

This week: keeping outgoing partners outside

GAZETTE In Business

Partner exits

Gently does it

Handling partner departures badly can damage a firm's reputation. Anne Hughes and Ronnie Fox look at the benefits of being as sensitive and accommodating as possible

This is going to be another tough year. Although hundreds of solicitors – senior and junior – lost their jobs last year, chargeable time and utilisation rates have not increased proportionately. So many law firms will inevitably be making further cuts.

During the past couple of years an extraordinarily high number of partners have been de-equitised or asked to leave. No leader of a law firm wants to make that decision, but there may be little choice if average profits per equity partner are to be competitive and at a level that will both attract lateral hires and ensure retention of the most successful and experienced lawyers. It is possible for management to handle partner departures in such a way as to reduce the risk of damage to morale internally and to the firm's reputation in the marketplace?

Worst-case scenario

As a result of repeatedly advising both firms asking partners to leave and partners who have been asked to leave, we have come to the conclusion that there is definitely a right way to go about the process.

A former partner who feels that he has been treated badly by his firm may spend the rest of his life telling anybody who will listen how his firm betrayed him and that it treats its people abysmally. If dozens of partners are being asked to leave, that effect could be multiplied. It is likely to make headlines in the legal press. Firms are usually very concerned to manage how the story is presented to minimise reputational damage, but it is



condition that the partner signs an agreement to go quietly within a matter of weeks.

Partners who have been through this process often feel betrayed and damaged; their trust and confidence in the firm have been completely undermined. Even if an agreement eventually signed, an ex-partner may stay angry for the rest of his life. There is no way that he will recommend his former firm to anyone. Bearing in mind that every partner has some significant professional and personal contacts that could be extremely helpful to the firm. This is not the ideal situation for anyone.

A better way

So how can a firm avoid all of this unpleasantness? As a starting point, management might think about how their proposed strategy fits with the culture within the partnership and the firm's stated values. Partners are entitled to expect management to act in accordance with the values that the

extremely difficult to control what former partners say. Even if outgoing partners have signed undertakings not to make derogatory comments about the firm, such undertakings are hard to police and enforce.

The simple answer is to try to keep outgoing partners outside. This means going beyond recognising a partner's legal rights; it means showing respect for the person. These days, firms need to be wary about partners bringing discrimination claims if they believe that they are being treated less favourably than others because of their age, gender, sexual orientation, marital status, religion, belief, race, colour, ethnic background, nationality, disability or because of gender reassignment.

So we see management confronting partners with performance issues immediately before telling them that they are on the list for de-equitisation or exit. Although this might seem like a good strategy to reduce the risk of discrimination claims, this process can do irreparable damage to the firm's relationship with the partner concerned, unless every aspect of that relationship is managed carefully and sensitively.

From the partner's perspective, can you imagine how it feels when, out of the blue, you are told that nobody likes working with you and you have no support from your partners? It immediately becomes apparent that you are not going to be given a realistic chance to prove yourself during a so-called performance review period. So, rightly or wrongly, you and your colleagues are likely to be angry. Often firms make offers to partners that are slightly better than the partner's legal entitlement, on

agreement requires that certain conditions must be met, or procedures followed, before a partner's equity points can be reduced or he can be removed as a partner. Obviously strict compliance with such conditions and procedures is a *sine qua non*.

The agreement may also prescribe what financial compensation (if any) the partner concerned is entitled to receive. If the firm wants the process to run smoothly, and wishes to retain some element of goodwill with the departing partner, there are many ways of making the procedure and any proposals more palatable.

And it is not all about money. If there is no longer a place for an individual within one firm, best practice is to offer specialist outplacement and assistance with a career elsewhere (whether that's with another firm, a client or something counselling). Some firms offer career counselling, but there may be more that can be done to help.

For example, it is appropriate to seek to enforce restrictive covenants

Wrong signals

It is not just vanity that makes law firms nervous about coverage of departing partners. Even if partners handled exit can cause tangible harm to a firm.

Being seen to 'lose partners' sends a set of signals to the legal market and the press that may or may not be true. The first is that the firm is joining in somehow doing better than the one they have left – the new firm gives the impression that it is growing and investing in a practice. This despite the fact that in reality they could be getting an underperforming partner on the cheap.

Second, there are recruitment for good five-to-ten-year-qualified solicitors with good

Former clients of the firm apparently going downhill, they will question whether it can provide for necessary competition for other panel members. Furthermore, it is in the standard of services from the firm preceded by demise and are consequently wary of signs from other firms that they are in decline. They do not want to be reliant on a firm that is experiencing distracting levels of difficulty.

A growing number of firms run alumni groups for lawyers who have left – recognising that even though these people do not have a future in the firm, they may become useful contacts, and that their views influence the firm's reputation. If partner exits can be handled well, then that is clearly in line with this approach.

The objective should be to agree on the most dignified way to present the news to other partners, staff clients and the press. Even beyond the initial announcements, how will the firm and the former partner respond to future enquiries from clients and the press? Thinking through these issues in advance can save embarrassment and potential resentment down the line. There is no question that these are difficult times. Partners are acting

All law firms are paranoid about bad publicity in the legal press. So most try very hard to control internal and external announcements about partner exits; they hope to contain any negative effect on morale and the firm's reputation. Such announcements can impact on an outgoing partner's own professional reputation. It is usually best for everyone when the announcements are made in terms previously agreed with the individuals concerned.

The Market-Leading Solution
Proclaim®

CASE MANAGEMENT
PRACTICE MANAGEMENT
MATTER MANAGEMENT
www.eclipselegal.co.uk



ECLIPSE

IN BUSINESS

commercial experience is intense – even in a difficult economic climate. Lawyers in this group have their eye on partnership prospects, and also realise that they may be about to move firm at a key point in their careers. They want to join a firm where they have prospects, and where they will be well treated.

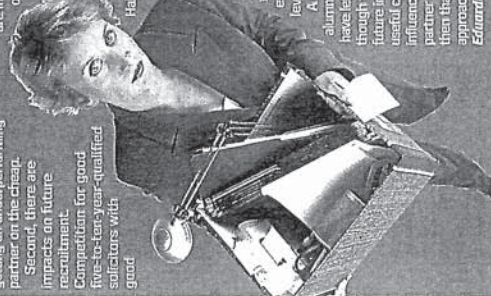
There is also an impact on clients – corporate clients in particular. For general counsel seeking the best service and price from the firms they instruct, many feel they want two or more firms on a panel who are in genuine competition with one another. If they see a firm apparently going downhill, they will question whether it can provide for necessary competition for other panel members.

Former clients of the firm are in the standard of services from the firm preceded by demise and are consequently wary of signs from other firms that they are in decline. They do not want to be reliant on a firm that is experiencing distracting levels of difficulty.

A growing number of firms run alumni groups for lawyers who have left – recognising that even though these people do not have a future in the firm, they may become useful contacts, and that their views influence the firm's reputation. If partner exits can be handled well, then that is clearly in line with this approach.

decisively to ensure their economic survival. We see the best firms doing so while at the same time treating their people (staff and partners alike) ethically and in accordance with the firm's published values. Those will be the same firms that will find it easiest to retain and attract the best talent.

Anne Hughes and Ronnie Fox specialise in partnership and employment law at City law firm Fox (www.foxlawyers.com)



There is no question that these are difficult times. Partners are acting