

LOD

# Building the next in-house legal team

CLONING WON'T CUT IT. PART 2: ACQUIRING THE RIGHT TALENT

TERRI MOTTERSHEAD



LOD pioneered the very first alternative legal service in 2007, and we continue to lead the exciting market we created.

We support the best legal teams in the world with our brilliant legal professionals, legal services team, processes and technology. Together, we find new ways to boost the value that in-house legal teams deliver today, tomorrow and in the future.

LOD is still one of the largest and fastest-growing flexible legal services businesses in the world. We have offices in 12 locations and over 1000 world class lawyers and paralegals, legal operations and tech experts, and risk and compliance professionals. We're constantly recognised for our innovative approach, working hand in hand with clients to create the future of legal work.

## OVERVIEW

In Part 1 of the series, we looked at the changing role of in-house counsel and how that's shaping a new workforce - different people with different capabilities. In this Part 2, we'll focus on a framework for talent management, a talent management strategy (TMS), and those components dealing with acquiring the right talent: recruitment, setting a team up for success and creating a learning culture - one that supports the new legal normal of adaptability and continuous improvement.



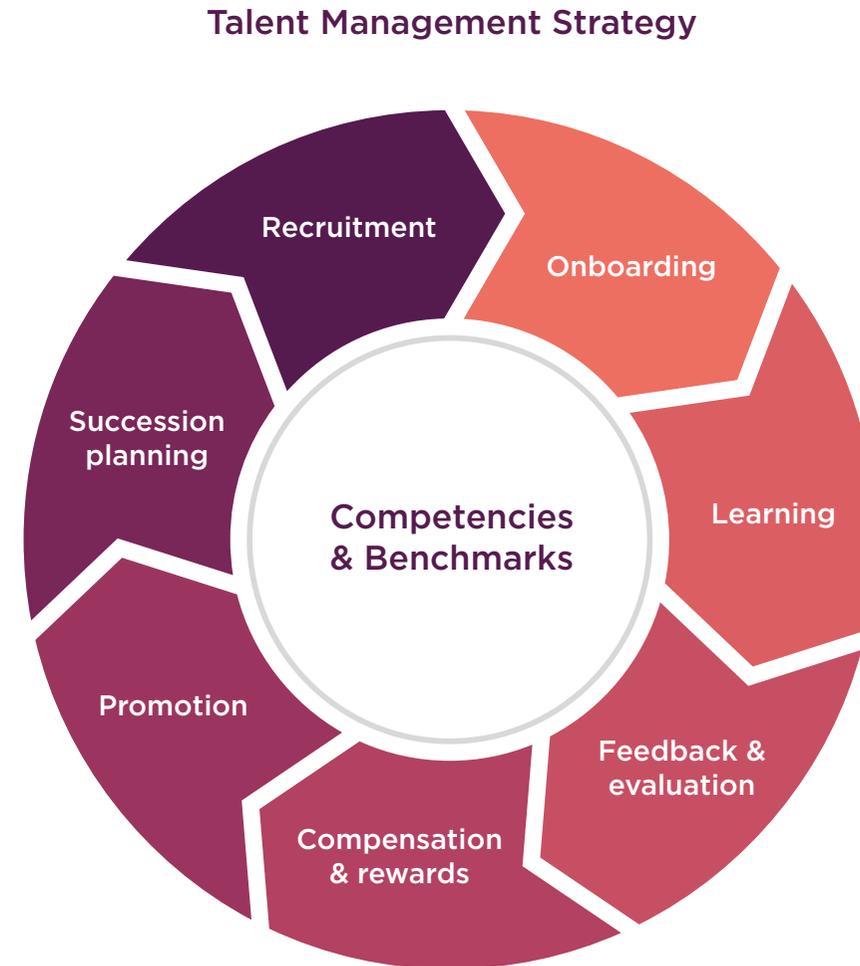
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## THE NEW TALENT MANAGEMENT STRATEGY

Every framework or strategy to manage talent is comprised of pretty much the same components detailed in the diagram on the right. Some may be emphasised more than another or combined in different ways, but the overriding themes are the same: acquire the right talent, create an environment for them to engage and thrive, and keep them. Every TMS starts with working out what you want your people to do or defining their competencies and benchmarks.

