

A R T I C L E S

CAREER PATHING AND INNOVATION IN PROFESSIONAL SERVICE FIRMS

NAMRATA MALHOTRA
Imperial College London

MICHAEL SMETS
TIMOTHY MORRIS
University of Oxford

In this paper, we start a new conversation about how career paths affect innovation capacity in professional service firms (PSFs) that face escalating pressures from clients to deliver more ingenious solutions *plus* enhanced efficiency. Using top-tier law firms as an illustrative case, we demonstrate how career path changes, initially made to address work–life balance concerns, had the virtuous side effect of enhancing innovation capacity. Our study fosters dialogue between PSF research and broader innovation theories, based on four contributions. First, we build much-needed conceptual clarity about what innovation means and the forms it takes in the context of PSFs. Second, we show that exploration and exploitation are not orthogonal but are connected and mutually reinforcing in PSFs. We conceptualize an Innovation Loop that captures the continuous morphing of one into the other. Third, we draw attention to the neglected role of career pathing as a determinant of innovation capacity by facilitating seamless transitions between exploration and exploitation. Finally, we demonstrate how changing career paths are not a necessary evil but create win-win solutions to *both* accommodate work–life preferences of staff *and* enhance innovation capacity for the firm.

Continuous innovation has become the most pressing challenge for organizations facing increasingly sophisticated consumer demands. Simultaneously, pressures to improve the work–life balance of their workforce make it difficult to retain valuable talent and deliver the innovations customers seek. While virtually all industries must deal with these two challenges, reconciling them is especially critical—and tricky—where innovation capacity hinges on the organization and motivation of human capital rather than technology infrastructures (e.g., Gallouj & Weinstein, 1997). Professional service firms (PSFs) in general—and law firms in particular—are exemplars of such settings. However, the

interplay of their career pathing and innovation capacity has received very limited attention. The purpose of this paper is to start a new conversation about how career paths affect innovation capacity in PSFs.

Drawing on a dialogue between theories of PSFs, the broader innovation literature, and two sets of illustrative data¹ from the specialist legal press and five elite law firms, we develop four theoretical contributions. First, we build much needed

¹ We draw on the specialist legal press to capture industry trends in innovation and novel career paths, derive empirically relevant categories, and translate practitioner vernacular into theoretical concepts. We also use interviews and documents from five elite law firms to validate media reports and collect firsthand accounts of how new career paths affect innovation capacity in practice. We disclose firm names and descriptors when reporting examples that are in the public domain. However, to protect the identity of those sharing nonpublic examples, we anonymize firms in our interview sample as F1 through F5.

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conceptual clarity on what forms innovation takes and how exploration and exploitation, typically associated with product innovation, manifest in PSFs. We thereby foster dialogue between research on PSFs and broader theories of innovation to further conceptual development in these fields. Second, we respond to calls for greater attention to how different people and skills influence exploration and exploitation on the ground (Gupta, Smith, & Shalley, 2006). Contrary to suggestions in the ambidexterity literature (e.g., Benner & Tushman, 2003; O'Reilly & Tushman, 2004), we discover that in PSFs, exploration and exploitation are not orthogonal, but are connected and mutually reinforcing. Seamless morphing of one into the other is vital to sustaining what we conceptualize as a continuous Innovation Loop. Third, we shift the conversation about innovation capacity by foregrounding the critical role of career paths. While the PSF literature has typically associated innovation with entrepreneurial individuals, client teams, or mergers and alliances (e.g., Anand, Gardner, & Morris, 2007; Groysberg & Lee, 2009) and the ambidexterity literature has focused on organizational structures or cultures to enable the interplay of exploration and exploitation (e.g., Birkinshaw & Gibson, 2004; Tushman & O'Reilly, 1996), both strands have neglected career pathing as a determinant of innovation capacity. The focus of this paper is to illuminate how career paths affect innovation capacity by facilitating seamless transitions between exploration and exploitation. Finally, we demonstrate how changing career paths are not a necessary evil but create win-win solutions to both accommodate work-life preferences of staff and enhance innovation capacity for the firm.

Law firms are a particularly instructive example for our purposes because they have been caught in the proverbial perfect storm of pressures for both more innovation and more work-life balance over the past decade. Their clients expect increasingly ingenious legal solutions, delivered more efficiently and at a lower cost. As in all PSFs, innovation in law firms is accomplished by frontline staff—that is, by lawyers developing customized solutions to novel client problems (e.g., Løwendahl, 2005; Malhotra, 2003). Therefore, innovation capacity hinges on how valuable expertise is organized.

Traditionally, this has been accomplished through the up-or-out career path (e.g., Galanter & Palay, 1991) in which junior professionals compete to move up the ranks from Associate to Partner or out to another employer. The tournament nature and grueling hours of this career path have created

growing resentment, especially among Generation Y or Millennial lawyers, who seek better work-life balance and opportunities for self-development (e.g., Litrico & Lee, 2008). Hence, at a time when their clients demand it the most, law firms struggle to attract and retain the talent required for continuous innovation.

Some of the elite law firms have been quick to adapt the up-or-out career path by introducing two new roles: Counsel and Professional Support Lawyer (PSL). Both enable these firms to permanently retain talent below the Partner rank and offer more work-life balance. Although initially designed to accommodate work-life preferences, these changes have since had the unanticipated positive consequence of increasing innovation capacity. Therefore, we take this opportunity to theorize the role of career paths in building innovation capacity in PSFs—and beyond.

In what follows, we symmetrically juxtapose traditional and current forms of innovation in law firms and their underpinning career paths. First, we outline traditional forms of innovation in law firms and how they were supported by the long-standing up-or-out career path. Second, we elaborate on two new roles—Counsel and PSL—and analyze their impact on innovation capacity. We conclude with a summary of the four contributions we make to theories of PSFs and innovation more broadly, highlighting the link between how human capital is organized and its impact on innovation capacity.

INNOVATION IN LAW FIRMS, TRADITIONAL CAREER PATH, AND INNOVATION CAPACITY

The core task of PSFs is to apply the professional knowledge of their staff to produce customized client solutions in everyday service delivery (Løwendahl, 2005; Malhotra, 2003). Individual professionals are the “carriers, interpreters, and appliers of knowledge” (Groysberg & Lee, 2009, p. 741), and so how knowledge is distributed—and applied—depends on how professionals are organized (e.g., Malhotra & Morris, 2009). It is commonly recognized, as we explain below, that it is the career path that provides the mold for how professionals holding different types of expertise and experience are organized and deployed. However, how a career path affects the capacity for innovation is not well understood. To tease this out, we first explain what innovation means in the context of law firms, the types of innovative activities it entails, and the types of knowledge it draws on. We then explain how the traditional up-or-out career path, with its focus on leveraging senior expertise through junior staff, supported the different forms of innovation.

