



Risky Business

**Taking the pulse on law firm
reputation management**

Putting a price on reputation

Law firms have come a long way when it comes to managing their reputations, but they still lag behind their corporate counterparts. As challenges proliferate, *Legal Business* has partnered with Byfield Consultancy to assess the reputation landscape and how best to meet the hurdles that lie ahead

ANTHONY NOTARAS

Foreword

It's not often you see a report in a legal publication dedicated to public relations professionals. But they are the custodians of their law firms' reputations and this report shows that reputation management is a precious commodity, which law firms ignore at their peril. Of the 50 in-house PR respondents to our survey from the *Legal Business 100*, 88% said that a badly managed reputational issue could adversely affect profitability, while 90% agreed that it could deter new recruits.

Law firms' investment into growing and protecting their brands in recent years is evidenced by the number and calibre of the in-house PR teams you now find within law firms. Walk into any top-50 firm today and every one of them will contain a head of PR, with significant experience of working with law firms or related professional services. Increased competition and risk, a rush to internationalisation and more intense scrutiny from the regulators and the media have all meant that reputation management within law firms is now maturing.

Our survey points to some encouraging signs of that maturity: 78% of respondents have a clear strategy in place to deal with reputational issues and 36% of them have regular meetings with their managing partners around risk management. However, other indicators show that many law firms are playing catch-up when compared to their corporate cousins, where senior PRs often have a seat at the boardroom table. A worrying minority of respondents said they never met with their managing partner to discuss what was keeping him or her up at night and over a fifth had never reviewed their reputation management plans.

The research highlights that earlier consultation on law firm decisions; regular management protocols that anticipate and plan for upcoming threats; and PR being placed firmly on the management board agenda are three keys to the door of effective risk and reputation management. Smart firms with an eye on the future will increasingly involve PR professionals in key business decisions and treat PR as a hard-nosed business discipline that impacts the bottom line, rather than a nice-to-have part of their promotion.

Gus Sellitto, managing director, Byfield Consultancy



Compared to many of their clients, law firms are fairly late arrivals to the public relations (PR) game. It has only been in the last 20 years that they have made serious investments, through either building up internal PR teams, using external consultants, or a mixture of the two. The partner ownership structure of a law firm has not helped, nor has the business model, which is still very much built around fee-earning. PR professionals have typically been treated less as equals, as they might be in a typical corporation, and more as an overhead.

'Law firms are challenging environments to operate in because of the oddity of the partnership, which creates a very flat management structure, and the confusion that exists between ownership and management,' says the head of communications at one major global firm. 'This creates very challenging working conditions. You're constantly threatened: "It's my firm and you can't tell me what to do."'

In recent years, however, more far-sighted firms have understood the value that a good PR professional can bring to the business, even if they are not directly winning fees. As law firms have grown, they have also begun to look more like corporations in structure

'PR is now seen in corporate organisations as something that should be at board level and I don't see why that shouldn't be the case in law firms as well.'

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and organisation. As a result, there has been a greater need for a more professional PR and communications department.

'More law firm communications teams are populated these days with people who have experience of working for PR agencies externally, or are former journalists, so certainly the professionalisation of teams has increased a lot,' says Ed FitzGerald, the head of brand and marketing services at RPC.

To assess how far law firms have actually come, *Legal Business* teamed up with legal PR specialists Byfield Consultancy to survey the legal market's PR community, gaining responses from 50 firms in the current *Legal Business 100*. In addition, we interviewed in-house PR professionals to examine the current law firm risk and reputation management landscape in more detail. While the nature of the reputational risk can differ for each firm, one common factor is that, on balance, risk is on the increase. Thirty-six percent of respondents stated that they had managed more reputational risks in the past two years than before, while only 6% reported a decrease.

60%
of respondents think law firms take risk to reputation as seriously as other organisations

THE PARADOX AND THE RISKS

Unsurprisingly, most respondents agree that a badly-managed reputational issue is not good for business. Eighty-eight percent agreed that it could negatively impact on a law firm's profitability, while 90% agreed that it could deter other lawyers from joining the firm. Critically, 82% of the PRs we surveyed also feel that the lawyers themselves consider reputation to be of high importance, when it comes to winning work and attracting talent.