### Competencies and Benchmarks

Talent development requires guidelines and transparency – **competencies** and **benchmarks** provide both. Some definitions first, competencies are used here to refer to behaviours, and benchmarks to skills or tasks.<sup>1</sup> If you expect employees to improve their performance and advance along a career path, then they will need to refer to the competencies and benchmarks (**C&Bs**) relevant to their experience level to guide them. It will help them know which work assignments to pursue and consequently build the right experience. It also helps them to self-assess how they are progressing and if they are meeting their personal and organisational key performance indicators



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(KPIs.). Likewise, C&Bs assist mentors and coaches in providing targeted advice and pointing their charges in the right direction. Having a clear set of C&Bs also helps in determining who to recruit or promote, at what level and when.

Some **competencies** will apply across the board in an organisation no matter what your role or specialism, for example, leadership or management competencies. Others will be specific to roles and responsibilities of different specialists e.g. for lawyers, those associated with giving legal advice like knowing how to strategise in a large litigation matter. Similarly, each specialism will have its own set of benchmarks, for example for lawyers, these will focus on the development of legal skills and experience by undertaking legal tasks.

And finally, a note of caution, C&Bs are living documents, they need to be revised to reflect contemporary work, work practice, practice areas and corporate culture – if you don't have them, develop them. If your lawyer C&Bs are only about developing the T or I-shaped lawyer and not the Delta or O-shaped lawyer discussed in Part 1, then you know they're out of date. And, given the rapidly changing legal ecosystem right now, if you do have them and they haven't been reviewed in the last few months, move that to the top of your priority list now too.

So, now you're clear on what your people need to do, how do you go about finding them? You recruit, right? At the moment, that's a big "maybe" but when you get to a "yes", it won't be the same way as before...





## RECRUITMENT

Too often recruitment efforts follow old patterns – the way you have always recruited, maybe even from the same places or through the same agency or by replicating practices in your old workplace. If that’s true, then it’s time to evaluate how well that has worked for you and how it is supporting the evolution of your work and your next workforce.

For in-house teams, recruitment has changed in a number of distinct ways:

**1. In-house has acquired “preferred employer” status for lawyers:** Where being an in-house lawyer was once ranked behind working in private practice, for prospective employees, that is changing. As the role of in-house counsel has changed (discussed in Part 1), so too has the interest of junior lawyers to join these teams. In-house legal teams have and will find themselves increasingly in competition with law firms, perhaps even their own panel lawyers, for the top legal talent. However, as more legal departments take on more law school interns and graduates, versus laterally hiring experienced lawyers, this will continue to change the nature and content of every other component in the talent management strategy (see discussion below in this Part and Part 3). It will also continue to define and distinguish a legal career in private practice from one in-house. This is not to suggest that a lawyer will not be able to move between these roles, but rather that they may not be inter-

changeable without some upskilling. The growing number of dedicated learning programs for the in-house counsel role<sup>2</sup> provide ready confirmation of this difference and evolving specialism. And, as discussed in Part 1, for lawyers in law firms that have not kept pace with the changes in the legal industry, especially in legaltech/AI, the gap between their capabilities and those needed in a legal department that has embraced the changed role of in-house counsel, may prove to be a bridge too difficult to build.

**2. Nature of employment of team members:** the people you need may be full-time, part-time or casual and, a combination of all these too. As legal matters continue to be approached as legal projects, the gig economy expands, and talent platforms mature, there will be less need for permanent full-time staff and more need for highly skilled casual staff, whether lawyers or allied professionals. The change in emphasis here is less on the nature of employment and more on the timely matching of capabilities to project needs and outcomes.

**3. Experience level of lawyers:** where once in-house teams were comprised of lateral hires, these teams now also include interns, work experience placements<sup>3</sup>, newly admitted lawyers<sup>4</sup>, and a mix of all these experience levels.

