrees: "Different applicants will bring a different mix of skills and experience to the table. There will often be a range of appointable candidates, so it's not unusual to go through a number of processes before finding a role."

It is also important to remember that there are responsibilities – and potential liabilities – that come with being a board director, so these should be borne in mind. There are many ways to inform yourself about director responsibilities, such as courses available through organisations like the Australian Institute of Company Directors. Being well informed and working within organisations that have the right checks and balances in place, is a good place to start. Carol notes that ultimately, "You need to be able to take a principled approach and focus on doing the right thing whatever the challenges, that is your biggest protection."

A final point to note for anyone contemplating the switch from private practice to the boardroom is that it is a big adjustment, away from working in teams and having the business support that people become used to. "Comparatively, it is more of a solo endeavour," says Selina. "You spend a lot of time on your own reading board papers and thinking through your response. You tend to do your own organisation. That may not be for everybody. On the other hand, you have the opportunity to work with and meet a lot of new people with different skills and backgrounds."

FIRM HIGHLIGHTS

THOUGHT LEADERSHIP



2023 IN MEMORIAM

John Farr (1949-2023)

John Farr, the chair of our Alumni Association from 2009 to 2018 and former partner of the firm, died in July 2023 after a short battle with cancer. John is universally remembered for his huge contribution to the firm's employment practice, as one of the very top employment law practitioners, for his support for his colleagues, for his invariable politeness - and for his winning smile.

The many messages of condolence after the announcement of John's death all spoke of John's unfailing kindness, steadfastness, humour (always with a twinkle in his eye) and unwavering support for friends and colleagues alike. Here are just a few:

- "We all saw the same thing: a very kind individual, ever courteous, rarely cross, private, cultured, with a hint of irreverence and a lovely smile and twinkling eyes. He was immensely supportive to juniors and really had their back. I also thought of him as a lucky lawyer. His cases seemed to turn out well, even when they were hopeless, and I think a lot of that was down to his reassuring presence and realistic can-do attitude." - Roxane Eban
- "He was a genuine role model and simply a lovely man." - Chris Parsons
- "He was a real inspiration to me and a superb example of how you can be highly successful and respected but at the same time be greatly liked and inspire huge affection." - Tom Bray
- "John was a very special person and we will all miss him dearly." - Maureen Jewell
- "John was a very inclusive person, more partner than ruler and helped many to maintain contacts with this amazing firm." - Michael Carl
- "The epitome of a gentleman and a great colleague." - Naomi L'Estrange

Pamela Collis writes: "I joined Herbert Smith as a trainee in 1979 with my first seat in litigation. The first three months were with David Gold and the second three months with John Farr. There was a big contrast of style, but I loved both seats. John was so kind and gentle (yet ruthless when needed). John explained his thoughts and tactics on cases to me and involved me as much as possible. That all required kindness, patience and care. I was destined to become a family law litigator and therefore left Herbert Smith in 1982. John was thoughtful and kind, referring several directors who needed legal advice on their severance arrangements but for whom he was conflicted from acting. John was a great judge of character and interested in people generally and his ex-trainees and colleagues specifically. He never overlooked or forgot them. It would have been difficult to find a more supportive boss."

John joined Herbert Smith as an articled clerk in 1972. After qualifying two years later, he continued in David Natali's litigation group as an assistant solicitor before being made partner in 1982. He handled a range of litigation matters, including business disputes, insurance litigation, government inquiries and defamation. Among

his several famous clients, John represented Princess Elizabeth Bagayo of Toro, the first East African woman to be admitted to the English Bar and one-time foreign minister in the Ugandan government, who successfully sued a number of newspapers for libel after some salacious and unfounded allegations disseminated by Idi Amin. John was one of a number of lawyers advising US banks in the highly politically charged and complex Iranian bank litigation following the hostage taking of US diplomats in Iran in 1979.

John started to concentrate more on employment law from 1986, with the increase in employment legislation and its growing importance in corporate transactions. In 1991, he was asked to form a separate Employment Group. He became an expert, acting for a range of clients, including Buckingham Palace, Guinness, the Telegraph Group, CSFB, Gerald Ratner and Nicola Horlick, who said she chose John to represent her in her highly publicised dispute with Deutsche Morgan Grenfell because she "just wanted the best".

Employment law was right up John's street, as someone who was interested in people and, with his grounding in litigation, enjoyed the challenge of helping people resolve their disputes. He had exceptional judgment of strategy and tactics, knowing when to push hard or when to seek a compromise. He enjoyed the challenge of the trial and the satisfaction of winning, but always had uppermost in his mind the best outcome for the client, where settlement may be the better option. Unflappable, he provided calm reassurance to clients even in the most high-pressure situations and often where others' instincts would be to go in with all guns blazing.