'Our vision is to be recognised as an international market leader in our global sectors and the "recognition" part is a critical factor,' says Richard Foley, senior partner at Pinsent Masons. 'Businesses can become a little consumed by what they think about themselves, but what matters is what clients and markets think. A strong



reputation is crucial to winning work and attracting the right people. As we grow our business internationally, it's much easier to recruit the right people in places like Spain, Germany and Australia with a strong brand and reputation behind us.' The problem for PRs, however, is that this understanding does not necessarily feed into a lawyer's daily habits.

'There is a paradox within law firms,' says the head of communications at another major firm. 'If you ask any partner whether reputation is critical to them winning work and attracting the right talent, 100% will say yes. But if you ask the same partners how often they involved PR professionals

in decisions that could reflect on the firm's reputation, the response to that is going to be much more mixed.'

'We all understand how important reputation is in terms of protecting and enhancing the brand,' says Gus Sellitto, managing director of Byfield. 'But then you might see the partner make a questionable decision, without thinking through what impact that might have on the firm's reputation.'

This is borne out in the survey results, with 58% of respondents saying that their views are sought in partner-level decisions that could affect the firm's reputation. The level of engagement that PR managers

have with the firm's senior management is clearly a significant issue. When asked how they would like to see their firm's reputation management evolve over the next two years, the most popular request was for earlier consultation on law firm decisions, with 42% of respondents choosing that option. The next two most popular choices shared a similar theme: a place on the management board to discuss reputation management (40%), and the introduction and regular testing of reputation management protocols (40%).

The fact that PR professionals are rarely found on law firm management boards illustrates that law firms have some way to go.

'I do think that PR is now seen in corporate organisations as something that should be at board level and I don't see why that shouldn't be the case in law firms as well,' says Sellitto.

At the very least, a PR team needs perceptible buy-in from senior management. 'What helps us is that the respect for other disciplines comes from the most senior level and when other partners see that, they are more inclined to adopt that mindset themselves,' says Fred Banning, head of corporate communications at Pinsent Masons.

Establishing the ground rules from the start also helps when it comes to working with partners. 'I laid out pretty early on what I needed to do my job,' says Nick Bell, who is responsible for global PR and internal communications at Freshfields Bruckhaus Deringer. 'Integrity is critical in these roles and you have to be trusted internally. In a senior communications role, you end up knowing a lot of confidential information; that is the nature of the job. I've been pleasantly surprised by the firm's willingness to give me the information I need to know to do my job effectively.'

60%

of respondents cited 'seriousness of the issue' as a factor that would lead them to seek external support



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Richard Foley,
Pinsent Masons

MEETING THE PRESS

Unsurprisingly, client reputational issues cause the most problems for law firm communications teams, with 36% of all respondents citing this as one of the biggest causes of reputational risk over the last two years. The risks linked to clients come in many forms, including fraudulent activity, money laundering issues, legal and financial conflicts, and whether they comply with the sanctions regime. In the era of social media and 24-hour news, an issue that affects a client could detonate quickly and drag in the lawyers as well.

The most extreme example of the media attention that a client brings was for Mishcon

de Reya, when it represented Gina Miller and other claimants in their successful bid to force Theresa May's government to get parliamentary approval before invoking Article 50. Had the communications team at Mishcon not been forewarned of the instruction, their handling of the subsequent media scrum would have been seriously compromised. In Mishcon's case, the firm's director of external affairs, Lisa Tremble, was given plenty of advance notice. This ensured that the firm could control exactly how the story would break.

'Because I was very aware that it was going to be a big news story, I worked closely with the lawyers on what the strategy would be,' says Tremble, who prior to joining Mishcon handled communications for governmental departments such as the Home Office and ran the communications for David Miliband's Labour leadership campaign. 'All you can control on a very high-profile story like this, is the first step out there. That is when you have one clean opportunity to put your story out.'

Mishcon achieved this through an exclusive to the *Financial Times*, on the basis that it would give a more fact-driven and objective account of the Article 50 case. The mainstream and social media storm that followed was predictable, although the vilification of High Court judges in publications such as the *Daily Mail* demonstrated how politically charged the coverage would become.