Innovation in Law Firms

In PSFs in general, and law firms in particular, innovation is embedded in the everyday work of professionals at the core of the firm—that is, in the skillful deployment of their knowledge in client interactions (Anand, Gardner, & Morris 2007; Heusinkveld & Benders, 2005; Mom, Van Den Bosch, & Volberda, 2007). Arguably, because of this everyday, incremental, and continuous nature of innovation, academic research on innovation in these firms is almost nonexistent, in contrast to other industries where innovation is more radical, discontinuous, and, hence, noteworthy (Gupta et al., 2006).

However, the rising importance of innovation in law firms was thrown into relief in 2006 when the *Financial Times* inaugurated its rankings and awards for the most innovative law firms in the United States and Europe. In addition, the Law Firm Innovation Award has been the most hotly contested category in the British Legal Awards since 2012 (Malpas, 2013). From their records, we inductively discovered two types of innovation: legal innovation and operational innovation. As illustrated by the award criteria and interviewees, the former comprises innovation in legal solutions that create transformational value for clients; the latter entails operational refinements and enhanced efficiencies in delivering well-articulated existing solutions. Those categories, as we illustrate below, neatly map onto March's (1991) typology of exploration, the pursuit of learning outside a firm's current knowledge domains, and exploitation, the refining and deepening of existing knowledge stocks.

Traditionally, law firms have privileged legal innovation in response to complex client problems, as it was perceived as the primary way to build reputation. Wachtell, Lipton, Rosen, and Katz's poison-pill defense against hostile takeovers was a path-breaking legal innovation that remains a widely cited exemplar of such exploration-based innovation (Starbuck, 1993). Simultaneously, law firms carried out more routine transactions entailing small adaptations of preexisting solutions, akin to exploitation-based innovation. These transactions, however, faced the risk of quick commodification and price pressure. Maister (1993) evocatively illustrated the privileged status of exploration over exploitation activities by labeling the former as "brains" or "grey hair" solutions, while the latter are simply "routine."

This status differential hinges on the different types of knowledge and reasoning needed for operational and legal innovations—and the different

seniority levels of the professionals who typically have them. Associates, the junior salaried professionals in a firm, can accomplish their tasks of adapting and delivering established solutions through the application of technical, explicit, and easily transferable knowledge (e.g., Szulanski, 1996) that they acquire through formal education and training (Hitt, Bierman, Shimizu, & Kochhar, 2001; Liebeskind, 1996). Operational innovation mainly draws on the application of this explicit knowledge through analogical reasoning (e.g., Cornelissen & Durand, 2014). By contrast, senior professionals, especially Partners, do the aforementioned "grey hair" or "brains" work—predominantly drawing on their more difficult-to-transfer, mostly tacit, and uncodified experiential knowledge (e.g., Maister, 1993; Polanyi, 1967). This experiential knowledge forms linkages across categories of explicit knowledge (e.g., Cohen & Levinthal, 1990) in ways that aid counterfactual reasoning—the imagination and contrastive questioning required to rethink existing approaches (e.g., Cornelissen & Durand, 2014; Durand & Vaara, 2009)—and, in turn, exploration-based legal innovation.

The way the professionals holding these different types of knowledge and applying these types of reasoning are organized directly affects a firm's innovation capacity. Traditionally, the availability and deployment of professionals with different expertise and experience have been regulated by the up-or-out tournament career path and its central mechanism of leverage—the number of Associates per Partner. This ratio, given the different types of knowledge that Associates and Partners embody, directly affects innovation capacity, as we explain next.

The Up-or-Out Tournament, Leverage, and Innovation Capacity

Most PSFs have traditionally relied on an up-or-out tournament model of promotion. Associates work toward moving "up" to Senior Associate and eventually being elected as a Partner and sharing in the firm's profits (Galanter & Palay, 1991; Malos & Campion, 2000). Those who fail are expected to move "out" to another employer, with no option of permanent employment below the rank of Partner. The deferred yet substantial reward of sharing profits as a Partner fulfills Associates' career aspirations, but also has important implications for the firm: First, it motivates Associates to work hard and economizes on monitoring costs (Gilson & Mnookin, 1985), because the exacting billable-hour targets, a typical

promotion criterion in the up-or-out tournament, serves as an effective monitoring mechanism. Second, by controlling entry to Partnership, the up-or-out tournament regulates the number of Partners and the size of the firm. The two are linked through the leverage ratio—the number of Associates per Partner. In everyday practice, leverage is manifested in teams of Associates with differing seniority working with a single Partner to deliver a specific transaction.

Partners leverage Associates in two interrelated ways: First, they rely on Associates' effort to generate profits that relatively fewer Partners share. Second, to do so, Partners leverage their experiential tacit knowledge by transferring it to their team of Associates, thereby enabling them to undertake more complex tasks (and earn higher fees) than they could by relying exclusively on their highly codified or explicit knowledge. Leverage thus configures the different types of professionals and knowledge present in the firm and the way they can be accessed—both conditioned by the task at hand (Hansen, Nohria, & Tierney, 1999; Werr & Stjernberg, 2003)—and profoundly affects innovation capacity.

Specifically, leverage affects innovation capacity via three mechanisms: First, it helps with *prioritizing* the use of valuable assets, such as the most experienced professionals. Partners' time and experience is best used on creating state-of-the-art solutions to complex client problems rather than on more routine tasks that Associates can handle. Second, leverage enables the *bundling* of professionals' explicit and tacit knowledge as well as their social capital (Helfat, 1997; Hitt et al., 2001). Partners leverage their client relationships when searching for a greater variety of novel and complex problems that “pull” innovation and their tacit, specialized knowledge when solving them. Third, it affects the *sharing* of explicit and experiential knowledge between Partners and Associates. As Hitt and colleagues (2001, p. 16, emphasis added) noted, “*Effective leveraging creates dynamic capabilities whereby the firm is able to renew, augment, and adapt its current capabilities to serve continuously changing and new client needs.*” What constitutes “effective” leveraging depends on the fit between the leverage ratio and the task at hand. However, the extent to which sharing, prioritizing, and bundling are effectively achieved varies with high or low leverage ratios, which, in turn, affects innovation capacity.