That patience paid off in the face of one banking client faced with the need to take urgent action in response to receiving over 50 resignations simultaneously from employees at various levels and who were on the verge of setting up on their own and taking clients with them. John held back until he had gained evidence to justify securing a "springboard injunction". That case extended the availability of these springboard injunctions in cases involving breach of fiduciary duties as a ground for obtaining an injunction. John also made new law in cases involving the interpretation of restrictive covenants and restraint of trade in relation to the poaching of employees.

John was scrupulously polite with everyone with whom he dealt, including his litigation adversaries. But that didn't make him a soft touch. As one of the directories said, John had an "iron fist in the velvet glove", and he would fight his client's corner tenaciously, when required. He was a skilled negotiator, to the extent of staging a walk-out from negotiating meetings without agreement safe in the knowledge that the other side would come chasing after him with an acceptable offer. He came across as being eminently reasonable (even where the case didn't always merit it), which often had the effect of persuading the other side to cave in. He gained an impeccable reputation, which made him much sought-after by clients and much-respected by peers. Together with Peter Frost and Andrew Brown, John developed the firm's Employment Group, covering both contentious and non-contentious matters, into a formidable practice. In his only partnership managerial role, John also served as trainee partner in the late 1980s.



As head of the Employment Group, John was an inspiring leader and highly respected manager. When he was asked for assistance, he gave his team his undivided attention, offering considered advice with an experienced perspective. Many is the lawyer and support staff member who has benefitted from John's sage advice. He was endlessly kind in explaining things and full of fun. That included one time when the joke was at John's expense. His team members conceived a plan in cahoots with the security downstairs in the building where he then worked so that on John's arrival one morning he was told that an angry client expecting to see him and not being best pleased at being made to wait was in his office. Flustered (for once), John hurried up to his room to be greeted by an inflatable gorilla with the name of the client across his chest! A joke well-made and well-taken.

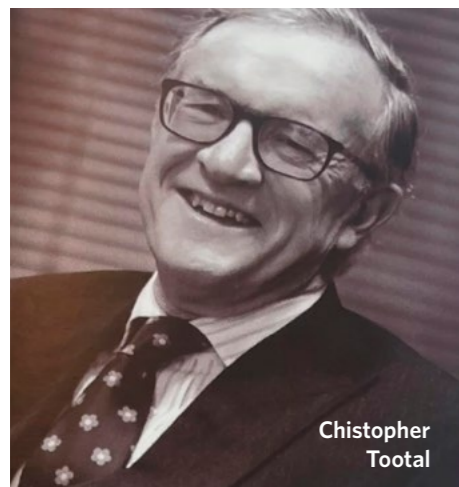
On his retirement in 2009, John became a consultant to the firm, including the role as chair of the Alumni Association. This was a role absolutely made for John, as someone who had a genuine interest in people, had a fabulous list of contacts and who liked nothing more than welcoming guests to a party. He had a particular skill for remembering people's names (and often those of their partners and children), only later confessing that he would keep a record precisely for that purpose. The very fact that he thought it worth doing so was testament to the importance he placed on showing an interest in people as people not just as "human capital" - a trait that endeared him to his team in particular.

John built on the foundations of the Alumni Association and Herbert Smith Freehills' reputation for being one of the friendliest of all the top firms to develop the association globally. The association flourished under John's leadership. He instinctively understood the value of keeping in touch with people and that the events and publications should be fun, as well as a valuable resource for the firm.

Given how all-consuming the day job can be, John understood the value of maintaining interests outside work. These ranged from his love of opera and art collecting to travel, hiking, watching rugby and gardening. Pride of place were the orchards at his home in Herefordshire and the resulting own-label 'Old Rectory Apple Juice'. He was a devoted family man to his late wife, Katherine, and to his five children, Sarah, Richard, Tim, Henry and Emily.

Humphrey Keenlyside, Alumni network writer

2023 IN MEMORIAM



Christopher
Tootal

Christopher Tootal (1936 – 2023)

We are sorry to pass on the very sad news that former London partner, founder of the Firm's IP department and Head of Litigation Christopher Tootal has died. He is fondly remembered by all who worked for or with him as an outstanding lawyer, for being calm, measured and invariably polite, and, in management, for his scrupulous fairness.