'We were successful during that period in understanding where the line was and not being drawn into the political fight,' says Tremble. 'Over time, that strategy worked. You need to be strategic and understand where you want to be. You need to stick to the script and you can't get upset about opinion. In the end we never went onto the political turf. If we had, it would have been very difficult for us.'

ANTISOCIAL

Lessons from Mishcon's handling and preparation for the Article 50 case, and how it controlled its side of the story, can be applied to many of the reputational risks that law firms face. It is accepted that lawyers will always represent clients that are controversial to a certain section of society. The fact that Mishcon also acts for Arron Banks, one of the Leave campaign's key financial backers, is a perfect illustration



44%

of PRs say their senior management team has received training from external consultants

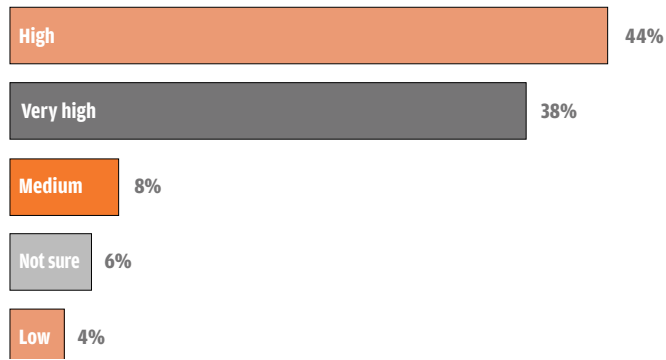
of this. Nevertheless, while firms can maintain neutrality at an institutional level, ensuring that their individual lawyers express views appropriately is another matter entirely, particularly with the proliferation of social media.

For most respondents, misuse of social media is seen as a growing risk, with 28% expecting it to cause greater risk in the future. Two thirds (66%) agree that social media has made their jobs harder. While not necessarily a threat that would sink an entire firm, it could create severe embarrassment and at worst, cause irreparable damage to a lawyer's career. This is why most firms offer some form of social media training.

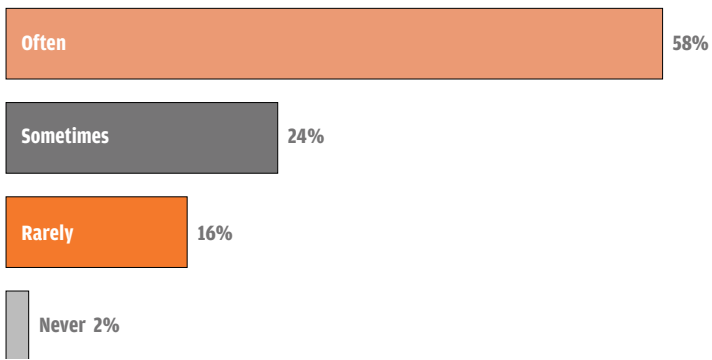
'There is no doubt that from a marketing and business development perspective, social media is essential, but it can be a double-edged sword,' says Camillo Fracassini, head of communications at Brodies, and former deputy editor of *The Sunday Times* in Scotland. 'Some individuals still fail to recognise that an ill-judged post, whether made using a personal or professional account, is in the public domain and can have serious

'The risk of damaging the reputation of your business by saying something inappropriate predates the internet, but social media has the capacity to amplify ill-considered remarks.' Camillo Fracassini, Brodies

How much importance do you feel the lawyers in your firm place upon reputation in the context of winning work and attracting talent?



How often are your views sought at the planning stage by partner-level decision makers on issues that could impact the firm's reputation?





66%
of PRs say social media
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reputational risks harder

repercussions both for their professional reputation and for that of the organisation for which they work.

'Of course, the risk of individuals damaging the reputation of their business by saying something inappropriate predates the internet, but social media has the capacity to amplify ill-considered remarks and share them with a vast audience in seconds. We provide mandatory reputation management sessions for partners at Brodies, not out of any sense of control freakery but rather to identify the potential

pitfalls and help them avoid making the same mistakes.'

The seminars are helped by the presence of Paul Marshall, who has responsibility for prosecuting lawyers for professional misconduct before the Scottish Solicitors' Discipline Tribunal. Marshall's experience on the prosecution side is a useful reminder of what can go wrong in a worst-case scenario.

