

How to Stop Partnership from Losing its

The current economic downturn has led to much discussion about law firms. The resulting downturn in work has in turn seen deferment of training contracts, redundancies, the introduction of four-day working and the implementation of de-equitisation programmes in relation to partners.

Given such an unhappy state of affairs it is no wonder that it seems there may now be an element of increasing disillusionment with legal practice as a career and, in particular with becoming a partner, which has for long seemed the "holy grail" for many aspiring lawyers coming into the profession.

To counter such disillusionment, the development, management and retraining of talented lawyers should now become a top priority for law firms. Investing in effective development programmes can pay significant dividends through improved performance and by reducing costs of wasteful staff and partner turnover. However, given the highly fragmented nature of the UK legal profession (around 8,600 firms in England and Wales, out of a total of over 10,200 firms have four or fewer partners) is it realistic to believe that most of these will or can adequately invest to develop their people?

If a law firm is serious about building a long-term future for itself and for everyone in the firm, then it will need to manage career expectations and avoid unnecessary disillusionment. In these days of "credit crunch" and a severe economic downturn, many firms will

consider that they cannot afford to invest in programmes to develop their people. On the contrary, can they afford not to?

If through a more effective programme for developing talent, a firm is able to retain just a single potential partner who might otherwise have moved on, then that firm's investment will have paid off.

However, do all young lawyers really want to become partners in their law firms, particularly given the unlimited liability which goes with the status?

Does an invitation to become an equity partner really reflect your worth to the firm or are you being asked to fill a financial "black hole" or allow older partners to retire?

Assumption

There has been an assumption in the past that most lawyers want to become partners. But whether this continues to be the case is debatable. Are firms even asking their people what they want from their careers? As a matter of common sense and good employee relations, it should be incumbent on law firms

to regularly talk to their people about their aspirations and their career goals.

Not everyone wishes or is suited to becoming a partner in a law firm. An important task for firms is to be able to

Considering equity?

- Carry out due diligence on the firm's finances.
- Consider why you are being invited into the equity.
- If a firm refuses to open its books, warning bells should ring.
- Take good professional advice.

As the economic downturn bites at the heels of the law profession, what should firms be doing to ensure that they retain the brightest talent and counter disillusionment with the partner model? **Peter Scott** advises on the next steps for aspiring lawyers

Glitter?

persuade those who cannot, or do not, wish to make the jump to partner, that there is still a very worthwhile and well paid career within the firm. This may be no easy task, particularly in relation to those whose own beliefs in their abilities may not necessarily match with the views held by the firm, particularly as increasing requirements by firms for higher performance lead to more demanding "gateways" to partnership.

There also now seem to be emerging other reasons why young lawyers may not always wish to become partners.

Liability

There was a growing view even before the credit crunch that some lawyers were beginning to say they did not wish to accept the unlimited liability which goes with partnership, but would on the other hand become members of a limited liability partnership (LLP). From speaking to some law firms this seems to be increasingly a more widespread view as the economic situation continues to deteriorate and begins to bite hard into law firm finances. Indeed recently several firms have indicated they are becoming LLPs in order to give themselves a better chance to attract and retain good talent.

Whether a law firm is a partnership or an LLP, if an aspiring lawyer is invited to become an equity partner or an equity member of an LLP, he or she will be well advised to first carry out due diligence into the firm's finances to be satisfied as to the solidity of the business. Cash flow difficulties and falling profitability are currently the top priorities for many law firms. Aspiring equity partners should also satisfy themselves as to the reasons why they are being invited into the equity. Is it because they are truly regarded as the future of the firm or does the firm just want their capital to fill a "black hole" in its finances or to provide the means for the existing partners to retire with their money? In particular, if a firm refuses to disclose its accounts or to open up its books, then warning

Partner preparation

Potential new partners should not just be selected, but need to be supported and developed for their future roles. This process may need to begin several years before possible elevation to partnership.

An effective process is crucial to:

- Groom potential new partners so they are ready to make an immediate business contribution.
- Avoid unnecessary churn of potential partners who leave because of uncertainty of prospects or disillusionment.
- Avoid bringing in partners who are not ready, with all the problems that causes for everyone concerned.
- Introduce aspiring partners to the behaviour and attitudes required of them including, for example, working as team players and putting the firm's interests ahead of their own personal agendas.
- Motivate professional staff at every level as they move towards the goal of partnership.
- Manage the career expectations of those who want partnership but are not ready.
- Motivate those who decide they do not want partnership or who are just not cut out for it.