**4. Previous employment of team members:** depending on the nature of employment and experience level needed,

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prospective lawyer employees may be lateral hires from another legal department or law firm, from ALSPs like LOD<sup>5</sup>, or not lawyers at all. Remember the discussion about new skill sets in Part 1 and the focus on things like data analytics, operations management, etc.? These skills might not come with a law degree attached. You might need to arrange secondments or blocks of time from specialists (not lawyers) in other departments in your organisation with these capabilities or, employ these specialists from other law firms, or access these skills from other professional bodies or through ALSPs, as needed. Remember, your legal team is not comprised just of lawyers now, it's multidisciplinary.

**5. Returnships for your lawyers and team:** increasing mobility of the workforce, the focus on lifestyle and family, the increasing number of different employment opportunities and the focus on side hustles (that can become main hustles) all mean that people are leaving and will continue to leave your team and return to it. Creating and maintaining an active alumni network as well as offering and developing sophisticated returnship programs like those offered by the OnRamp Fellowship Program<sup>6</sup> will continue to be important not only to retain your most talented and entrepreneurial staff but also because this level of flexibility is redefining the once linear concept of job continuity, career development and career paths.

**6. Process:** Whether you are looking for that Delta or O-shaped lawyer (discussed in Part 1), focusing on diversity

or distinct technical skills, the recruitment process needs to match the capabilities required in your team to service the needs of your organisation. For example, if the focus for recruitment is on innovation, soft skills and tech skills, there would be little point in having prospective employees provide just written CVs and academic transcripts. It would be better to:

- Use one of the new recruitment platforms that works to eliminate unconscious bias in the job application process<sup>7</sup>; or
- Incorporate videos into the application process; or
- Undertake shortlisting via videoconference (the same medium by which you communicate with internal clients or your remote team); or
- Use AI to analyse these videos (and the video of the in-person job interview if you have one) “to help analyse qualities like body language or facial expression;”<sup>8</sup> or
- Check whether the soon to be law grad has undertaken a virtual internship<sup>9</sup> (better still, create your own virtual internship and tailor it to the tasks undertaken by in-house counsel and more, focus on unearthing some of those Delta or O-shaped lawyer skills too); or
- Check whether the experienced applicant led an innovation project or initiative or spent time in an ALSP or legaltech start up; and
- Make good use of those psychometric tests administered by your organisation.

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**7. Decision makers for team hires/fires:** The increasing diversity of capabilities in a legal team means the decision makers – those who decide who is hired or fired – need to likewise have the relevant knowledge and experience to make these decisions. For example, you would not want technophobes sitting on the interview panel for your next data analyst! And yes, YOU may be employing the legal data analyst or the hybrid lawyer or the next legal technologist for your team<sup>10</sup>.

The key takeaway here is that old habits die hard. Some may still work when recruiting your legal team today, but some may be of limited assistance or not relevant at all. It's not about employing people who came from the same place or similar background, your school, your university<sup>11</sup> or perhaps even from university at all – it's about matching the capabilities of your team with the needs of the business now...and in the future. It's about diversity, inclusion and future proofing, not cloning! It's important to take time to get this right.



## ONBOARDING

Onboarding should be about setting up your team to succeed and not fail. It is about supporting your team members to hit the ground running by understanding the ins and outs of the job but, even more importantly, it's also about supporting them to understand your team's working style and preferences, upskilling them in organisational politics and culture. You need to focus on providing your team with information "just in time" – what they need now – and the resources (knowledge, information and guidance) to find out the rest as they require it. And, "the rest," where at all possible and when it makes sense (more on that below), should be easily accessible through an online learning portal that has captured the know-how of your most experienced lawyers. When learning takes place in person, it should be to focus on the "human" aspects of the job, not what could be learnt as easily and more conveniently online.

Onboarding programs often spend too much time explaining the job and job logistics – something that skilled recruits will already know a lot about (that's why you hired them) – and much less about imparting the institutional knowledge that they will need in bucket loads to actually get the job done. And, as legal departments choose to recruit more lawyer grads, it will be important to revisit the whole onboarding process because the support they will need will be quite different from their more experienced colleagues.

Taking time to get onboarding right, saves time not just for your new team members but everyone around them. It will also go a long way towards minimising turnover. First impressions count.