CYBER THREATS

Given that the law is ultimately a people business, the human element of reputational risk is inescapable. Thirty-four percent of respondents said that lawyer and staff misdemeanours have been one of the biggest causes of reputational risk over the last two years. But surprisingly, the number that believe such misdemeanours will cause

What has caused your firm the most reputational risk in the last two years?

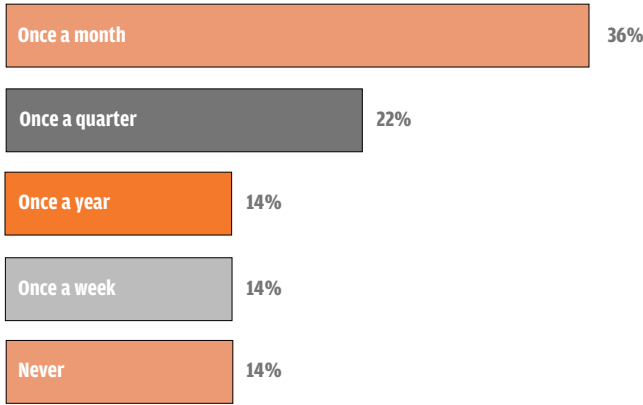
Clients' reputational issues (36%)

Cyber security threats (34%)

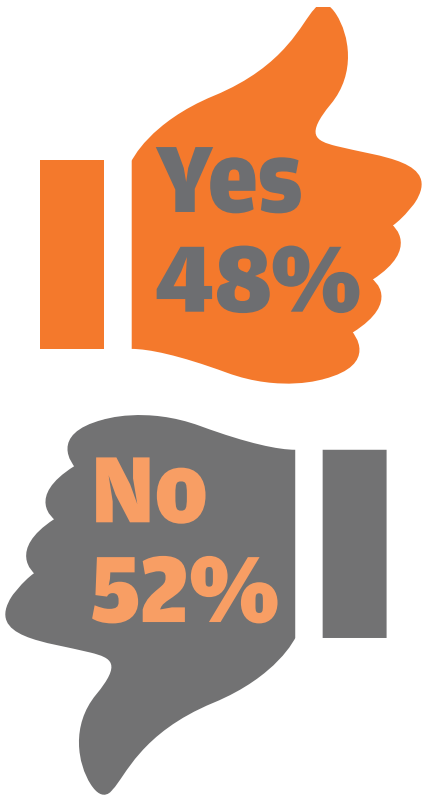
Lawyer and staff misdemeanour (34%)

Cyber security: **number one risk** to firms' reputation over the next two years

How often does the media/comms team have regular meetings with your managing partner to discuss reputational risks?



Is reputation management covered as part of your new partner induction process (i.e. for laterals and promotions)?



problems in the future drops down to just 12%. This is partly because when it comes to future risks, cyber security eclipses everything, with 64% seeing it as a major cause for concern. Some see it as the sort of black swan event that could potentially sink a firm.

At the front of many people's minds is 2016's Panama Papers scandal, where 2,600GB worth of data was taken from the law firm Mossack Fonseca & Co and then leaked to the world's press. Mossack Fonseca was not the only firm that suffered from a high-profile cyber attack. In 2016, Cravath, Swaine & Moore also admitted that it suffered from a 'limited breach' of its IT systems. While data breaches are nothing new, the scale, speed and external nature of the threat are unlike anything that might have occurred before.

'If you combine the high-risk outcomes of data, money and tradable information, cyber has to stand out as the next major risk to law firms,' says Simon Marshall, executive head - markets at Burges Salmon. 'If we've learned one thing from the Mossack Fonseca leak, it's that the loss of confidential data can cause ructions around the world.'

'In the old days someone might just have dumped a whole lot of documents on to a physical floppy disk or memory stick, and run off with them,' says Chris Hinze, global head of communications at Hogan Lovells. 'That was the traditional threat or risk that needed managing. Being

electronically attacked from the outside, where the perpetrator doesn't physically come anywhere near you, is the current world. Preparation for such a scenario is important so that your response is very well thought through, focuses on what matters, and is level-headed.'

