

# Legal Startups Carve Out Their Niche

Startups in the commercial legal arena are few and far between. **PAUL GOLDEN** reports on four young practices that have been carving out a niche in this very competitive sector

**K**ane Tuohy is one of the larger startup law firms of recent years. The firm was established in 2009 when partners Cómhnall Tuohy, Hugh Kane, Sheena Beale and Damian Hand spun out from a long-established commercial practice in Dublin. Kane Tuohy currently has nine solicitors and the total staff complement has doubled to over twenty in the past two years.

According to managing partner Cómhnall Tuohy: “We were heavily litigation based before starting the firm and that has turned out to be a good toolkit in the past few years. The firm is now bigger than we anticipated and to that extent it has gone well.” Tuohy says that he always wanted to be involved in directing his own business and because the quartet now have their own venture, the partners are much closer to the business.

“You become very focused on ensuring that your service is second to none,” says Tuohy. “The fee always follows the service, not the other way around, and if you ever confuse that then you should get out of the profession.” Some of Tuohy’s clients have been with him since he was an apprentice solicitor in the 1990s and these relationships have been strengthened now that his surname is on the letterhead.

“I now have a closer relationship with clients than I used to,” he says. That’s partly because when he talks with clients now, the discussion is on a businessman-to-businessman level. He explains: “All clients are anxious to get the best deal that they can and we have to tailor our cloth accordingly. We have an open and transparent conversation with clients about fees and most of them appreciate that



Cómhnall Tuohy, Kane Tuohy

quality of service is just as important as the bottom line.”

Tuohy says that the motivation for Kane Tuohy’s four founders to start the practice was a desire to control their own destiny. Partnerships are notorious for foundering in the SME sector but as the four solicitors had worked together for a long time, trust was not an issue. However, Tuohy admits that the partnership setup can slow down business decision making.

“The advantage of having four partners is that you have four different personalities sitting around the table. The disadvantage, which applies to all partnerships, is that every major decision has to be agreed by all partners. In terms of the business it’s a more involved decision-making process but at least there’s certainty because the decision is reached through consensus and consultation.”

Tuohy’s view is that solicitors’ focus is client service rather than business. To ensure the firm also remains focused on the business needs, it has an outside chairman in the form of Paddy McSwiney, a veteran accountant who formerly worked with KPMG and BDO. “His stewardship of partner meetings has been a great help to us. He’s able to bring his business experience and overlay it on our experience and that’s very helpful from a business perspective.”

In the four years since **Leman Solicitors** was established, the business (managing partner Larry Fenelon refers to it as a business rather than a practice) has moved offices, recruited two solicitors from larger firms and is keen to grow further. “We have industry-specific experience in a number of sectors and are always looking to take on solicitors who can make a strong business case in a specific area of law,” says Fenelon. “We receive some interesting proposals and our approach is to ask them to prepare a business plan to show us how it can be made to work financially. I am not aware of any other law firm that takes this approach.”

Given that much of the firm’s business is with SMEs, Fenelon is confident that

Leman can continue to expand. "We are eager to grow the business and take on one or two more solicitors this year. We are also open to acquiring a practice. There will be consolidation in this market, especially among two-partner firms. It is all about building relationships, keeping costs low and adding value for clients."

Fenelon is convinced that commercial clients are now more inclined to distribute their work between a number of specialist law firms and that there is greater movement among clients. "We provide services on a fixed fee or best estimate basis and provide a detailed breakdown of our work to the minute. Clients should not be paying €400 plus per hour. By allowing our clients access to their files online they can assess progress for themselves."

Leman has embraced technology, becoming a 'paperless office' and rolling out a client extranet that allows clients to monitor progress on their files. It has also picked up a small business award from FBD for the best use of IT in a small business.

**R**esults are what it is all about for both clients and firms these days, says Niall Clerkin, managing partner of **Clerkin Lynch**. "We are very result focused. We advise the client how achievable the result is and what it will cost. They in turn view legal services as they do every other overhead." Clerkin, who set up the firm with fellow ex-A&L Goodbody solicitor Kevin Lynch in 2008, says they have developed a strong general commercial practice and that advice in relation to employment matters has been a growth area.

One of Clerkin Lynch's other niche areas is identifying talented startup companies who often don't have access to the resources necessary to get high-level commercial advice, particularly in



**Larry Fenelon, Leman Solicitors**

relation to safeguarding their intellectual property rights. "A large proportion of these clients are in the IT space and we provide them with the same level of legal advice they would get in a much larger firm at a price suited to their level of development," explains Clerkin, who describes this type of work as laying the foundations for the practice long term. "Our fees are based on our own experience of starting a business in a recession. This is part of our competitive advantage and our clear approach to fees really appeals to our clients."