If you don't take the time to settle in your new team members, don't expect the best people to stay – they will always have somewhere else to go! Remember that employer brand element mentioned in Part 1, well, it will be in play again here in a big way too!

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## LEARNING

Learning on the job does not have to be complex or expensive but it does need to be readily accessible, frequent and relevant. With the depth and breadth of change in the legal ecosystem right now, fuelled by legaltech, there is a pressing need to reinvent and focus on continuous learning<sup>12</sup>. This means not just learning different things but learning them from different people, in different ways. We're talking about capability development, building team strengths, and building personal competencies that the organisation needs, so your team remains a viable business partner. That's a long way from approaching learning as something you begrudgingly do to clock up mandatory CPD hours.

Technology has impacted learning as it has everything else. It's created opportunities to capture and share knowledge and expertise in ways unheard of a decade ago. Learning can take the form of "how to do" quick information downloads when needed, or demonstration, observation and experimentation of complex skills via new mediums (like virtual reality) or the sharing of experience through social or collaborative tools and platforms. It's formal, informal, and can take place anywhere at any time. And, these resources are not just available for lawyers. Those who work in other specialisms in the team may find some of the info helpful background to their work with you. These allied professionals can also make use of the same platforms to upskill and share their knowledge and expertise with lawyers, so the lawyers learn about their work and how it

**“Research now shows that the No. 1 reason people quit their jobs is the ‘inability to learn and grow.’ ”**

2019 Deloitte Human Capital Trends, p. 5.

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relates to legal work too.

Here are some suggestions on how to kick this off or enhance what you may already have going on for the **lawyers** in your team with some suggestions for customisation for individual team members too:

**1. Develop your learning plan grid:** this provides the means to undertake a quick audit of team capabilities, a way to group learners and determine some priority subject areas for education. These plans will be required for competencies (behaviour) development AND benchmarks (skill) development discussed earlier. This sort of planning works well to ensure all the basics are covered for the learner group in question, that the content differentiates between experience levels in that group and recognises/ supports individual career paths (by advancement through the various levels of learning in a subject area). Additional learning plans need to be developed for each specialist group. For example, litigators will need to develop skills different from commercial lawyers. Finally, these plans, like the C&Bs they relate to, are not set in stone and need to be revisited and updated regularly to ensure the capabilities of your legal team match your work so it advances the business priorities of your organisation.

An Example of a Section of a Basic Skills Learning Plan Grid for Lawyers:

Skills Required	Entry level	Junior	Mid-level	Senior
Forensic data analytics	✓	✓	✓	✓
Project Management	✓	✓	✓	
Internal Client Relationship Management	✓	✓	✓	✓

**2. Get clear on the target audience:** not everyone in the broad learner groups e.g. the “senior lawyer” group above, will have the same expertise. As discussed earlier, it depends what they did before they joined the team. So within each broad learner group there are nuances, individual needs that your learning program will need to accommodate. For example, if a senior lawyer didn’t know much about forensic data analytics and it would be uncomfortable for them to learn the basics with entry level lawyers, you’ll need to think about enrolling/sending them to an external course or see how these skills might be acquired as part of a reverse mentoring program (where junior lawyers teach seniors – we’ll discuss this more in Part

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3). You may just as easily find, in a different subject area, that the same senior lawyer is so skilled that area, that their only option will be to attend external events to learn from peers outside your team. Finally, it is important to note that despite the discussion above, there will also be times when it will be beneficial to mix experience levels of lawyers or even different groups of specialists together in a program, especially when you want to encourage different points of view.

The point here is, you need to know the individual capabilities of your team. Group people for learning opportunities or find and discuss individual courses for each of them. One size can fit all, but not every time. Sometimes catering to comfort levels will make sense and sometimes it won't. The learning needs to match the learner and, sometimes, perhaps even more now in our current environment, it needs to stretch and push the learner out of their comfort zone so they can learn and work with different people in different ways.

**3. Develop, outsource or insource content:** Once you have worked out who needs the education, and where the gaps lie, then you can start to develop, outsource or insource content.