The best way to achieve this is through regular training, scenario planning and meetings with other key departments in the business. This does not just apply to cybersecurity issues, but any potential threat, including terrorist attacks, partner kidnappings abroad, fraudulent behaviour,

88%
 say a badly managed reputational issue can negatively impact a firm's profitability

or even mass partner defections, to name a few.

'Something we do together is a business continuity exercise where our board will get together and play out a scenario,' says Banning. 'This includes the managing partner, the senior partner, the heads of risk, HR, comms and IT, all sitting round a table and role playing how we would

Does your firm have a clear strategy in place to deal with reputational risk issues?



respond. It's helpful for building up the relationship, and developing the mindset and culture of thinking about things in reputational terms.'

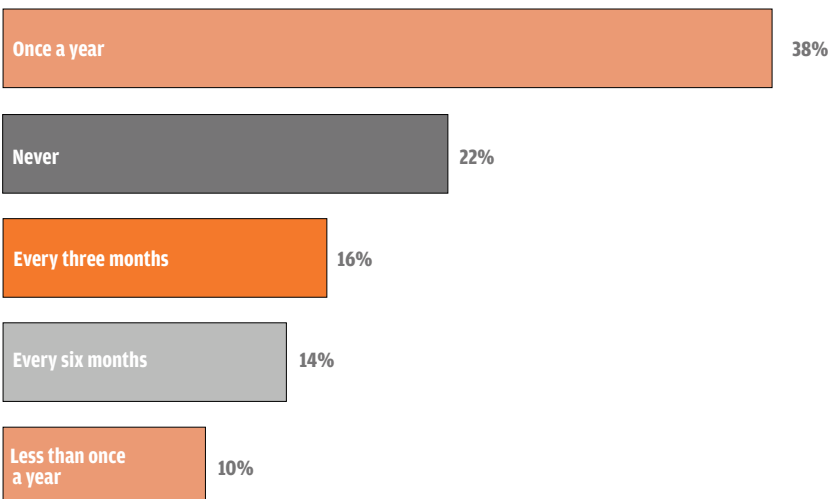
TRAINING DAY

This level of co-ordination and practice at least ensures a level of muscle memory so that, should the worst occur, the firm's leadership will not panic. Most firms get this, with 78% of respondents stating that they have a clear strategy in place to deal with reputational risk and 70% saying that they work closely with other teams, such as HR, IT and compliance, when considering reputational risks. Regular meetings with the managing partner to

discuss such issues are also the norm, with over half stating they do this on a weekly or monthly basis.

Despite this, there is still a sizeable minority of firms that are not updating their policies on a regular basis and an alarming 22% of respondents claim they never have. Sometimes this is an issue of capacity or budget, given that PR teams will have their day-to-day responsibilities to contend with. It is here that the external consultants often add value. While a worrying 18% of respondents claim that their senior management team never receives training to deal with reputational risks, 44% of respondents receive training from external consultants.

How often is the strategy reviewed?



'Being electronically attacked from the outside is the current world. Preparation for such a scenario is important.'

Chris Hinze, Hogan Lovells

External consultants remain a popular option, with 76% saying they use PR agencies for broader profile raising. By far the most common reason for bringing in external PR advisers when a reputational crisis hits is the seriousness of the issue. This is closely followed by the consultants' experience in dealing with that type of issue, the internal team's capacity and the

90%
say a badly managed reputational issue can deter lawyers from joining the firm

objectivity an external adviser brings. There are clear benefits of having an external sounding board in a crisis, but the best strategy is still to be proactive rather than reactive.

'I'm surprised that risk management can still be treated as an emergency response, rather than good business management,' says Sellitto. 'A couple of big law firms have asked me for in-depth crisis training in a studio environment, and have invested a lot of time and resources into it. You look at every issue and how it might play out. A lot of the time we'll be doing the work in conjunction with someone on the PR team. Where they find the benefit is the external perspective of another pair of eyes and ears.'

With technology and communications evolving on an almost daily basis, staying on top of the changing nature of risk is



‘It’s not necessarily the pace of change; it’s ensuring you’re keeping in step. The very fact that all of us are operating in a changing marketplace has become quite exciting.’

Jo Shepherd, Ashurst

How would you like to see your firm’s reputation management evolve over the next two years?