Christopher was a young patent agent with a chemistry degree from Oxford University who was on the point of being made partner in the major patent agent firm, Gill Jennings & Every, and had no intention of becoming a lawyer. However, he was invited by David Higginson, who knew him socially, and Geoffrey Lewis to join the firm. Christopher was recruited because an established client - Firestone Tyre and Rubber - was on the receiving end of patent infringement litigation brought by General Tire and Rubber, and the nature of the case needed someone who understood the technology.

Christopher did the seats in order to complete his articles, qualified in 1967 and was made a partner the following year – an unheard-of rapid promotion. Herbert Smith became the first major City firm to start an IP department, that specialism having previously been the domain of smaller, specialist boutiques.

His development of a leading IP practice led to him being highly respected in what was the rather tightknit world of IP practitioners internationally. He wrote a leading textbook - *The Law of Industrial Design* - on an area of IP law that was notoriously difficult and complicated.

Colleagues talk of Christopher's personal qualities, his likeability, his great good sense, his excellent judgment, and his knack for getting the best out of people. When a new Head of Litigation was to be appointed at Herbert Smith in the 1980s, Christopher was the preferred choice for the job. But the IP group, which he led, was located in the Corporate department, not the Litigation one. Rather than choose another Litigation partner instead, the firm appointed Christopher and moved IP into litigation. He was head of Litigation and Arbitration from 1981 to 1986.

Christopher made significant contributions to various professional organisations, such as the AIPPI, The Law Society, The City of London Law Society, the Patent Solicitors' Association, which he chaired, and the patent agent's professional body, CIPA. A keen

sailor who loved to sail off the Western Isles, he also served with distinction as the Master of the Tallow Chandlers Livery Company. He retired from the firm in 2001.

We extend our heartfelt condolences to Alison, to whom Christopher was married for 55 happy years, children Alastair and Jo, son-in-law Danny, and grandchildren Evie and Millie.

Mark Shillito remembers:

"Old school and patrician in the best possible way, Christopher was kind and courteous to all and had the respect of all with whom he dealt. He cared deeply about the people in his team. An excellent technical lawyer, he was always calm, commercial, strategic and a great client man. He's the man you wanted on your side when you were in a deep ditch. By the time I joined HS as an articulated clerk in 1987, Christopher was well-established as the pre-eminent patent solicitor in the country. With the twin towers of Christopher on the patents side and Tony Willoughby (my other mentor) on trademarks, not to mention our own Bill Moodie (RIP), we really did have the best IP team in the country. It was a privilege to join it and to sit at their knees."

Edward Walker-Arnott adds:

"Christopher was reserved and carried his distinction lightly, but of his great distinction there can be no doubt. He and I became partners of Herbert Smith on the same day. My elevation was run-of-the-mill stuff; his rise was meteoric. He was promoted a year after he qualified as a solicitor. Under Christopher's exceptional leadership the IP department became one of the jewels in the Herbert Smith crown. Christopher's appointment as head of Litigation was very much a 'left-field' one. Intellectual property work involved a lot of litigation, especially as regards patents, but Christopher's section was essentially a new 'outlier', quite small beside the large insurance and commercial litigation teams. However, the 'powers that be', who made the decisions in those days rather than heads of department being elected as was later the practice, had seen that Christopher was so much more than a gifted patent agent turned outstanding lawyer. He had a quiet steely determination to get things done but with courteous civilised style and a penetrating intelligence. They were right. Herbert Smith's formidable reputation for litigation was forged in his time and survives to this day in Herbert Smith Freehills."

Adrian Clough, Senior Alumni Ambassador



Gerald
Pointon

Gerald Pointon (1935 – 2023)

We are sad to report that Gerald Pointon, a retired partner of nearly 30 years and one of the founding members of the Paris office, has died.

Known for his musical flair, Gerald was a choral scholar at King's College Cambridge, and is said to have been the first person to play the piano in the High Court. He represented the famous British singer Dame Vera Lynn in a case alleging a song recorded by her infringed the copyright of an earlier song. Gerald countered that both tunes were based on an old Gaelic air – so for comparison, he played various derivations of the air to the judge.

In 1964, the London law firm Herbert Smith decided to open a small office in Paris – its first overseas office and only the second City firm to do so. The office was made up of only two people: Dunstan Curtis (who had assisted with the formation of the Council of Europe), and the daughter of the firm's senior partner, who was dispatched to be the secretary. Given their limited experience in English law, assistance was needed, and Gerald (who had joined Herbert Smith in 1962 and was in the litigation department) was chosen to support the office, spending one week a month in Paris.