High leverage and innovation capacity. Routine problems that require substantial manpower but only limited adaptations of preexisting solutions can be addressed with highly leveraged teams. A few

Partners can supervise a relatively large number of Associates because solutions require explicit, largely articulable knowledge that Associates gain from their formal education coupled with access to documents and knowledge repositories, and they need minimal recourse to their mentors (Haas & Hansen, 2005). High-leverage teams are, thus, indicative of—and conducive to—exploitation-based operational innovation. While high leverage is efficient in that it prioritizes and directs Partners' valuable time and knowledge toward more complex client problems and winning new business, it limits face-to-face interaction with Associates and, consequently, the opportunity for sharing tacit, experiential knowledge with them. In sum, higher leverage allows Partners to delegate more professional tasks to Associates, spend less time sharing tacit knowledge, and prioritize business development instead. However, a corollary is that their availability for supervising more routine work is limited. Weak sharing of tacit knowledge and, consequently, bundling between explicit and tacit knowledge limits the potential for counterfactual reasoning and, in turn, the prospect of leading-edge, reputation-enhancing operational innovations.

The struggle to achieve effective sharing is evident in an observation made by a senior lawyer following an in-depth survey of top U.K. law firms in 2007 commissioned by *The Lawyer*:

The days when Assistants [and Associates] sat at their Partner's feet and acquired the benefit of their wisdom by osmosis are long gone. Now, additional pressures on Partners—combined with the extension of leverage—makes the organic development of mentoring a very hit and miss affair. (Bedlow & Evans, 2007)

Sharing of tacit knowledge through personal interaction is further jeopardized by the pressure of meeting stringent billable-hour targets. The utilization pressure associated with such targets promotes “short-term profit-maximizing behavior” (S. J. Harper, 2013) and, in so doing, constitutes “the biggest obstacle to innovation.” Additionally, an excessive billable-hours culture also incentivizes Partners to “hoard” key clients and thereby limit the transfer and growth of tacit knowledge that supports exploration.

Low leverage and innovation capacity. Compared to the more routine and simple client problems, highly complex and novel problems are better served by low-leverage teams. A lower number of Associates per Partner enables the face-to-face interaction necessary for Partners to transmit their tacit

experiential knowledge that is most effectively revealed through application rather than through an organizational code (Lei, Hitt, & Bettis, 1996; Miller, Zhao, & Calantone, 2006). Low-leverage teams are, therefore, conducive to exploration-based legal innovation for which tacit knowledge is a critical input and stimulates counterfactual reasoning. Learning by doing enables Associates to absorb the industry-specific and firm-specific experience of their mentors, including uncodified aspects of applying the law and handling idiosyncrasies of valued clients (e.g., Hitt et al., 2001). As the transmission of experiential, tacit knowledge relies on personal interaction (Hansen et al., 1999), low leverage allows explicit and tacit types of knowledge to be communicated, applied, and combined effectively. Low leverage not only enables the team of junior and senior professionals to find innovative ways of solving complex client problems, but it is essential to prepare Associates for Partnership—a means of sustaining the up-or-out promotion career path. Those who learn the most and who are highly effective in using or applying that knowledge are eventually rewarded with Partner status (Galanter & Palay, 1991). This is indeed critical to continuously build the pool of tacit knowledge to nurture innovation in these firms.

Low leverage, however, forces a trade-off of a different sort from what we observed under high leverage: between the time Partners spend on supervising and mentoring Associates and the time they spend on winning new challenging business, which has ramifications for innovation capacity. A challenge for Partners is that in conjunction with continuously building and leveraging their tacit knowledge, they are expected to build relationships with current and potential clients and, over time, develop social capital through these client networks (Nahapiet & Ghoshal, 1998). But they can either use their time to enhance the firm's intellectual capital by sharing their tacit knowledge with junior lawyers through problem solving *or* build social capital through rainmaking activities. Low leverage is effective for sharing Partners' tacit knowledge with Associates, crucial for exploration-based legal innovation, and it ensures visibility of experienced, knowledgeable Partners from clients' point of view. Moreover, it prioritizes use of the most valuable knowledge by directing it toward tackling highly customized and challenging client problems that are an impetus for legal innovation. However, all of this comes at the cost of distracting Partners from winning new business and nurturing ongoing client

relationships. The crux of the matter is that exploration-based legal innovation can be sustained only by a continuous flow of complex and challenging client problems. One Partner in an award-winning law firm explained the predicament:

To increase the chances of winning the premium mandates, that is the very big and complex instructions, you really have to be close to the client and understand the business, not just the legal side. Clients tell us that we have to invest time to build relationships rather than just working on transactional terms.

Critically, it is the bundling of the explicit and tacit knowledge *along with* social capital that sustains exploration-based innovation. In a nutshell, low leverage supports legal innovation but risks diminishing the flow of challenging client problems to sustain it.

To summarize, leverage is a central mechanism in an up-or-out career path through which knowledge held by two layers of professionals—Associates and Partners—is configured and accessed to solve client problems. High leverage aligns with the knowledge requirements of routine transactions. Low leverage is suited to dealing with complex and challenging client problems. Whether high or low leverage, there are forced trade-offs among the sharing, prioritizing, and bundling mechanisms, with implications for innovation capacity.

Notably, the up-or-out path has traditionally more or less locked in firms into one type of leverage—and therefore innovation—or the other. Firms have traditionally been effective at—and renowned for—either exploration-based legal innovation or exploitation-based routine work, but the latter was not a priority and was essentially limited to working Associates harder, rather than smarter. This very characteristic of the up-or-out model eventually became self-defeating because Associates' work-life balance preferences changed. Elite law firms were quick to adapt through the introduction of two new roles, Counsel and PSL. We now delve into the details of this new career pathing and its unanticipated—yet positive—effects on innovation capacity.

NEW CAREER PATHING AND INNOVATION CAPACITY

Millennials, New Career Expectations, and the Tempering of Up-or-Out

The traditional up-or-out career path came under substantial pressure when professionals of the

Millennial generation, generally accepted as those born between 1980 and 2000, began to challenge the taken-for-granted aspiration of becoming Partner or even seeking a lifelong career with one firm (e.g., *The Lawyer*, 2007, 2010). Concerns around work–life balance and personal development, rather than pure career progression, have made Associates increasingly skeptical of the prize of Partnership and the sacrifices of the up-or-out tournament (Galanter & Henderson, 2008; Malhotra, Morris, & Smets, 2010). They question the wisdom of making substantial personal investments in the tournament for Partnership as “the growing economic rewards of equity Partnership are being substantially offset by its lack of permanence” (Galanter & Henderson, 2008, p. 1922). Instead, they seek more work–life balance but also challenging and interesting work that enhances their general human capital and job market mobility. In short, while moving out of the Partnership race previously constituted failure, pursuing emerging opportunities in other sectors such as investment banking is now considered a deliberate and increasingly attractive option.