Earlier consultation on law firm decisions that could adversely impact reputation (42%)

A place on the management board to discuss reputation management (40%)

The introduction of reputation management protocols and regular testing of them (40%)

essential. And it might ultimately lead to new opportunities.

‘It’s not necessarily the pace of change; it’s ensuring you’re keeping in step,’ says Jo Shepherd, head of media relations at Ashurst. ‘The very fact that all of us are operating in a changing marketplace, has almost become the new normal. And that has become quite exciting.’

The pace of change presents both a risk and an opportunity for law firms. Business stagnation will inevitably occur if firms are not moving forward and adapting to an

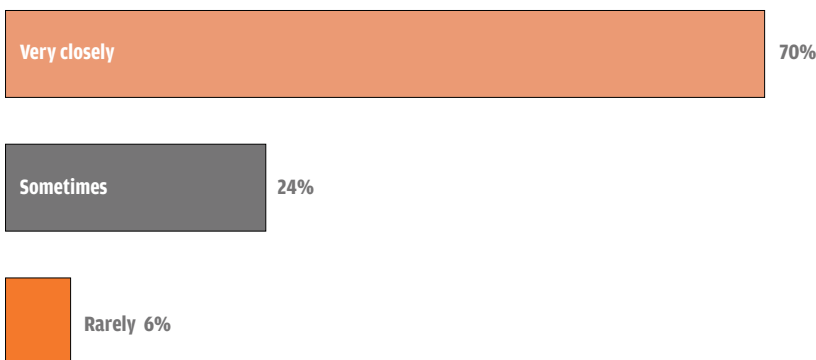
evolving market. Change, however, brings risk and that risk needs to be anticipated with constant training from top to bottom. Senior management at most firms recognise how important this is for growing and protecting the brand.

‘Building and protecting that market-leading reputation can’t just be the job of the senior partner or the PR department though,’ says Foley. ‘Everyone in the firm – from the partnership to the print room – has a role to play. Firms have got better at recognising this, professionalising their approach and at understanding that reputations have to be constantly enhanced if they are not to stagnate.’

One of the best ways to achieve this is through a well-informed internal communications team that is supported and accepted at the most senior level. As our respondents indicate, this can be augmented with external help from specialised consultants. Working together they can both build the brand and ensure that it is protected against a potentially disastrous bit of bad luck. This can only be achieved through preparation and training. To paraphrase the legendary golfer, Gary Player: the more you practice, the luckier you get. Doing nothing is the biggest risk of all. ■

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When considering a reputational risk, how closely do you work with other departments in the firm (eg HR, IT, compliance)?

