

When the Monkeys Run the Zoo

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In running any business, reaching wise and sensible decisions is never easy. And in competitive markets, many who are charged with managing professional-service firms can suffer sleepless nights attempting to get decision-making right. But trying to get the right outcome can become a 'worst nightmare' in firms without a clear governance structure or with a mismatch between authority and responsibility.

Many professional service firms remain acutely political organizations, with much of the firm's decision-making having to run the gamut of opinion-seeking, back-scratching and adroit manoeuvring before the management team can make significant progress. In an increasingly competitive market, the extreme consensus model (in which every major decision gets delayed until the achievement of positive ratification) is rapidly becoming not only a luxury but a risky way of running a business.

I heard about a law firm recently where a sensible redundancy program got delayed by several months because of the need to get the reluctant partnership in line. In another case, the managing partner told me that the partners just did not seem aware (or had forgotten) that the governance structure of his firm in fact granted the managing partner and the management committee some fairly explicit powers and authorities to get on and manage the firm, and were resisting all his attempts to implement decisions by demanding endless discussion on every issue – the way things have always been done. This is a firm where the unwritten rules of the organization would seem to be trumping the well-documented governance arrangements.

In contrast, I can think of several other firms where the managing partners and the management boards or committees are attempting to manage the firm by force of personality and the goodwill of the partnership, but without any explicit rules, provisions or authorities. I remember attending the management committee of one such firm a few years back. There was no management committee constitution in place and in general it seemed a fairly indecisive talking shop. With my help, some good decisions were reached at the meeting I attended, only to be overturned the very next day by the partners when they didn't like the decisions that had been reached. In all these cases, problems arise because the monkeys rather than the zoo-keepers seem to be running the zoo.

Please don't think from what I have said that I am all in favour of a command-and-control style of management, or that I would extol leadership by fear! Indeed, I am a fervent promoter of appropriate and timely consultation between those charged with managing the firm and their partners or members. But it seems to me that law firms tend to suffer more from indecisive management than from over-decisive management.

A balance is needed, and in achieving the right checks and balances between the two extremes of management anarchy and

despotic rule, I suggest three checks.

1. The first check is to ensure that the firm's constitutional documents reflect the actuality. It has often been said that every firm has two organisational structures – the formal one codified in the constitution and the unwritten version in practice. The governance framework of many firms often starts with some initial provisions in the partnership deed or members' agreement, and then develops through working practices, resolutions and protocols agreed or simply emerging over the years. Sometimes, the provisions in force vary greatly from actual working practices, and at times the written provisions contradict each other. Regular updating and consolidation reduces muddle and helps to identify gaps and outmoded provisions.
2. Reviewing and updating the framework is, however, only a start. The second check is to diagnose if the governance framework is 'fit for purpose', both to ensure an effective and efficient operation and to enable the management team to lead the firm through the difficult decisions which may be necessary both during a recession and after it. Does the governance framework operate well in promoting performance, building value and protecting against risk? Does it allow an appropriate amount of decision-making authority? Does it give the management team the power to make merger approaches, for instance? More contentiously, is the management team empowered to make partner redundancies as well as staff redundancies and, if not, should it be able to achieve this? Firms should also make some attempt to ensure that their management structures accord with best-practice principles. If an insurer, bank or external investor were to look at the firm, would the governance framework look sensible and well-ordered – would an external party be able to form a view from the constitution whether or not the firm has a chance of being sensibly run? As part of this check, it is wise to examine how the firm's governance compares with 'best-practice' models or with peers.
3. The third check is to make sure that everyone in the firm understands and accepts the various management roles and responsibilities. All partners need to know where they stand, what is expected of them, and what they might expect from the management structure. It is difficult to hold partners and managers to account at the best of times, and well-nigh impossible if the rules of engagement are vague or wishy-washy.

Reliance on the goodwill and compliant nature of partners is not enough to guarantee a high-performing firm. Firms with no enforceable rules or discipline and no system of accountability will not fare well in difficult times.

To paraphrase Eric Fromm^[1], true freedom is not the absence of structure but rather a clear structure which enables partners to work within established parameters in an autonomous and creative way.

The monkeys need to understand who is running the zoo and what the zoo rules are.

^[1] *Escape from Freedom* Rinehart 1941