Thus, with the power balance between firms and their professional staff shifting, staff retention has become a key challenge alongside the growing innovation imperative. For about a decade, law firms have faced the perfect storm, struggling to retain expensively trained, highly productive professionals to meet the intensifying innovation challenge. It is this context that prompted the introduction of two alternatives to Partnership: *Counsel* (or *Legal Director*, its European equivalent) and *Professional Support Lawyer (PSL)*, each of which challenges the assumptions behind the up-or-out model, creates different career paths, and enhances innovation capacity in different ways.

Counsel is a new, high-status role aimed at “recognizing, rewarding, and retaining those Managing Associates [Senior Associates] who have significant technical expertise and take on additional practice, client, know-how, or team management responsibilities” and, notably, who work “*alongside* the Partners in their practice” (Managing Partner, F1). Compared with Associates, Counsel fulfill a broader range of supervisory, mentoring, and professional responsibilities based on their greater experience and tacit knowledge. In comparison to Partners, they have no ownership stake, but they also have no responsibility to generate new business, which hierarchically places them in between Partner and Associate. In the words of a Counsel in the same firm, F1, “Counsel is not quite Partner and *you may not necessarily want to be*

Partner” (emphasis added) but “you are an expert in your field and you are a trusted adviser.” It is precisely these features that enable Counsel to enhance innovation capacity.

PSLs, on the other hand, have always been employed outside the career path of fee-earning professionals, but their role has changed radically since the late 1990s. Evolving from what was initially a technical support role involving record-keeping of precedents and documents, the PSL role has grown to become a multifaceted resource. In the top-tier law firms, PSLs are now associated with a wider range of skills, including training for junior lawyers, internal work-flow process knowledge, business development, updating and interpreting the latest legal developments for junior and senior lawyers, and managing sophisticated online knowledge management systems (Humphries, 2008). Some top firms are building career paths that offer significant career advancement and seniority to PSLs. In a nutshell, as the role has become more substantial, it has become a viable alternative for qualified professionals not seeking progression to Partnership via the usual fee-earning route, and it has also emerged as a valuable resource to enrich innovative activities in firms.

The Counsel and PSL roles do not signal the end of the up-or-out tournament, but they significantly alter the career path to facilitate greater retention of valuable talent. For the first time, there are positions of permanent employment below the rank of Partner. More important, the new career path has ramifications for innovation capacity. Both new roles play distinctive parts in overcoming some of the difficult trade-offs associated with specific levels of either high or low leverage and seamlessly linking exploration and exploitation activities into a single, continuous Innovation Loop. To understand this, we briefly revisit the two types of innovation—legal and operational—through the eyes of contemporary practitioners to understand what forms they take and how they relate to each other. Subsequently, we analyze how the introduction of Counsel and PSL roles—and the new emergent career path—affects firms’ capacity to deliver these types of innovations.

Creative Lawyering and the More-for-Less Innovation Challenge

Legal innovation. With corporate clients engaging in ever more complex business transactions, law firms face a persistent innovation imperative. While these innovations are not necessarily qualitatively different from earlier exploratory efforts, such as the

aforementioned poison-pill takeover defense, both legal press and our interviewees are very clear that such innovation—at least at their elite level—is the norm rather than the exception. It has to be.

As our interviewees and *Financial Times* award criteria highlight, legal innovation is all about creating novel legal solutions that prove transformative for individual clients, or even entire industries. For example, Kirkland & Ellis LLP, a hundred-year-old global law firm with a wide range of practice areas, is credited with being the first law firm to blend a tender offer with a simultaneous merger process. In doing so, they innovatively combined multiple transactions in a way that had not been done before and produced a groundbreaking solution that significantly affected the outcome for the specific client for whom it was devised. As one of the lawyers on the team described: “There hadn’t been deals that put all those features together. To a non-lawyer it just sounds like a nifty thing to do. But the melding of these two forms of agreement is delicate work from a legal point of view” (*Financial Times*, 2011).

The Head of the Innovation Panel at F1 reinforces this notion that groundbreaking innovations in law may look rather inconspicuous and nothing like comparative breakthroughs in, for instance, the technology space:

Another way of describing [legal innovation] would be “highly creative,” you know, but it’s not really radical in the way that the iPad was radical or social media is radical. It hasn’t totally reinvented the way things are done, but it is a highly creative solution to an individual client’s problem. A lot of innovation in the legal sector—legal or operational—is relative, so a lot of it is applied to a sector that hasn’t experienced some of the techniques that frankly have been experienced elsewhere—and maybe even are commonplace elsewhere—but they’re novel and innovative in the context of a professional service sector.

Legal innovations with broader impact on entire client industries or fields of law typically result from new developments in client industries (*Financial Times*, 2011, 2012). For example, in the recent past the energy sector has faced unprecedented industry developments that have called for financial and legal infrastructures of unprecedented complexity and prompted far-reaching legal innovations. Importantly, as its traditional boundaries are expanding to incorporate new sources of energy, the sector continues to provide a continuous stream of stimuli for legal innovation. In this context, U.S. firm White & Case, crowned International Law Firm of the Year by

The Lawyer (A. Harper, 2013) for its global profile, earned a place among the most innovative law firms in 2011 for creating an unprecedented financing framework for offshore drill ships, spanning the United States, United Kingdom, Brazil, the Bahamas, South Korea, and Australia. Originally devised for Odebrecht, a Brazilian engineering group, this financing structure subsequently became a template for similar transactions in Latin America, generating innovative impact far beyond the client firm for whom the solution was originally developed.

Notably, such radical and far-reaching innovations continue to emerge from everyday client work and innocuous tweaks to the application of the law. As the human resources Director of F3 noted: “Innovation is often a small tweak to something that’s already pretty commonplace, but that makes a significant difference.” Even industry-wide innovations emerge in a continuous fashion insofar as local innovations escalate to industry levels as creative solutions that serve as precedents for subsequent deals (Smets, Morris, & Greenwood, 2012). This incremental process of development, dubbed “creative lawyering” by one Partner at F1, or “brains work” by Maister (1993), neatly echoes the kind of “experimentation with new alternatives” that defines March’s (1991, p. 85) exploration-based innovation.