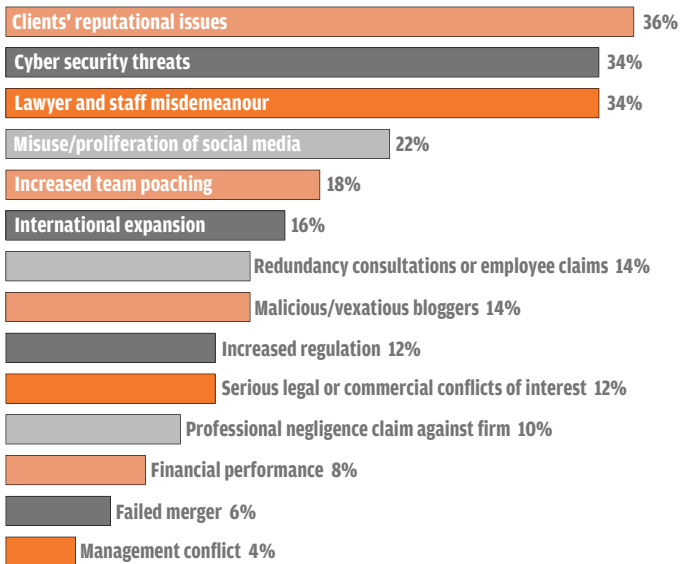


APPENDIX: Further data

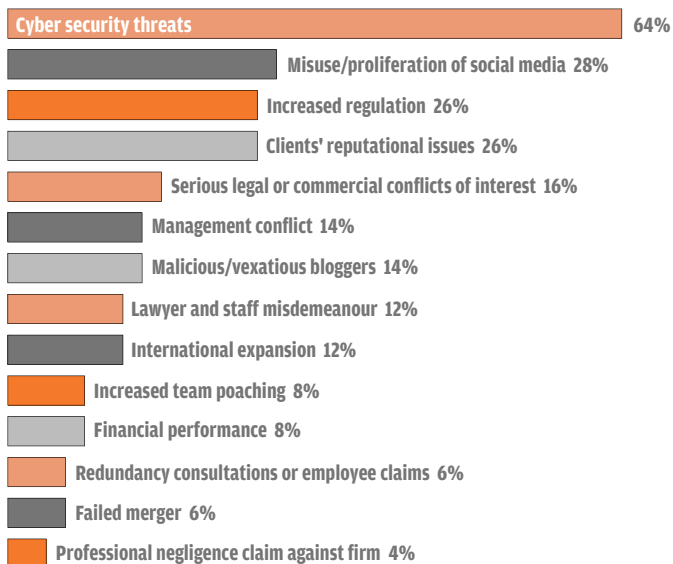
Over the last two years, have you had to manage more or fewer reputation management risks?



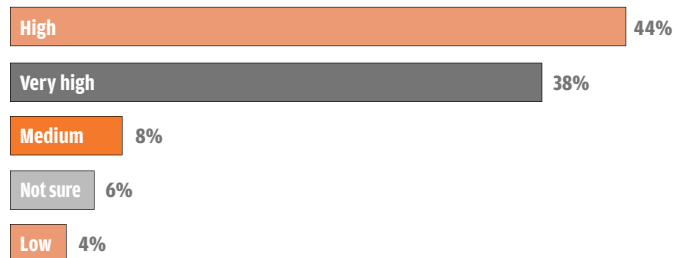
What has caused your firm the most reputational risk in the last two years?



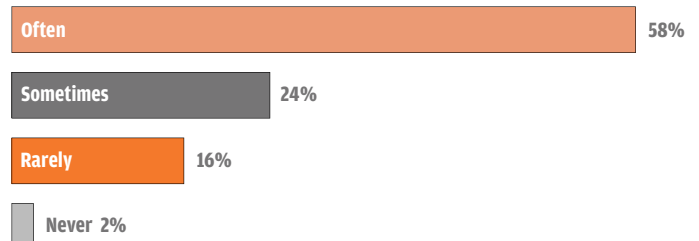
Which areas do you think will cause the greatest risk to your firm's reputation over the next two years?



How much importance do you feel the lawyers in your firm place upon reputation in the context of winning work and attracting talent?



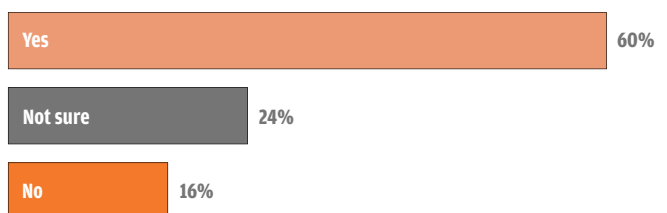
How often are your views sought at the planning stage by partner-level decision makers on issues that could impact the firm's reputation?



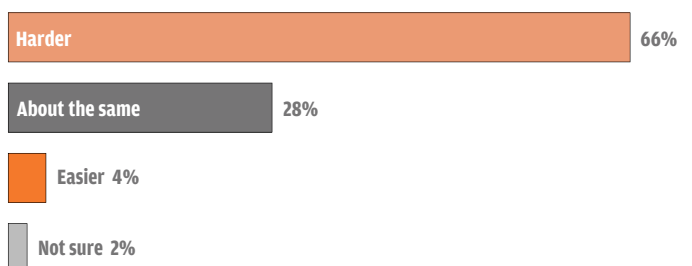
Is reputation management covered as part of your new partner induction process (i.e. for laterals and promotions)?



Do law firms take risk to reputation as seriously as other organisations?



Has social media made dealing with reputational risks easier or harder?



Can a badly-managed reputational issue negatively impact your firm's profitability?



