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Who comes first? Clients or partners?

Melinda Wallman of Major, Lindsey & Africa highlights a growing dilemma for partners in today's global legal market

Partnership in today's global legal market has changed almost beyond recognition. Globalisation has impacted not only those firms which have grown internationally, but also local law firms that often compete for the same clients and talent. Firms have had to rethink their governance and compensation systems, as well as their attitude to lateral partner hiring. Almost all law firms incorporate lateral partner hiring into their growth strategies. Even elite firms that had previously been reluctant, now hire lateral partners, both in foreign offices and at headquarters. In the past five years, for example, Freshfields Bruckhaus Deringer has hired more than 20 partners (including three in London) and Linklaters has hired 18 partners (including five in London). Even Slaughter and May has now brought in its first lateral partner.

With only a small percentage of lawyers remaining with the same firm for their entire careers, fewer partners feel entirely at ease within their partnerships. Indeed today's big law firm is often described to us by partners we represent as a very lonely place. Most partners have a very limited say in the way their firms are run. Decisions are made by small management committees, which in some firms are even empowered to make foreign law firm acquisitions without going to a full partner vote, and the idea of compensation being linked to seniority (as it would be in a strict lockstep) has all but disappeared.

Today, the safety in numbers of working in a larger firm, within a larger team with larger clients, has been replaced by the safety of individual partner billings. Job security is inextricably tied to client relationships and to the revenue generated by servicing those clients. Invariably, partners feel they need to wrap their arms around clients, not just to ward off competition from other law firms, but also from their own colleagues. They recognise that their personal 'books of business' are their primary career insurance policies.

'Books of business' underlie most of the partner moves that now take place in London. Whether in the form of a lateral partner questionnaire or a more traditional business plan, the majority of law firms – both US and UK – require partner candidates to provide details of their key client relationships, together with the

associated revenues generated historically and anticipated on joining the new firm. This type of information was traditionally requested towards the end of a hiring process. Today, it is not unusual for firms to ask lateral partner candidates to complete an LPQ after one or two meetings. Many firms use independent due diligence reviews of lateral partners and their client relationships as part of their assessment processes. Our London office has seen more demand for this service than ever over the last two years.

Firms are starting to take more active steps to evaluate the strength of lateral partners' relationships, with some going so far as to ask laterals to introduce them to their clients before a deal is signed, in order to investigate potential portability. In our experience, this is particularly notable in the private equity arena, where partners and their clients are often close friends. Indeed, early stage involvement is something that general counsel would very much welcome. We have spoken to a few in-house clients recently about the disruption caused to them by lateral partner moves. General Counsel of Sankaty Advisors, Ranesh Ramanathan said: 'We would much prefer our external counsel to let us know that they are unhappy before they get too far down the line. It's always disappointing to find out about a move when asked to provide a reference.'

However, according to partnership guru Ronnie Fox:

'All of a partner's clients, indeed all of his/her Outlook contacts, belong not to the individual but to the firm. Except in special circumstances, the obligations which a partner owes his or her firm (such as the duty of good faith and the terms of specific restrictive covenants) prevent that partner from discussing a potential move with a current client. LLP members' agreements often contain obligations to act in the best interests of a partner's existing firm and requirements to devote all of a partner's time and attention to the firm. That limits the preparatory steps a partner can legally take in relation to a potential move, especially a team move. However, in many cases there are ways of reducing the risk of a conflict between strict legal principle and the commercial facts of life.'

While all successful law firms put their clients first, partnership law does



'While all successful law firms put their clients first, partnership law does not make it easy for partners to do the same.'

Melinda Wallman, MLA

not make it easy for partners to do the same. The law will at some point catch up with the reality of today's legal market. In the meantime, individual partners need to find that balance themselves.

For more information, please contact:

Melinda Wallman
Head of Partner Practice Group, EMEA
Major, Lindsey & Africa
Tel: 020 7448 9963
Email: mwallman@mlaglobal.com

Melinda founded the London and Hong Kong offices of MLA. She specialises in senior level search on behalf of law firms, financial institutions and multinational companies in London and internationally. Melinda has placed lawyers into most AmLaw 100 and UK 20 firms as well as many global investment funds.

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