By 1966 he had been made a partner and in 1970 Gerald and his family moved to Paris and he took command, providing the impetus for remarkable growth over the years.

From a broad base, Gerald built a specialisation in arbitration, and worked on numerous international arbitration proceedings. A principal strand in his practice was acting for French companies in construction disputes with overseas clients leading to ICC arbitrations. He had many cases in India and built a connection with leading Indian Senior Advocates which was valuable when the firm started expanding its India practice in the mid-to-late 1990s. In 1974 he was appointed United Kingdom representative on the Court of Arbitration of the International Chamber of Commerce, a position he held for 13 years.

Gerald was a highly accomplished musician, his former colleagues fondly remember him playing the piano and singing for them, usually, a medley of Noel Coward songs.

Adrian Clough, Senior Alumni Ambassador

* References are from "A History of Herbert Smith" by Tom Phillips, and also with thanks to Edward Walker-Arnott

** Photograph picturing Gerald Pointon with thanks to Philippe Trosset.



Kevin
Woodford

Kevin Woodford (1957 - 2022)

It was with great sadness that we said goodbye to Kevin Woodford who passed away in December 2022 following a long battle against cancer.

Kevin joined HSF in March 1998 when he was employed as a late shift messenger. His dedication to his work and his reliability led to a promotion to senior messenger in 2014.

Kevin was known by all for his cheeky sense of humour and approachable demeanour. He would be the first person to help anyone in need, was an avid Tottenham Hotspur fan, and was partial to a can of Fosters whilst watching Formula 1.

At work social events, Kevin was always the first person on the dance floor and would always be the last to leave.

His popularity was evident in the large number of HSF colleagues (past and present) who attended his funeral to pay their respects and say goodbye. A beautiful and befitting memorial for a truly remarkable man.

Kevin will be missed by many around the firm and especially his colleagues in the General Office, many of whom he worked closely with for nearly 25 years.

Written by the London General Office team

2023 IN MEMORIAM

Maureen Higgins (1939 – 2023)

Maureen Higgins died in June, aged 84. She started at Herbert Smith in the early 1960s working for Tony Jones, a company department partner who had a thriving merchant banking practice. She was always up to the demands of the job: quick, accurate, hard-working and conscientious. In common with top secretaries of her day she had the intellect and intelligence which, in later years, would have meant that she went to university.

She was rather shy and came across as quiet and retiring but when she got to know people she showed great humour and sharp observation.

After a long stint with Tony Jones she went to Canada for a number of years. On her return to the UK she re-joined Herbert Smith and worked for Lawrence Collins in the litigation department until her retirement.

Edward Walker-Arnott, HSF Consultant

Lawrence Collins (Lord Collins of Mapesbury) remembers:

Maureen worked with me for 17 years from 1977 until 1994, when she retired and was succeeded by her good friend Carole Flowerday.

Maureen was not only an extremely efficient secretary, calm (usually), highly intelligent, pleasant, funny, reliable, but she was also a very good person, solicitous and caring of others (and always looking after her ailing mother).

Her calmness coped well with the strains and stresses of heavy litigation, but after one incident (entirely my fault) she accepted an offer to work for the then senior partner. Two weeks later she told me that she was bored working with him, and returned to me, much to my relief.

Maureen will be much missed by the many colleagues, and the friends she made, in the firm.

Carole Flowerday adds:

I met Maureen in Toronto in the mid-'70s through a mutual friend. When I returned to the UK, and Herbert Smith, Maureen had already been back in the firm five years and our friendship continued. Whilst in Canada, we had weekends away together and visits to the theatre and events and in the UK, holidays to Europe.

Maureen was a very kind and loyal friend, as can be seen from long-standing friendships, both here and in Canada. Although a private person, she had a great sense of humour and wicked laugh and will be greatly missed.

James (Jim) Pfeiffer (1946 – 2023)

Former partner, James (Jim) Pfeiffer sadly passed away on 3rd October after a long illness.

Jim became a partner in the firm when predecessor firms Moule, Hamilton & Derham and Davies, Campbell & Piesse (DC&P) merged in 1982. Jim had started at DC&P in the '70s and was a partner there from 1977.

In fact, it was a discussion between Jim and John Emerson over lunch that kicked off the merger discussions between the two firms. I credit that merger as a key step in the journey for the firm's rise to the top of the Melbourne market. Jim was a Freehills partner until 2003.