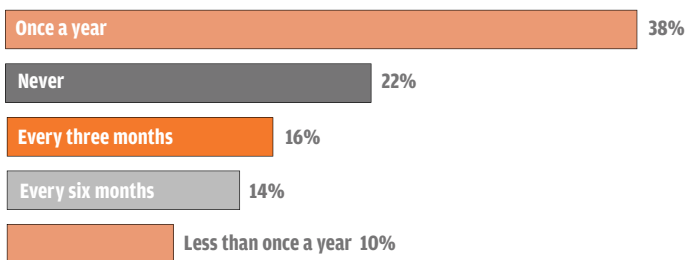
Can a badly-managed reputational issue deter lawyers from joining your firm?



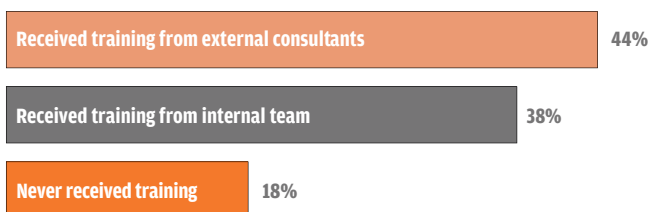
Does your firm have a clear strategy in place to deal with reputational risk issues?



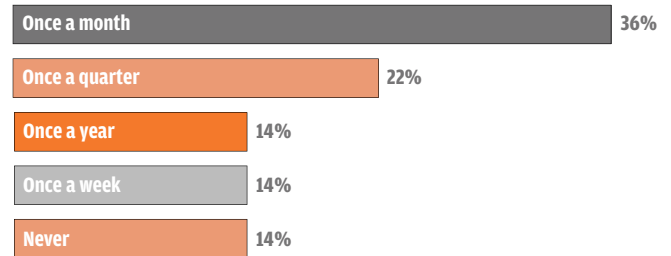
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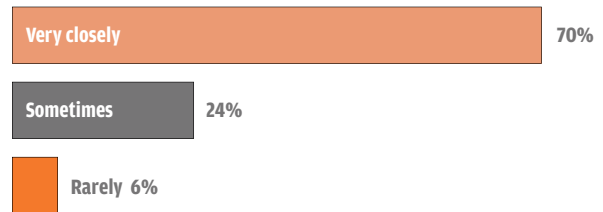
Has your senior management team received training to deal with significant reputational risks and from whom?



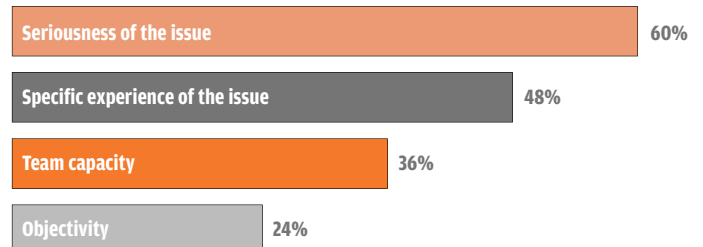
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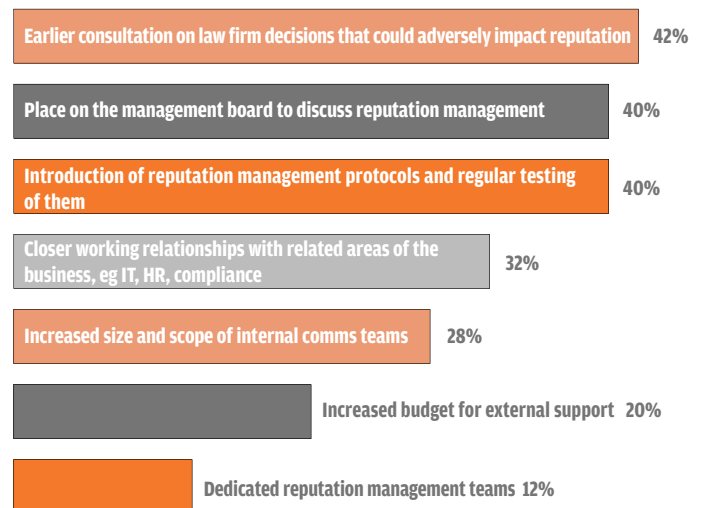
When considering a reputational risk, how closely do you work with other departments in the firm (eg HR, IT, compliance)?



What would drive you to seek external support beyond your own team?



How would you like to see your firm's reputation management evolve over the next two years?



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