Operational innovation. Operational innovation was neglected during the era when law firms sought to build their reputations through high-profile legal innovation, but cost and efficiency pressures have recently catapulted it to the top of the law firm agenda. As the Managing Partner of Davis Polk & Wardwell, the top-ranked innovative law firm in the 2011 *Financial Times* awards, succinctly put it: “Every innovative business has to be focused on how to deliver yesterday’s solution for less today. Today, clients can enforce the truism of ‘more for less.’” A senior lawyer in firm F3 in our sample echoed this sentiment, reporting client complaints that “it’s really not good enough that you’re not offshoring and outsourcing and, you know, finding ways of delivering more value to us for less.” Essentially, then, operational innovation entails refinement and enhanced efficiencies in delivering well-articulated, existing solutions.

As a case in point, U.S.-based Seyfarth Shaw LLP borrowed the core principles of Lean Six Sigma from manufacturing firms, including some of its own clients, to develop an award-winning client service model—SeyfarthLean (*Financial Times*, 2012). Combining robust technology, knowledge management, and process management techniques, the firm

incrementally adapted the principles to the service delivery needs of its practice areas. The extension of such corporate management techniques as big data, cloud computing, and even artificial intelligence into the professional domain is an increasingly common source of operational innovations in law firms (*Financial Times*, 2015; Malpas, 2013). Some firms, such as Axiom Law, explicitly compete on these efficiency gains as their main offering, and have led the discourse about doing legal work in a smarter way. This may involve some new knowledge, but it's a different kind than that associated with exploration (Gupta, Smith, & Shalley, 2006), as evidenced by the process—and technology-based, rather than legal—improvements that earned Axiom a spot among the most innovative law firms in 2012 and 2014 (*Financial Times*, 2012, 2014). Similarly, Baker & McKenzie, one of the strongest global brands in law, created an award-winning global merger analysis platform (GMAP) to swiftly and cost-effectively handle the M&A process for clients. The head of global antitrust and competition commented, "What would ordinarily have been a highly complicated, arduous process requiring a significant amount of due diligence has been streamlined to deliver clarity, simplicity, and, crucially, cost and time efficiency" (*Financial Times*, 2015).

The above examples illustrate a striking shift from the more conservative and routine reuse of existing solutions to deliver services more cost-effectively (Maister, 1993)—the norm in the past—toward more cutting-edge operational innovations. Importantly, these innovations are increasingly triggered by extrapolating or borrowing ideas and solutions from other close domains. However, what at first sight looks like purely an extension of ideas from one close domain to another goes much further as operational solutions are repeatedly applied—and customized—to successive routine client transactions and grow into a transformative innovation that resonates with the sort of learning that underpins exploration. For instance, Axiom started from an innovative use of technology to boost the speed and efficiency of its own legal service delivery, but it has since evolved this approach into developing solutions for clients, helping them streamline large-scale work and advising on ways to lower costs while maintaining quality (Christensen, Wang, & van Bever, 2013). Simmons & Simmons, a U.K. law firm, saw a new client toolkit for navigating regulatory reform evolve from bespoke advice to a simple product that further developed into a slick online subscription service for its clients in the financial institutions and asset management sectors.

This service has added a significant level of sophistication to the nature and form of advice clients can access on how to comply with myriad changing regulations across more than 90 jurisdictions. The Partner who pioneered the innovation shared: "The Navigator system was so much a parcel of what we were doing on a daily basis, it just made sense to streamline it . . . [but] it has been a very organic process, listening to clients and seeing what's going on in the market" (*Financial Times*, 2015, p. 36).

Furthermore, skillful operational innovation in delivering routine transactions (exploitation) has important virtuous side effects on reputation and clients' trust, encouraging them to engage the firm on more complex and challenging problems that form the raw material for legal innovation (exploration). As the example of Simmons & Simmons suggests, operational innovation is not just an opportunity to serve current clients better, but also to attract new ones (*Financial Times*, 2015).

Just as operational innovations can build up to something more transformative through repeated customization, legal innovations such as those illustrated in the examples of Kirkland & Ellis LLP and White and Case often prompt operational innovations, insofar as a novel, complex solution may demand further customization of work flows and delivery processes to unfold its full potential. Hence, we argue that in PSFs, exploration and exploitation are by no means dichotomous, but may support and even seamlessly morph into each another, as we elaborate below. Accordingly, we highlight a significant extension to existing ambidexterity theory.

Forging a Continuous Innovation Loop

The foregoing has important implications for how we understand innovation, specifically the relationship between exploration and exploitation in PSFs. What starts as an incremental operational tweak may gradually morph into a transformative solution; the rollout of groundbreaking legal solutions may feed gradual operational innovations (Løwendahl, 2005; Maister, 1993; Smets, Morris, & Greenwood, 2012). We argue that innovation capacity in law firms, and PSFs more generally, is not simply a matter of supporting the two sets of activities separately, as the literature has documented in abundance (Gibson & Birkinshaw, 2004; March 1991; O'Reilly & Tushman, 2008; Raisch & Birkinshaw, 2008). Instead, based on our observations of innovation in a PSF setting, we argue that exploitation and exploration are not mutually

