Leading questions

Effective leadership can help a law firm to thrive, but it relies on not only suitable management structures, but also appropriate management styles, and aligning the two to achieve results. **Nick Jarrett-Kerr** shows you how to make it work for your firm

It is generally easy to tell who has the power and authority in a law firm. Whatever the firm's size, it is usually simple to identify a small group of partners who hold the greatest influence, and to whom the rest of the partners look for guidance and steerage. Anecdotally, it seems to me that the 20:70:10 rule often applies – 20% of the partners being the 'movers and shakers', 10% the underperformers, and the remaining 70% the good solid citizens. (It's not an invariable rule, of course, but if you work it out for your firm and I am widely off the mark, do email me!)

The 70% usually forms the firm's 'engine room', unlikely to set the nearest river on fire, but indispensable to the firm; the movers and shakers cannot operate without them. This has often meant, in the past, that the movers and shakers have chosen to acknowledge that support by working in a spirit and structure of 'true partnership', in which decisions are made consensually and profits shared more or less equally – if sometimes with an Orwellian twist, by which some are considered more equal than others. However, a combination of tightening margins and increasing competitive pressure has recently placed a lot of strain on the 'true partnership' model, so it is no surprise that – even before alternative business structures come in – many firms have been looking again at their governance, decision-making model, and leadership style.

I have come across three different types of poor decision-making in law firms. The first is where ill-considered and over-hasty planning leads a firm to undertake projects that appear cost-effective in the short term, and which later prove to be anything but. These could include expensive flights of fancy such as new offices, perhaps in the capital or in overseas jurisdictions, poorly planned mergers with other firms, or the acquisition of badly chosen laterally hired partners.

The second is where firms with a culture and history of collegiality and consensus decide to become more efficient and commercial in their decision-making processes but, put bluntly, simply go too far. They may feel that they need to display leadership by brave actions, bold conclusions and speedy decision-making, but actually end up adopting an aggressively controlling style of macho-management, in which gung-ho partners dominate by brute force and intimidation. The valuable gut instinct, intuition and insight which feed into this decision-making can then lead to snap decisions getting made without the firm having due concern for fairness, or undertaking the necessary careful research and deliberation. This kind of bad decision-making could be found, for example, where there is an issue of underperformance of a particular partner; the symptoms may have been ignored for years, but the management team then suddenly loses patience and seeks to expel the underperforming partner, with little warning and without giving much of a last chance. The facts may adequately support expulsion, but never at the expense of fairness and equity.

The third lies at the other extreme of the management spectrum. This occurs when firms get bogged down both by the need for endless consensus and discussion, and by the firm's desire for perfection. This results in management projects getting delayed by nit-picking, circular discussions and the micro-management of detail. Wrong or muddled decision-making then takes place, based on a failure to differentiate the wood from the trees.

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THE FIRST STEP: STRUCTURE

A firm's management structures are at the root of how it makes decisions and how its leadership functions; the first step to getting your firm managed optimally is getting its management structures right. As firms grow and evolve, their need for more advanced methods of governance develops. The start-up firm in a creative phase needs little by way of management systems. Such firms are entrepreneurially oriented, driven forward through the hard work of talented people. In a more adolescent phase, the firm can usually be managed by consensus, and the leadership abilities of the movers and shakers. Progress can, however, become inhibited because nobody has sufficient time to get the firm better organised. As the firm increases in maturity and size, consensus become even more impossible, and firms have to 'professionalise' the governance and management model, by the appointment of managing partners, committees and professional managers.

However, it is not just a question of the firm's size or stage of development, as some larger or more mature firms still manage very effectively through consensus arrangements. A group of partners at quite a big firm recently told me that they very rarely disagree fundamentally over decisions, and hardly ever vote, and that, where partners did find themselves in a minority, they would almost always be ready to support the will of the majority. In such firms, it is usual to find the partnership deferring to the influence

and views of the firm's movers and shakers.

Consensual management is, however, extremely time-consuming, and most firms have found that it is better to appoint a managing partner or a management committee (or both) to act as a filter for other partners' ideas, and to refine and speed up the management processes. The appointment of a practice manager or chief operations officer can also be an efficient and cost-effective way to help busy practitioners focus their time and value.

The most important thing to remember is that effective governance models depend not just on design and drafting (the creation of management roles, the constitution of committees, the drafting of a new partnership deed), but also on the appropriate decentralisation or devolution of power and authority. These take place when control – previously totally vested in all partners – starts to become delegated to a few. Any power and authority that is given to a managing partner and / or management committee automatically dilutes or removes the power and authority vested in the remaining partners. It is, therefore, vital to take time to make sure that everyone in the firm understands and agrees the decision-making authority granted to the top management team (and others). It is also vital to ensure that the firm retains an appropriate balance between power and responsibility, and between authority and accountability.

THE SECOND STEP: STYLE

Whatever the management structure you decide to adopt, decision-makers in partnerships face an unenviable dilemma. They need to speed up and professionalise decision-making, at the same time as preserving the essential elements of partnership, including the need for extensive communication and consultation, together with at least some element of consensus. The inclination of many law firms towards a more explicitly corporate structure carries the attendant risk that a 'command and control' style of 'corpocracy' can follow – rules-oriented, hierarchical, status-conscious, with formal structures designed to restrict the flow of information.

It should be part of any partner's development and training to explore different styles of management, to find the right one to suit both the character of the partner and the needs and profile of the organisation. There are many ways of describing the various different possible management styles. One that I have found helpful for some years is the four different styles or attitudes of management known as 'push', 'pull', 'pummel' and 'pamper' (as described by Harvey Robbins and Michael Finley in *Why Change Doesn't Work: Why Initiatives Go Wrong and How to Try Again and Succeed* (Peterson's, 1996)). I have seen most firms use all four approaches, but often in a haphazard and unplanned manner. An awareness and understanding of the styles (and when to use them) can help all those involved in management to develop their own methodologies and approaches.