This is where your online learning portal can be really helpful, especially where it houses organisation or team specific programs or “101 learning” (basic) programs. These

fundamentals can often be captured in videos or podcasts for example, and can become low cost, assigned learning for the junior or new members of your team that they can do on their own, on demand and anywhere (mobile). Other content will be best offered in a blended (online and in-person) or in-person mode.

Your learning program content should be a compendium of different learning opportunities, compiled from a number of different sources and available in a number of different ways.

Some of these sources will be internal (other lawyers or other specialists in your organisation), others will be offered by those who work closely with you like the law firms on your panel or the legaltech developers you are collaborating with or some may be sourced from universities, CPD providers or consultancies. Your internal sources for content will always have the advantage of institutional knowledge – they know how your organisation and team works and how the subject matter applies to your work. This context can be helpful and support the immediate application of what is learned. However, when you are learning about something new or want to approach something a different way, external sources for content can be the catalyst for the change that you need to consider, learn and apply. Outcomes need to be defined and different sources matched to the different courses!

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Don't forget Massive Open Online Courses (MOOCs) - think about how to incorporate them in your learning program. Topical and good quality programs can be found for free on a number of different sites ranging from the original MOOC sites like Udacity, Coursera, edX and the Kahn Academy to those emerging from individual universities alone or in partnership with other platforms, venture capitalists<sup>13</sup> and subject specific providers like software developers offering certifications in their software. These MOOCs are generally divided into two categories: cMOOCs (learning by collaborative design, experience sharing and knowledge acquisition - take what you need when you need it) and xMOOCs (more traditional course structure with the aim being to complete the course)<sup>14</sup>. These courses, whether or not taken for credit, can be helpful additions or supplements to your learning program.

Finally, consider partnering with any or all of the providers noted above to develop your own, tailored short courses. The Association of Corporate Counsel is doing this<sup>15</sup>, law firms are doing it too<sup>16</sup> and, so can you.

So, you need to think carefully about what knowledge or experience needs to be transferred and the best way to do it. Learning needs to be content specific and laser focussed on the capabilities to be developed for your whole team AND each individual in the team<sup>17</sup>. The larger the legal department, the more likely you will need a dedicated talent management specialist to be leading and managing learning

### Description of a talent initiative at HSBC:

**“Overhauled the bank’s legal department’s approach to talent development, including digital skills training for lawyers, creation of a portal where lawyers can apply for digital specialisms as well as a digital degree created in partnership with firm Pinsent Masons to address legal risks of crowdfunding, cryptocurrencies, digital payments and AI. The team is producing its own training videos to address questions from HSBC’s business units.”**

“Ranking: Managing and Developing Talent,” FT, Special Report Asia-Pacific Innovative Lawyers, May 3, 2019 at <https://www.ft.com/content/ab6c57c2-6b2c-11e9-a9a5-351eeaef6d84>

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(more on that later).

**4. Choose the right medium for learning delivery:** brief mention has been made of the importance of an online learning portal – it’s critical and just makes sense – you already know that not everyone in your team is going to be available at the same time so why deliver a learning program that assumes they will be? You also know that when your team needs information, they need it now and won’t have time to wait until the next program is scheduled!

It’s very important to match the medium with the learning and the learner. Understanding whether to deliver a program via traditional or non-traditional media, goes hand in hand with the decision to develop, outsource or insource your content. You need to know not only what programs are out there (or that you can develop) but, if they can be delivered in a way that suits your target learners and, if you are outsourcing or insourcing, if this is available at your price point and in time.

The larger your legal team, the more likely you will access the full complement of learning media – in-person, online<sup>18</sup>, virtual reality<sup>19</sup>, augmented reality, gamification, simulations, podcasts, collaborative learning platforms where tools, precedents, and experience can be shared and so the list goes on – these will all be a part of the learning compendium for your team.

The point here is again, know your target audience when you choose your media but also don’t hold back other learners from using new media (the media they are most comfortable with), just because it doesn’t suit one or two people who won’t (but should) use that delivery format.