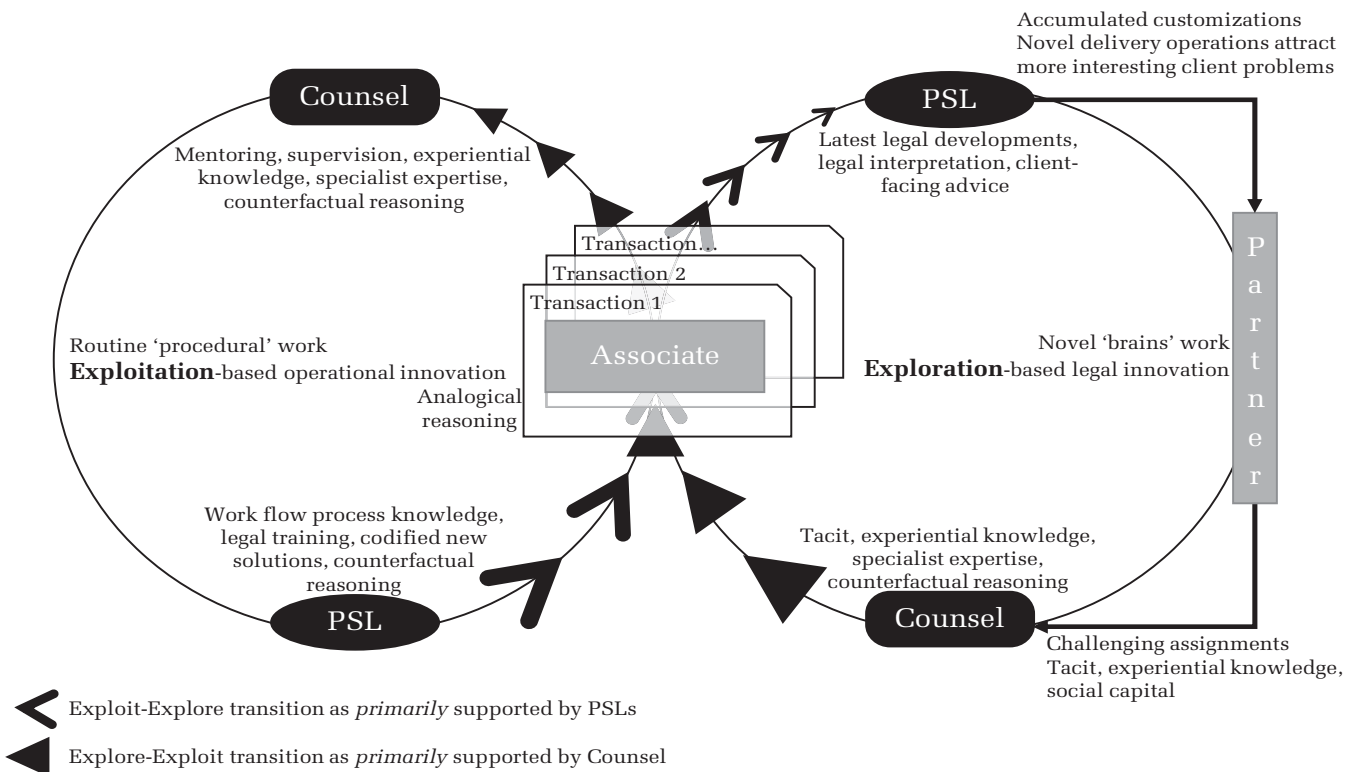
exclusive categories but connected, with potential to continuously reinforce each other. Innovation capacity is about facilitating and sustaining a continuous Innovation Loop (see Figure 1), as we label it. To do so, we need to pay particular attention to the transitions from exploit-to-explore and explore-to-exploit—and how the new career path can facilitate these more effectively than the up-or-out path. In Figure 1, to focus attention on the adaptations to the up-or-out—the new roles—and their function in enhancing innovation capacity, we have shaded traditional roles of Partner and Associate in grey and foregrounded the contributions of Counsel and PSL in black. The crossover between exploration and exploitation takes center stage to highlight the exploit–explore path (chevron arrows) and the explore–exploit path (bold arrows).

As we showed earlier, the up-or-out forces trade-offs among the sharing, prioritizing, and bundling mechanisms in both high- and low-leverage modes. These trade-offs, as we elaborate below, hamper the smooth transitions between the exploit–explore and explore–exploit paths that comprise the Innovation

Loop. We compare this with the emergent career path, with its new Counsel and PSL roles, to show how the trade-offs among sharing, prioritizing, and bundling mechanisms are mitigated and this new pathing has the potential to facilitate smooth transitions between exploration- and exploitation-based activities, enhancing innovation capacity.

Exploit–explore transition. As we explained earlier, in the up-or-out tournament high leverage fulfills the knowledge requirements of routine transactions that entail the extension and application of existing solutions with minor modifications. Typically, routine client problems motivate exploitation-based operational innovation to deliver existing solutions more efficiently. However, the exploit–explore path, important to innovation capacity today, and as demonstrated by examples of Seyfarth LLP, Baker & McKenzie, and Axiom, risks being interrupted. This is because even though Associates’ explicit knowledge and analogical reasoning suffices to perform routine transactions, even small customizations to preexisting solutions and their delivery benefit from tacit experiential knowledge. Importantly, some

FIGURE 1



The size of arrows indicates the relative salience of different roles at different points of the Innovation Loop and the transitions they facilitate.

counterfactual reasoning is needed even to conceptualize the viability of extrapolating a novel idea or solution from another domain. Limited face time between Partners and Associates in a high-leverage team undermines sharing of tacit knowledge and the counterfactual reasoning it stimulates. A retired Senior Partner from Kirkland & Ellis drew attention to the “mentoring gap” that is growing throughout big law firms:

In many large firms, the phenomenon flows directly from the dominant MBA mentality that forces firm leaders and everyone else to focus on short-term metrics—individual billings, billable hours, Associate–Partner leverage ratios. The resulting behavior is predictable. Each individual’s drive to attain and preserve his or her position in accordance with such metrics leaves little room (or time) for the personalized mentoring that turns good young lawyers into better older ones. There’s no metric for measuring the contribution of mentoring to, say, average profits per Partner. (Harper, 2010, p. 1)

We argue that in the new career path, PSLs’ sophisticated technical and processual knowledge brings that critical counterfactual reasoning to build on Associates’ analogical reasoning. They are especially equipped to stimulate cutting-edge operational innovation through their accumulated experience of internal processes, work-flow systems, and document automation aimed at enhancing service delivery. A knowledge management Director of a top international law firm shed light on the experiential knowledge PSLs are able to share with Associates:

PSLs, with their experience of practice, are in an excellent position to help review internal processes to identify areas of inefficiency and offer solutions for improving service delivery. Standard forms, document automation, checklists, work flow systems, and FAQs are all areas where a PSL’s experience can be invaluable. They can apply their practical experience and their holistic approach to transactional work to “unbundle” the traditional deal model and identify smarter ways of delivering on clients’ objectives. Such solutions are a prerequisite to faster turnaround times, while operating in a risk-managed environment. Developing these solutions have brought into play new skills for PSLs. (Dillon, 2010, p. 51)

The experiential knowledge that PSLs are well positioned to share with Associates, therefore, increases the likelihood that repeated customizations of existing solutions will morph into something more transformative, energizing the path from exploitation to exploration. In addition, as their role has

become more holistic PSLs also coach Associates in softer skills that are vital to building the client–lawyer relationship beyond the routine transaction. The HR Director of F2 remarked, “We are trying to broaden the role that they can play, in particular, bringing together a closer linkage between know-how and business development.” An HR Manager of another top global law firm remarked:

The skill set [of PSLs] is broader today. Of course they still have to have excellent technical skills and are a very useful resource for developing the technical skills of junior lawyers. But to gain the respect of Partners, they have to be able to support people in the team so have to have good people skills too. Many are also involved in coaching junior lawyers. (HR Manager, Hogan Lovells, U.S./U.K. based)

Counsel play a vital role in supervising Associates on both routine and complex transactions. While PSLs’ technical and process skills are more directly relevant to exploitation-based operational innovation and in nurturing the exploit–explore path, Counsel are available to lend their support and wisdom to the junior lawyers. They oversee transaction management, allocating tasks and monitoring progress to meet time and budget objectives. They compensate for the limited mentoring time Associates get from Partners in a high-leverage situation. Therefore, Counsel’s experiential knowledge is invaluable when the reputation-enhancing leading-edge operational innovation attracts more clients with interesting problems, which likely feed into more legal innovation. In Figure 1, PSLs are shown in their primary home of exploitation-based innovation (left circle), where they couple their counterfactual reasoning with Associates’ analogical reasoning and help morph the exploitation-type innovation to something more transformative, transitioning into the exploration-based innovation circle or space. Counsel are available to mentor and supervise when necessary.