Partner development programmes need to be tailored to the specific culture and needs of a firm and ideally should be spread over several months rather than as one-off events. They can take many forms in order to create a firm in which high achievers want to be partners, including:

- Helping to formulate objective criteria for partner admittance.
- Assessment centres (for groups or individuals).
- Seminars on such topics as business development and leadership as well as the management of client relationships, finance and relationships within an office.
- Online forums designed specifically to support a partner development programme.
- One-to-one coaching to groom potential partners for progression to partnership. Through performance planning, the coaching directly supports participants in achieving high performance: it is not coaching in isolation but more a success support programme.
- 360 degree perception surveys (as part of the development and assessment process).
- Firm-wide surveys (to uncover reasons for staff losses or disillusionment).
- Job sculpting (to help mould roles to match the people available).

A programme might typically have two different levels of intensity:

- A basic programme of regular seminars and support available for all associates.
- An intensive fast-track coaching programme for those identified as having greater drive and potential.

A firm's main investment in partner development is likely to be the time of its people. However a firm might expect its investment to return considerable benefits through, for example:

- Showing that the firm is investing in its professionals, so helping to attract and retain good people.
- Bringing through a stream of suitable partners and satisfying a firm's need to identify suitable candidates.
- Improving performance through enhanced skills in client development, financial management, leadership and entrepreneurship throughout the firm.
- Managing career expectations and avoiding unnecessary disillusionment.
- Satisfying CPD requirements in a way that delivers real benefit to the firm.

Table 1 Position of solicitors working in private practice and holding a practising certificate as at 31 July 2008

Position in firm	Men		Women		Total	
	No	%	No	%	No	%
Partners*	24,071	49.9	7,710	22.0	31,781	38.1
Sole practitioners	3,311	6.9	1,232	3.5	4,543	5.5
Associate solicitors	6,821	14.1	7,861	22.4	14,682	17.6
Assistant solicitors	9,940	20.6	16,027	45.7	25,967	31.2
Consultants	2,894	6.0	763	2.2	3,657	4.4
Other private practice	1,217	2.5	1,482	4.2	2,699	3.2
All positions	48,254	100.0	35,075	100.0	83,329	100.0

*Partners or partner equivalents

Source: Trends in the Solicitors' Profession: Annual Statistical Report 2008. Figures from the Law Society's REGIS database

bells should ring. My advice to anyone invited to become an equity partner is to first take good professional advice.

Even if offered a "salaried partnership", care needs to be taken because to the outside world the new salaried partner (although still an employee) will be regarded as a partner and liable as such. And will the equity partners be "good" for any indemnity offered to the salaried partner in respect of liabilities incurred?

Much of the disillusionment with partnership could perhaps be dispelled if law firms were to take the trouble to improve their processes for developing

If a single potential partner can be retained because of effective talent development that firm's investment will have paid off

Healthy partners?

What characterises a healthy partnership process?

- There is a transparent process that is seen to be fair – people know where they stand and what they need to do to become partners.
- Potential partners are groomed for success, not merely selected.
- There are realistic criteria to provide a touchstone for development and as a basis for objective assessment.
- The process starts early enough to avoid nasty surprises (possibly several years out).
- People who don't make (or don't want) partnership can still have rewarding careers (there should be no stigma to not being a partner).
- Part time partnerships and other flexible arrangements (secondments, sabbaticals, etc) can be accommodated.
- There is not a single "mould", recognising the varying motivations and forms of contribution that different partners can make.
- The right mix of training, mentoring and coaching is available both before and after becoming a partner to help make the transition.
- Key performance indicators for potential partners are not based solely on hours and fees (ie they support achievement of the criteria for partnership).
- Partner rewards are seen as matching individual contributions and related to each partner's worth.

new partners and align them with the needs of tomorrow's more demanding legal markets. In particular, with many firms investing heavily to develop, retain and manage the performance of their best people, can any firm afford a less than effective partner development process?

Future shape and structure

Looking to the future, will the shape and structure of tomorrow's law firms offer attractive careers to aspiring lawyers?

The Legal Services Act 2007 provides the framework for law firms to become owned wholly or partly by non-lawyers and already we read of the likely

"players" who apparently seem keen to enter the law. It is likely that this transformation will happen more in relation to those firms handling "volume commodity" work which have already for a number of years been turning themselves into large and well run, process-driven businesses.

At the same time ownership of many such firms has been gradually whittled down to a smaller number of equity partners/equity members of LLPs in order to make decision-making easier and to maximise the returns to the individuals on eventual sale of the whole or part of the firm in a few years time. Often those employed in such firms are not solicitors but para-legals.

Retaining talent

How will such legal businesses of the future be able to attract and retain good talent?

To succeed they will need to show aspiring lawyers that they can still have worthwhile and rewarding careers in such a legal business even though partnership/ownership may not necessarily be on offer. What will attract good lawyers to these firms?

That will be a crucial test, not only for parts of the legal profession but also for the viability of the new structures introduced by the Legal Services Act.

Peter Scott is a solicitor and was for eight years until 2000, the managing partner of Eversheds' London and European offices. Peter is a frequent speaker at conferences and his articles are published in a number of well known legal journals. He is the editor of *Practice Management Handbook* published by Law Society Publishing.