**5. Cover all aspects of the job:** And one last thing to underscore here...your learning program must NOT consist only of updates in the law. Updates can be effectively delivered as regular brown bag in-house lunch and learns, attending (in-person or via webinar) sessions run by outside counsel on your panel, bringing that panel in (again in-person or via webinar) to do regular briefings in specific practice areas. It can also be done by asking the legal technologists from the same firms to brief you on the latest legaltech<sup>20</sup>, asking legaltech vendors to do the same thing and by inviting your colleagues from other departments in your organisation to provide professional briefings so everyone gets to know more about them and what they do, or sending people to/watching webinars from external CPD providers. Updates are critical to what you do for sure but, as discussed earlier, these are not the only capabilities needed for the Delta or O-shaped lawyer. Also remember, what you do as an in-house lawyer is different from how a law firm operates and the demands of lawyers in private practice – you know that, it’s probably why you decided on your own career path – so there will be things only you can teach your team and there will be different priorities placed on the things they need to know and deliver every day. Your

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learning program should reflect that too.

**6. Seek feedback and iterate:** You need to know if your learning programs are effective so, you have to seek feedback, evaluate and...iterate. It matters, it's important, and it can also provide critical feedback for internal presenters who do a dry run of their presentation internally first, before they go outside (something by the way you should encourage because it helps to upskill your team as well).

**7. ROI:** Learning takes time, effort and money so it's got to produce a return on the investment. But here's the thing – the investment won't directly align with the end of any financial year. This investment is different. What you need to look for is whether individual and team capabilities are improving, and you can only do that if you know where they started from in the beginning and by engaging the senior lawyers in coaching, mentoring and giving the feedback (we'll discuss that more in Part 3).

**8. Work closely with your people, people:** Some of the capabilities required of the Delta or O-shaped lawyer are core competencies for all employees of your organisation e.g. project management, design thinking, and agile management to name a few. Rather than working with your organisation wide learning and development person or HR and having them run additional or special programs for your team, this can be an opportunity for your team to join the rest of your organisation or other departments you

work with most closely. These sessions can enhance intra-department networking and know-how too.

**9. Do something out of the box:** It's easy to fall into the trap of over planning learning opportunities. The evolution and reliance on learning management systems has made it easier to assign, monitor and manage work and learning opportunities; but they can formalise and regularise this too much. Learning can take place at anytime and anywhere through observation, practice and reflection. It's important to mix it up and keep it fresh. So, build into your learning program the opportunities to be places, in spaces or with people who don't think like you or anyone in your team and, have fun! Mentor a hackathon team. Hold your own hackathon. Create your own videos. Create a talent incubator (see more on this in Part 4). Go to legaltech meet ups and demos. Do something out of the box, often!

### Where to Next?

In this Part we've focussed on a framework for talent management, a talent management strategy (TMS), and those components dealing with acquiring the right talent: recruitment, setting a team up for success and creating a learning culture. In Part 3, we'll focus on the TMS components dealing with keeping the right talent: retention (and how that has been redefined), what you need to keep your best talent engaged and how you plan for the inevitable...retirement!

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As the Principal of Mottershead Consulting and Executive Director for the Centre of Legal Innovation (Australia, New Zealand and Asia-Pacific) at The College of Law, Terri works internationally with leaders and managers of law firms, legal departments, alternative

legal service/product providers, legal associations, legal incubators and accelerators, legaltech entrepreneurs, law schools, business schools, business professionals and lawyers, supporting their contribution to the transformation of legal practice. She has been a thought leader in people centred legal practice innovation for more than 25 years.

Prior to joining the Centre, Terri was a practising lawyer and subsequently led the in-house talent management departments for firms and associations including Lex Mundi, the Inter-Pacific Bar Association (IPBA) and DLA Piper LLP (US). She has also led or taught on practical legal education initiatives in law schools in Asia, Australia and the US. In 2010, Terri founded Mottershead Consulting in the US, and later expanded it to Australasia, to focus on supporting lawyers, legal business specialists and law firms in identifying, developing and transforming their capabilities and practices to a new way of delivering legal services/products to the market.

Terri is a frequent keynote speaker at legal industry events and contributes regularly to legal industry publications on the future of the legal profession, practical legal education and legal talent management. She acted as the general editor/contributing author for *The Art and Science of Strategic Talent Management in Law Firms* (West, 2010) and for *Innovating Talent Management in Law Firms* (NALP, 2016).

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