To summarize, even in a high-leverage situation, the new career path enables more effective sharing of tacit knowledge (via PSLs in particular) and the bundling of tacit knowledge with explicit knowledge, two mechanisms that, as we noted above, affect the capacity for innovation. By allowing Partners to prioritize their time toward winning new business it also affects the third of these mechanisms. Counsel fill the mentoring gap that Associates experience in high-leverage teams in the traditional up-or-out path.

Explore–exploit transition. We elaborated earlier that in an up-or-out tournament low leverage is conducive to dealing with complex and challenging client problems, which are a catalyst for exploration-based innovation. Yet the trade-offs that low leverage entails interfere with the explore–exploit path, important to innovation capacity. While Associates are able to get more face time with Partners to glean the least imitable form of knowledge and learn how to apply it to complicated client problems, Partners' availability comes at the cost of reduced time spent on winning interesting client business. This creates a dilemma between Partners' critical roles of mentors who share tacit knowledge and rainmakers.

We argue that the emergent career path mitigates the trade-off inherent in low leverage by enabling a new division of labor between Partners and Counsel. Several Partners and Associates we interviewed echoed that Counsel are not interested in business development and the “wining and dining” it entails (HR Director, F1), but they are “rocket scientists” (Managing Partner, F3) or “technically absolutely brilliant but they might not necessarily be ‘people-people’ who want to go out and bring in new work” (A1, F3). While Counsel are not going out to win new business, they are a valuable reservoir of tacit knowledge, able to offer counterfactual thinking to help Associates tackle complex client problems. This does not mean that Counsel are not client-facing. They do fee-earning work commensurate with their experience and billing, but they are also active in client relationship management. They liaise with existing clients and Partners to ensure that engagements are accurately defined and client expectations are met. They share this area of learning with Associates and share the load with Partners. F1's HR Director attested:

We've got some very experienced Counsel now, and they are “go to” people for Associates in the team. These are wise, experienced team members who can normally give very useful direction. I can think of some great Counsel also on the innovation side. I mean our lady here in the employment team—what she produces for our clients as a Counsel is phenomenal.

Therefore, by sharing supervisory and mentoring responsibilities with Counsel, Partners can apportion more time and energy toward winning new challenging business. It is important to note that this does not mean that Partners extricate themselves from mentoring work altogether but only that they are able to more effectively distribute time between

engaging with Associates in solving complex client problems and focusing on building and deepening client relationships. In addition, in the new career path, PSLs offer vital support to fee earners by keeping them up to date on new legal developments and providing helpful legal interpretations, a valuable input to trigger legal innovations. This was succinctly expressed by the Head of the Innovation Panel at F1: “The best PSLs are the kind who, when a Partner's really stuck on a problem, he'll call up and he'll say, ‘Can you come in? We need to thrash this through,’ and they're the ones who may be able to contribute to a spark.”

On the business development end, PSLs serve as client-facing advisers and help cement the relationship with clients beyond specific transactions, generating prospects for winning more work. PSLs stay abreast of developments in the market, which makes them “ideal people to work on client development, both at the pitch stage and as a part of the ongoing client relationship” (Dillon, 2010, p. 51). PSLs are increasingly combining a knowledge management role with business development. Here is an example of client-facing work, in the words of a senior PSL at F1:

I might train an entire workforce of a big bank on perhaps diversity or document management, or there might be new developments that you would train them on. [Clients] have a direct line in to me for quick information; I'm working out what the latest trends are or what I think is going to happen in a couple of years, and I work very closely with the Partners.

This new division of labor among Partner, Counsel, and PSL optimizes both intellectual and social capital building to enable more effective prioritizing and bundling of knowledge than is possible in the up-or-out tournament. For innovation capacity this means that Partners and Counsel are able to share their accumulated experiential knowledge with Associates, enhancing the potential for legal innovation while maintaining a steady flow of novel client problems that feed into and reinforce more exploration-based innovation. The greater the variety of exploration-based legal innovation, the greater the impetus for operational customization to efficiently deliver those sophisticated legal solutions. In other words, the explore–exploit path is energized by a continuous flow of cutting-edge legal innovation to serve as catalyst for more exploitation-based operational innovation. In addition to augmenting exploration-based legal innovation through their input, PSLs are also a source of counterfactual

reasoning to adapt work flow and delivery processes for new innovative solutions.

To sum up, even in a low-leverage situation, the new career path enables effective *sharing* of tacit and explicit knowledge, via Counsel in particular, and more effective *prioritizing* of time by Partners as they share mentoring responsibilities with Counsel. This then allows Partners more time to develop their social capital and win new business, which they can *bundle* together with their tacit and explicit knowledge. This is summarized in Figure 1, where Counsel are shown in their primary home of exploration-based innovation (right circle) where they couple their counterfactual reasoning with Associates' analogical reasoning to tackle complex and novel client problems. They share the load with Partners, who are then able to also engage in social capital building. Counsel along with Partners fuel the explore-exploit path as exploration morphs into opportunities for more exploitation-type operational innovation. PSLs are shown in the exploration space supporting both Partners and Counsel with knowledge of new legal developments and client-facing advice.

Notably, this division of labor is a win-win scenario for these different professionals—Partners, Counsel, and PSLs—and for the employing firm. Partners are under ever-increasing pressure to seek out new and challenging client business to stay competitive. After the financial crisis top-tier law firms in particular, and PSFs more generally spruced up their client relationship management approach by, for example, increasing the number of Partners assigned to each key client to two or three. A Partner in one of the top-10 law firms remarked, “People talk about the new normal, but I have only been a Partner in the post-crunch era so the work you need to put in to win new business and create deep relationships is all I have ever known” (Booth, 2015).

