

How to lose staff but keep your reputation

Professional firms everywhere are responding to pressures created by the recession. Very recently we have observed firms becoming open and honest about both the lack of sufficient work to keep their lawyers busy and the extent of partner and staff cuts. Allen & Overy is the latest magic circle law firm to offer full explanations when announcing radical headcount reductions.

Cynics suggest that the motivation for the current wave of redundancies is simply a desire to maintain average profits per partner. In our experience of advising law firms, nothing could be further from the truth. Faced with turmoil in global markets and a dramatic reduction in the demand for legal services, firms embark on reductions in force with great reluctance and in the hope of safeguarding the long-term future of the firm's business.

Many of the management teams engaged in such exercises have had little or no experience of running redundancy programmes or asking groups of partners to leave. Getting it wrong risks significant damage to a law firm. There are many strategies a firm

can adopt to minimise the risks.

Most law firms jealously protect their reputation. If a firm handles a downsizing exercise in the wrong way and without enough sensitivity, it risks high-profile litigation as well as reputational damage. Those required to leave may harbour resentment which can easily turn into a habit of broadcasting negative comments about the firm. Gagging clauses are of limited value. Press comment can affect the way clients and potential new recruits view the firm. Downsizing can also have a major negative impact on morale within the partnership.

It is a small world. Business is based on trust and relationships. Very often partners forced to leave one firm will pop up again in another.

Some departures are based on short-term considerations and can be avoided. Firms trying to make the budget balance do not always factor in the cost of recruiting and retaining replacements. Few professional firms seek to reduce the cost of compulsory redundancies by inviting voluntary redundancies.

Members' agreements and

partnership deeds rarely contain provisions which give management the flexibility to manage departures as they would wish. A negotiated and dignified exit on generous terms has to be a better way than an expulsion resolution.

When deciding who will be asked to leave, firms should have careful regard to the law relating to discrimination (which has a bearing on partner and employee

departures) and to redundancy processes (which apply only to employees and are particularly cumbersome when 20 or more employees are involved). Firms that manage this successfully not only comply with legal obligations but also act in accordance with their published values.

There are many things a firm can offer as part of a redundancy package which are of much greater value to a leaver than the cost to the firm: examples include helpful references; access to professional outplacement; the waiver of restrictive covenants; relaxation of notice periods; continuing access to the firm's know-how; sensible arrangements for forwarding post; email and telephone enquiries; and participation in an alumni club. Offers to retain cleaned laptops and BlackBerrys are particularly appreciated by those facing a prolonged period of unemployment.

Downsizing is bound to be a stressful and unpleasant business for all involved – if handled correctly, it need not cause long-term business damage.

Ronnie Fox and Anne Hughes specialise in partnership, employment and discrimination law at City firm Fox.



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