Kevin Lynch adds: "Usually, the main problem with fee collection is hourly billing, and being a business owner myself I would resent not knowing what the end fee will be for any service that I need. So we try not to let our clients suffer from the same anxiety. In some circumstances

hourly billing is necessary but we have payment plans in place and the end fee is usually less than the estimate."

Clerkin Lynch was the first Irish law firm to establish offices in the People's Republic of China and Kevin Lynch is vice chairman of the Ireland China Association. "We help clients to navigate the regulatory framework of doing business in China," explains Clerkin. "In Ireland I think there will be a slight upturn in commercial activity this year."

**Hughes & Associates** also emerged in 2009 after managing partner Daniel Hughes realised that the number of small to medium-sized businesses requiring advice on their potential exposure and position was likely to increase dramatically over the coming years.

The firm has a particular focus on

*continued on page 38*

A STAR ALLIANCE MEMBER

## Where are you off to?

Dublin to London Heathrow and on to a world of destinations.  
Fly to the UK, Europe, the Middle East, Central Asia and Africa with bmi.

British Midland  
International **bmi**

# Cutting Down On Barrister Costs

Is your business paying over the odds for legal services? Businesses need to start applying the same principles to engaging barristers as they would with an IT firm, writes **CHRIS SPARKS**

**W**hether it's in relation to employment law, intellectual property, financing, dispute resolution or anything in between, sound advice and risk minimisation are vital to the wellbeing of any company. That's why if you're running a business, a good lawyer can be worth their weight in gold.

But that doesn't mean that lawyers should be able to name their price. In recent times, commercial clients have become much more aware of the fluctuating market rates for solicitors' services. Yet when it comes to engaging barristers, businesses

completely rely on their law firms to select counsel and rarely, if ever, is there any competition, fee negotiation or discussions on competencies in advance between different barristers. This

contrasts with the process that occurs when businesses select other professional service providers such as accountants, management consultants or IT professionals.

Recently, the Public Accounts Committee of the Oireachtas issued a report on the procurement of legal services by the state. It found that barristers have never been asked to competitively tender for any state work. The committee recommended that competitive tendering should be made mandatory for all purchases of both solicitors' and barristers' legal services by the state.

The business world should take note, says Hugh Kennedy of **Brief Counsel**. Kennedy

started the firm with John Cronin in 2008 to act as a legal procurement intermediary. Brief Counsel offers a range of services and one of them is that it can put a piece of court work out to pitch. The solicitor tells Brief Counsel what's required and the firm sources the required specialist barrister or, if requested, asks for competing tenders from counsel.

Says Kennedy: "Unlike the situation in the UK, barristers in Ireland aren't very good at pricing their services. But if you tell them that you've got a fee of €5,000 for a specific piece of work, they'll make a decision very quickly."

Cronin adds: "Traditionally, law firms have been slow to allow their clients to shop around. The status quo of strong traditional ties between law firm and barrister has suited both parties. However, an increasing number of barristers are now willing to advise business clients of their experience, suitability and competence and provide the client with fee quotations in advance. Businesses can now, upon request, purchase barristers' services based on quality, price and value for money."

Brief Counsel only engages with solicitors so it is not a direct conduit between an individual or business and a barrister. The firm's services are provided free of charge to Irish solicitors, other professionals and their clients. Barristers pay a service charge for the services that Brief Counsel provides to them.

Kennedy concedes that most of the barristers who have indicated a willingness to engage with Brief Counsel are younger members of the Bar. However, he stresses that most Senior Counsel will take a call from the firm. "The top commercial barristers are the easiest to deal with," says Kennedy. "Where we find resistance to our service is principally among members of the Criminal Bar."

commercial litigation and insolvency, complemented by a strong private client practice with exposure to family law and employment law. "I saw a niche in the market and went for it," Hughes explains. "The clients I deal with are at an exposed point in their life and that puts them under huge strain."



**Daniel Hughes, Hughes & Associates**

"I am hands on and clients get me directly, and all my dealings are directly with the bank," adds Hughes. "My fees are also lower than the large firms. In an ideal world, a company would often want to bring in one of the big hitters but they have to pay for that. These days, businesses cannot afford to be exposed to massive legal costs, which means some companies might be looking at using smaller law firms for the first time."

Hughes says there are opportunities for working with private investors looking to buy or take stakes in cash-positive SMEs and he expects the change of government to provide a temporary boost to business sentiment. "However, in my opinion we have another two to three years of bottoming out to come. There will be a lot of restructuring to be done over this time and spin-off work in areas such as debt recovery," says Hughes.

**BP**



**Hugh Kennedy, Brief Counsel**