At the same time, in the absence of ownership and status rewards that Partners enjoy, Counsel need a different set of incentives. In addition to signaling the high status of the role by offering remuneration well above Associate levels and selected Partner privileges, the opportunity to be involved in solving complex client problems provides Counsel the requisite intellectual challenge and motivation to continue to develop their specialist know-how. By the same token, from the firm's point of view, it justifies the cost of employing them (Smets, Malhotra, & Morris, 2012) while also increasing innovation capacity. As for PSLs, it is in their interest to change the image of what was perceived as a part-time technical role associated with the “churn of transactional

work” (Dillon, 2010, p. 51), which motivates them to want to be part of the firm's cutting-edge innovative activities. In this sense, we can see a mutually reinforcing relationship between career pathing and innovation capacity. Put another way, the emergent career path has the potential to enhance innovation capacity, and the new roles in the new path are likely to stabilize and build more credibility as they are seen to make significant contributions toward increasing firm competitiveness.

CONCLUSIONS

Our arguments in this paper start a new conversation about how career paths affect innovation capacity. Using the example of top-tier law firms, we demonstrate how alterations to the career path, initially made to address work-life balance concerns of young professionals, have had the virtuous side effect of enhancing innovation capacity. While our study has focused on law firms, our insights apply more broadly. In investigating how career pathing affects innovation capacity, first we unpacked the notion of innovation, a fairly nascent concept in the context of legal firms, but also in need of more theoretical clarity for PSFs generally. Drawing on the innovation literature to build a conceptual backdrop we contextualized the nature of exploration and exploitation and how these processes manifest within PSFs. Our insight that exploration- and exploitation-based innovations are not orthogonal or competing processes but feed into each other in a continuous flow—what we call the Innovation Loop—advances research on innovation in PSFs as well as the wider innovation literature.

Second, we demonstrate how adaptations to career pathing affect the seamless flow between exploration and exploitation. Indeed, wherever innovation can be driven by the day-to-day work of frontline staff interacting with clients or customers, changes to career pathing are likely to affect the deployment of people of different seniority and the knowledge they hold, with consequences for innovation capacity. Evidence suggests that this finding applies across a range of PSFs. For instance, recently leading accounting and advisory, engineering consulting, and management consulting firms have introduced significant new roles to their career paths to support mounting innovation pressures. It is also notable that, as Christensen et al. (2013) have pointed out, management consulting firms are on the “cusp of disruption,” and “even McKinsey is pursuing innovation with unusual speed and rigor” (p. 108).

As one important part of this, McKinsey has recently altered its business model affecting the way human capital is deployed to enable more effective service innovation.

Third, our insight that creative adaptations to career paths can be a win-win resolution of the perfect storm by addressing work–life balance concerns and retention of valuable talent while also enhancing innovation capacity has wider implications for talent management beyond PSFs. Businesses in general face pressures today to incorporate greater demands for diversity, gender balance, flexible working, and innovative forms of team-working. Our study offers an optimistic perspective in proposing that it is possible to find creative solutions that not only solve contemporary staffing challenges in the short term but have positive consequences for the longer-term competitiveness of the firm. Rather than simply seeking to “accommodate” these profound challenges, the perspective we propose here points to the potential benefits for organizations in responding to contradictory pressures, by proactively engaging with them through the sort of creative adaptations to career models we outlined here.

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Namrata Malhotra (n.malhotra@imperial.ac.uk) is an associate professor in strategy in the Management Department at Imperial College Business School, Imperial College London. Her research examines organizational change and institutional change processes, especially in professional service organizations. She has also researched internationalization strategies of professional service firms.

Michael Smets (michael.smets@sbs.ox.ac.uk) is an associate professor in management and organization studies at Saïd Business School at the University of Oxford, where he also received his MSc and DPhil. Previously, he was a lecturer at Aston Business School in Birmingham. His research focuses on innovation, careers, and institutional complexity in professional service firms.

Timothy Morris (tim.morris@sbs.ox.ac.uk) is a professor of management studies at Saïd Business School at the University of Oxford. He holds a BA from Cambridge University and a master's and doctorate from the London School of Economics. His research focuses on innovation and change in professional service firms.



TABLE 1
Representative Data on Key Insights

Section	Additional Representative Data
NEW CAREER PATHING AND INNOVATION CAPACITY	
Millennials, new career expectations, and the tempering of up-or-out	<p>Counsel “There is a general feeling amongst Associates that by and large the people in the Counsel role are the right people. They're typically respected, consulted, regarded in many cases as role models. And so I think the role has become progressively a very naturally accepted part of our fabric.” (Partner, F4)</p> <p>Professional Support Lawyer (PSL) “PSLs typically—a lot of what they do, if you like, is capacity building, you know, it's drafting standard form documents that allow us to become more efficient and leverage up.” (Senior Associate, F4)</p>
Creative lawyering and the more-for-less innovation challenge	<p>Legal innovation “When we first started this process we did look into the obstacles to innovation in the firm. The main finding of that I do recall was that the biggest obstacle to innovation is the chargeable [billable] hour and the pressure on people to be productive. And so, you know, if innovation requires some time out, some doodling, some sort of, you know, and so on, then it's not a great, it's not a particularly conducive environment.” (Head of Innovation Panel, global law firm)</p> <p>Operational innovation “They [PSLs] could be distilling know-how into sort of manageable nuggets so that instead of everyone separately thinking ‘I've got to get to grips with this new legislative provision that's just come into effect,’ [PSLs] do all the thinking and then they lay it out and hand it to everyone, and all they have to do is read it and understand it.” (PSL, F3)</p>
Forging a continuous Innovation Loop	<p>Exploit–explore transition “I think it's fair to say that in some ways a lot of incremental innovations can transform over a relatively short period, actually. And I think in many ways we've gone through quite a transformation, but it's been incrementally.” (Partner, top-5 <i>Financial Times</i>–ranked law firm innovator)</p> <p>“[The] traditional view, it's changing now because they want PSLs to demonstrate their value, and quite often you can't do that right in the back office. . . . I'm working out what the latest trends are or what I think is going to happen in a couple of years, and I work very closely with the Partners.” (PSL Counsel, F1)</p> <p>Explore–exploit transition “A typical Counsel will have as high a profile as a typical Partner, so if you Googled them or whatever, they'd come up as leaders in their particular field. A Counsel typically will have the technical expertise and the respect and the standing equivalent to a Partner.” (Partner, F2)</p>