# Control or consensus?

## Nick Jarrett-Kerr, visiting professor at Nottingham Law School, discusses the stifling points in law firm decision making

I have recently been involved with two quite different mid-sized law firms, each of which is managed very differently. However, both firms are becoming stifled and need to work out where they are in their growth cycles. After mature reflections and discussions, they need to develop some studied and deliberative decisions about their strategies, governance and decision-making for the future.

Firm A has around 60 partners (of whom less than 20 are equity partners) and has just less than 200 lawyers in all. Firm B has around 40 partners, but only five (all founding partners) are equity partners; the firm has around 150 lawyers in all.

In Firm A, the managing partner has many responsibilities but seemingly little authority; all decisions of any size are dealt with at monthly partners' meetings. Firm B has maintained a very tight equity structure and one of the equity partners has combined his fee-earning with a role as managing partner. He is trusted by his equity partners and has a great deal of decision making authority.

Interestingly, decision making is equally slow in both firms.

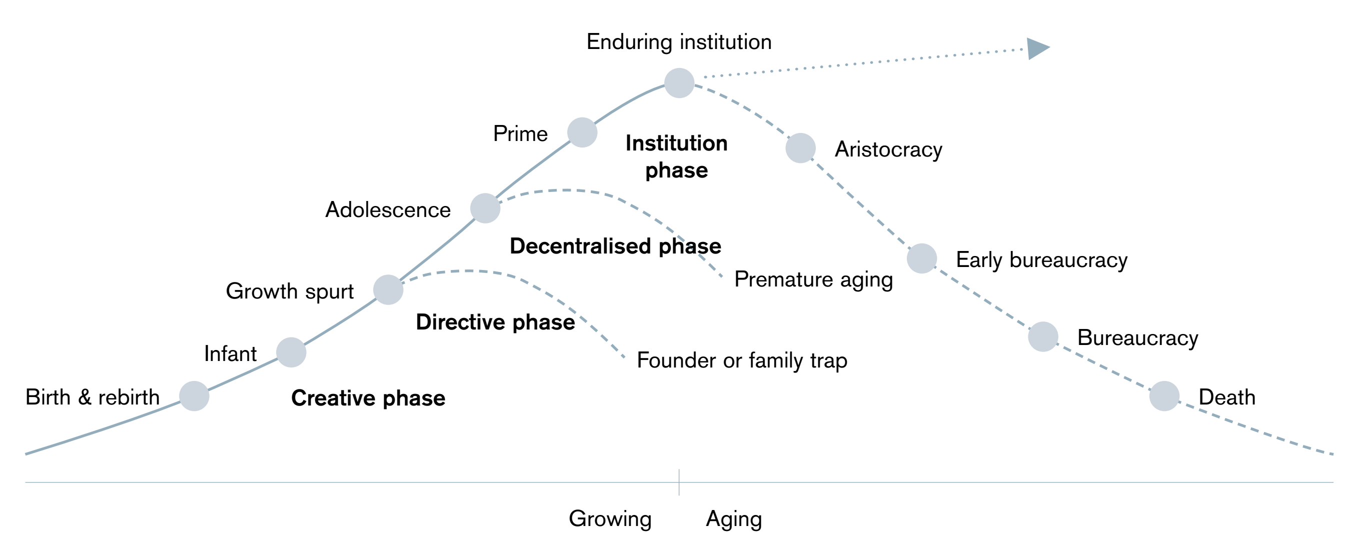
In Firm A, decisions often get deferred from one meeting to another through lack of agenda time, with the result that even quite minor decisions can be made to wait for two to three months before being resolved.

At Firm B, the managing partner has presided over a period of strong growth in which decisions used to be made nimbly and entrepreneurially, but the size of the firm now means that the managing partner is completely snowed under. Issues needing a decision pile up on his desk to await his attention whenever he can get to them.

What is clear in both cases is that the governance and management system which worked well five years ago does not work so well now. In both firms, some degree of decentralisation of power is needed.

In Firm A, the equity partners need to recognise that they cannot be involved in all decisions and need to entrust some of their decision making to a managing partner and management committee.

**FIGURE 1: UNDERSTANDING A LAW FIRM'S GROWTH CYCLE**




**Note:** Adapted from 'Corporate Lifestyles' by Ichak Adizes and 'Evolution and Revolution as Organisations Grow' by Larry E Greiner

In Firm B, the benevolent embrace of the founding partners has become an iron grip and they need to consider what is needed to manage a firm which has grown considerably in size.

All law firms – all organisations, for that matter – go through a maturity cycle as they develop over time. The growth curve shown in Figure 1 illustrates how a firm can emerge, develop and then start to fade through its eventual lifetime.

Law firms such as Firm A can find that their development becomes stunted before they reach their prime and, in some cases, premature aging starts to happen and the firm begins to go downhill.

Firms such as Firm B find that their progress comes to a sudden halt as decision making becomes paralysed. Such firms may find that they enter the 'founder trap' in which their rapid emergence and growth turns into decline and sudden death.

Not all firms are like Firm A and Firm B, but it is important to understand that there are four phases of development for any firm to try to work through – the creative phase, the directive phase, the decentralised phase and the institution phase. The last phase is difficult to attain.

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### Creative phase

During the creative phase, a firm emerges, is born or, in some cases, becomes rejuvenated. Firms may start up or start a period of renewal and revival. Such firms are almost always very entrepreneurially oriented at this stage of the growth cycle, and the firm is generally driven by an individual or a small coalition of individuals.