Jim had a diverse corporate practice. He was a real hustler and always on the go chasing new opportunities. A poem written in the early '80s describing the firm's partners referred to him as 'Touting Jim'. This was a very apt description. He collected a range of interesting clients. One that I recall the most was David Marriner whom he shepherded through the redevelopment of most of Melbourne's theatres, including the Regent, Her Majesty's, the Comedy, the Forum, and the Princess Theatre. This had a huge impact on Melbourne and enabled the city to attract major shows.

Jim had a big personality - he was very outgoing and was often spotted wearing bow ties. He loved his wine and enjoyed having a good laugh. He wore a white dinner jacket to formal functions. Jim would break out into singing at partners' dinners and was a prominent member of the Freehills Choir.

He was a member of the Athenaeum Club (President for a term), on the board of Haileybury College for over 20 years, and an enthusiastic supporter of Ormond College (where he had been a student) and the St Kilda Football Club. He was also heavily involved in the West Brighton Club (a tennis and bowls club where the sports seemed to me to come very much second to socialising and singing!) and St Leonard's Church in Brighton (where his father had been the minister).

I first met Jim when I was a law student. He and Martin Hudson interviewed me for a job as an articled clerk. Obviously, he had good judgment as I got the job!

Michael Ziegelaar (Corporate partner, Melbourne) was telling me that Jim had been a big influence on him. Michael said that, when he went to a meeting with Jim as a young lawyer, Jim announced their arrival as 'Pfeiffer and friends', which Michael loved.

When asked how to spell his name, Jim would reply 'Pfeiffer, like Michelle'. He advised Michael that the best way to develop strong relationships with clients was to invite them to your home for dinner, so they could see you as a real person. Excellent advice.

Vale, Jim.

Written by Rodd Levy, Partner, Corporate (Melbourne)

Sergei Baranchenkov (2023)

We have received the sad news that Sergei Baranchenkov, one of the founders of the firm's former Moscow office, died recently.

Sergei Baranchenkov was one of two founding partners of HSF's former office in Moscow, which opened its doors in 1999. Sergei was the local Russian partner and Alan Jowett was the London partner who had promoted the launch of the initiative and flew in and out of Moscow fortnightly or so. It was a bold move. The focus of the office was transactional work in the oil and gas space, where there was expected to be a surge of investment coming into Russia from the West. Initially, the office was thinly staffed with a couple of associates and an office manager.

There was a kindness to Sergei. He was soft in his dealings with colleagues and always willing to help. Sergei and Alan built up the office gradually, with Sergei helping to open doors, and quietly and steadily putting together a team of real quality, of whom Danila Logofet was to become a particularly shining example. Another of the very young associates, Suren Gortsunyan, also learnt his trade under Sergei's wing, and went on to become a partner at Hogan Lovells and then subsequently founded the independent - and hugely successful - Russian law firm RGP. (I know that Suren maintained regular contact with Sergei and greatly appreciated his role as a mentor to him).

Allen Hanen succeeded Sergei as the Managing Partner in Moscow. Allen was well guided and supported by Sergei and they shared a vision that the office could achieve a size and scale that could mirror the success of other offices in the network, and also compete with the other international firms in Moscow, which became a very competitive market. Thanks in large measure to Sergei's network of contacts, astute judgement and expertise the office began to achieve strategic growth and acclaim. In this period, Sergei cultivated significant relations with an arm of the Alfa Group empire, and this success, along with others, became attractive to lateral partner talent including, in particular, John Balsdon, who was to become a stalwart of the wider Firm's Project Finance Practice.

It was easy to become friends with Sergei because he was always willing to give his time and invest in relationships. Allen recalls a time when he had recently moved to Moscow and had encountered some problems with his grocery shopping, which had resulted in him coming away empty handed. Sergei volunteered to go back to the store with Allen and together they re-enacted the shopping process only for the store manager to again throw up his hands

shouting in disapproval at what they were doing! They solution was eventually found: it was a requirement to take a shopping trolley before beginning to shop! Sergei could always find time to help.

Ultimately, Sergei's focus shifted towards more entrepreneurial endeavours, and he left the Firm to pursue those opportunities. He was always involved in some form of capital raising, usually focused on some unique Russia-based technology that he had come across. Sergei was passionate about Russia and all things Russian. He was also very intelligent and highly educated. He was equally at home talking about history, philosophy, or nano-technology.

His health deteriorated quite quickly and he was supported through his last months by his son, Egor. I look back very fondly on my memories of Sergei and the positive impact he had on so many people.

Written by Simon Bushell, alumnus and former partner





HERBERT
SMITH
FREEHILLS
ALUMNI

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