'PUSH' – SHORT TO MEDIUM TERM

This approach is most commonly known for its use of the 'burning platform'. It represents the deliberate use of a certain level of force or fear to galvanise positive action or results. It involves some directive management, although it falls short of bullying.

The main advantage of the 'pull' approach for a law firm is that it is strongly oriented around performance management, focusing on improvement, reform, efficiency and the work ethic, and the ability to provide evidence of those through measurable results. The flip side is that adverse consequences will ensue in cases of underperformance or failure to hit targets, and using this approach makes staff and partners very aware of that fact, which can be a strong motivating factor. It is, therefore, extremely useful in the short to medium term and is particularly appropriate to use in a firm's recovery or improvement phase.

However, it has to be recognised that 'push' does not always make for a happy working environment; the large degree of direction can lead to a feeling of lack of impotence and a loss of morale, and the need to provide evidence of improvement, for instance, by high billable hours, can lead to stress and anxiety. It is, therefore, unwise to carry this approach to an extreme, or to use it in isolation for prolonged periods. This means that, on its own, it is a limited methodology or style, but it can be much more effective when combined with 'pull'.

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‘PULL’ – LONG TERM

This approach operates at a more inspirational level than ‘push’, to engage the imagination of staff and partners and to motivate them. If ‘push’ is the stick, then ‘pull’ is the carrot; using them together equates to ‘push’ plus empowerment. In the long term, most partners should be aiming to use as much ‘pull’ as they can.

‘Pull’ encourages partners to look after their people, on the basis that profit will follow. In effect, it is the hardest way to achieve results, but has the best long-term prospects.

Using this approach permanently alters the way people in a firm think of themselves, as it encourages career-planning and ambition. It also supports a positive working atmosphere, where teamwork and fun are stressed, and social interaction is encouraged.

The ‘pull’ approach fosters progressive personnel practices – relationship-building, democracy, teamwork and the creation and maintenance of positive performance-oriented and client-focused cultures – which can be of real and lasting benefit to a firm. Providing such a positive working environment can improve retention rates. And because this approach focuses on giving people a fulfilling career, it also places emphasis on quality of work, thereby encouraging partners to find better and more stimulating work for themselves and their people, which can help to identify and tap lucrative new sources of work and generate more profit for the firm.

‘PUMMEL’ – SHORT TERM

This approach involves control, forced change, the reign of terror. In effect, it is the application of martial law – useful in times of emergency. ‘Pummel’ is the environment of the dictator, where an individual, board or power caucus within the partnership exercises tight control with a heavy hand. There is practically no positive encouragement to perform, but maximum negative stimulation, and even a degree of bullying to enforce compliance.

As an example, partners in one USA firm were fairly recently described as “being at the mercy of a small, unelected and self-perpetuating executive committee”.

While it can be occasionally necessary to employ dictatorial measures, ‘pummel’ only usually works well in the short term. In a firm where there is endemic underperformance, lacklustre partner accountability, and consistent failures to adhere to agreed or sensible internal disciplines, a ‘short sharp shock’ can be a useful way of kick-starting a period of change and revival. A firm that wishes to try this approach will need to impose heavy internal controls and rely on enforcement and performance management – the application of a very small carrot, and a very big stick. It is important to recognise when the approach has achieved all it can at that time, and then move quickly to mixing in other styles.

The management team will need to factor in the probability that paranoia and insecurity will grow quite swiftly under such a regime, and recognise that, in general, a prolonged period of ‘pummel’ leads to long-term unhappiness and demotivation.

‘PAMPER’ – SHORT TERM

The ‘pamper’ approach represents a culture of entitlement and proprietorship, an environment in which partners ‘do their own thing’ and have little or no accountability to anybody. It can, therefore, be seen as ‘pull’ minus accountability.

The problem is that, in firms that rely on this approach, there is often also no ultimate sanction and little fear. This engenders a regime of chaos and anarchy. In a ‘pamper’ environment, there are few standards or internal disciplines, little sharing of information, clients or people, and few quality checks. A ‘pamper’ partnership deed is one where one or a few partners can hold the partnership to ransom – for example, where no partner can be expelled for consistent underperformance, or where an overwhelming majority is needed to effect any change. This approach enhances the old-style illusion of cradle-to-grave security.

Sadly, I often see ‘pamper’ as the default management style in far too many firms. It can be useful as a short-term reward, but is hopeless as a long-term approach; in the long term, it will foster slack performance, with scant measurement or evaluation.

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KNOWING WHICH TO USE

The point about ‘push’, ‘pull’, ‘pummel’ and ‘pamper’ is that there is a time and place for all of them, but ‘pummel’ and ‘pamper’ should be recognised as extremes, for occasional and short-term use only.

ALIGNING STRUCTURE AND STYLE

Firms often spend much time debating about and deciding on their governance structures and management systems. However, the style of management which is adopted from day to day is more likely to be developed by default, and without much thought, largely as a result of the natural idiosyncrasies of the individuals involved in the firm’s leadership.

To avoid this scenario, firms should devote as much energy towards discussing and deciding on the partners’ preferred style of management, as they do on its form. A number of issues clearly need to be taken into account, including the firm’s maturity, its strategy, its culture and traditions, and any imperative for short-term change or dramatic improvement. In addition, managers have to learn to adapt their management style to the needs of the firm – which is obviously easier said than done.

Establishing a coherent management style will not just help the firm to achieve some key objectives, but also to help to make it a happier and more stimulating place to work, in which the firm’s people are persuaded to continue to invest their careers. ■

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