A hard work ethic drives the firm's momentum, and management activities tend to be ad hoc, flexible and uncodified. There is often a random patchwork of decisions and processes which emerge as needed and in response to the opportunities and demands which the firm faces.

Policies tend however to focus on what not to do, rather than the enforcement of consistency and quality. This also tends to be a phase of heavy investment, with the partners or members sacrificing immediate income in order to see the firm develop.

During this phase, the baby firm heads into infancy, usually accompanied by a growth spurt. A tipping point then occurs when the firm realises that it needs a measure of discipline, coordination and systems in order to control the growing organisation.

### Directive phase

The firm then enters a directive phase, in which its leaders (usually the founding coalition) impose some structure and order.

At this stage, the founding partners are unwilling to relinquish control and – like Firm B – concentrate power in the central control of a managing partner or the equity group itself.

These leaders now, however, have a dilemma. The firm has developed thus far largely through their entrepreneurial and client-facing efforts. They are the partners with the client relationships and the specialist reputations. In the larger firms, however, the leading partners steadily become obliged to spend more and more time on management rather than fee-earning. They find this shift hard to assimilate.

For a while, hard work and long hours allow the founding partners to continue both client-facing and management activities. Niche or boutique firms often decide at this stage in the cycle to remain the same size, in which case the founding partners can successfully continue to direct operations for long periods of time – their crisis point may come when the founding partners grow old or tired and wish to retire.

Some growing firms acquire professional management staff to assist with the increasing burden of management. However, the founders generally only allow those managers to make the decisions which they themselves would have made, which leads to frustration, duplication of effort and very little saving of time for the founders.

This leads to further issues as the strategies first employed by the firm to get it to its current state may not be sufficient to enable it to grow further. Not only does the firm need a grown-up governance system, it may also need a more advanced and mature strategy. At this stage, the firm also risks losing good people as profits start to plateau or slip. In essence, this directive phase can tip from a period of adolescence (in which the firm's body seems to be constantly outgrowing its clothes) to a period of stagnation and decline.

### Decentralised phase

If a growing firm is to move from adolescence into adulthood, some decentralisation of management soon becomes necessary.

In Firm A, for example, the tight-knit band of equity partners needs to loosen some of its iron grip and entrust management powers and authority to others. This can be an emotional period, during which there is a struggle for power and direction between the old guard and the 'young Turks'.

Often an executive group emerges, with a decentralised structure of office heads and practice group leaders, accompanied by the development of a more empowered 'C-Suite' of COO, CFO and heads of HR, marketing and IT.

Some autonomies at local, practice group and individual level remain, but the firm starts to develop a greater consistency of service and specialist capability. Partner responsibilities and accountabilities become more defined and focused. The founders begin to take a back seat, but often find this hard to do.

The firm also struggles to retain its partnership ethos. Partners insist on retaining ownership rights over significant matters like mergers and the admission or expulsion of partners, but more and more key decisions are now made by the managing partner and the executive group.

As the firm's profitability and success becomes more reliant on the joined-up effort of the firm and its groups and teams, and less on the performance of key individuals, the whole issue of partner rewards becomes extremely sensitive.

Partners must come to terms with the notion that compensation may be decided by peers. It is at this point that so-called lockstep firms (where partners share profits equally after a period of progression to equality) come under challenge. Unless great care is taken, burgeoning bureaucracy can also start to stifle enterprise; partners are no longer under the same entrepreneurial liberty to take hiring and financial decisions themselves or on the hoof.

The future of the decentralised firm is highly dependent on the quality and competence of the executive group. In previous phases, management and leadership tasks have been driven more by the availability of people rather than by their competence. The group of professional managers hired a few years back may not be capable of taking the firm to the next level. Whatever governance structure has been agreed, the danger is that firms in this phase can easily plateau or even go into a period of decline and premature aging.

Even firms with strong and capable leadership, excellent decision making and compelling competitive strategies find it hard to ensure lasting success as enduring institutions. Some remain as mature firms in their prime for many years without ever managing to take on a degree of permanence which will enable the firm to outlive its current generations of partners.

### STIFLING POINTS

**1** **During the firm's creative phase**, the danger is that the founding group's loving embrace becomes a stranglehold which stifles continued growth. The sudden departure of a founder – even temporarily – can cause paralysis. The firm can become ensnared in the 'founder trap' and decline.

**2** **During the firm's directive phase**, delays caused by the constant need for consensus or which result from the need for a decision from a leading coalition can easily stifle the firm.

**3** **During the decentralised phase**, firms can become equally stifled by a burgeoning bureaucracy or by the need to advance beyond the level of competence of its managers.

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### Institution phase

The holy grail of organisational success is to become an enduring institution – a firm with a set of traditions and time-honoured structures and norms, with a distinctive way of life, a stable and reputable brand and a long-term client base. These firms are more like clubs than commercial organisations, but where a pronounced passion for excellence has become part of their DNA.

They are often governed and managed with a light touch. The management structures have become less formal and partner discipline is self-imposed by the firm's culture rather than driven by performance-management regimes. Leadership is statesmanlike rather than authoritarian. Membership of the firm is more of a psychological contract than a commercial agreement. Roles are flexible and contextual rather than rigid and contractual. Long-term success becomes sustained rather than episodic. Very few law firms manage to achieve this status. mp

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