

5 Compensation Issues to Review at Reopening

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Partner compensation cuts. Furloughs. Layoffs. High receivables. Clients in crisis. Despite all these dismal legal media headlines, there will be a reopening of the economy. Demand for legal services will return, perhaps more slowly in some sectors.

Meantime, your firm's compensation cuts and adjustments are the pain still felt and talked about by all your partners and employees. They're asking: "Will compensation return to normal?" As leaders, you'll have to answer and consider tweaks to your pre-pandemic system.

To begin with, leaders should consider a self-assessment of how they handled partner and associate compensation issues during the pandemic. Warren Buffet famously said: "It's only when the tide goes out that you discover who's been swimming naked." While self-assessment can be uncomfortable, it can also pinpoint surprising positives as well as criticisms of past actions. We've worked with firms who use surveys, interviews with partners and upward reviews to get honest feedback on their leadership or culture*. An assessment from within or with outside support applies equally to your handling of compensation in the Covid-19 crisis. While every firm will discover different strengths and weaknesses, we predict that these 5 issues will surface in most.

1. Transparency and Trust

In our conversations with partners, we frequently hear that transparency about how compensation decisions are made and what factors influence those decisions is a highly valued feature of a compensation system. In making decisions about recent cuts for partners and employees, leaders should have been transparent about who was affected and why. Ideally, leaders will have consulted those affected in advance. In the recent cuts, some of the best practices did not involve "across the board" or "equal treatment". They affected partners first, and more significantly. Firms protected lower-salaried employees from any cuts.

How does your recent transparency record match what you normally do with annual partner compensation? To the extent that you were as transparent, or more so, your leadership credibility will be intact. If your self-assessment reveals lower appraisals of transparency, trust in leadership will be eroded.

Transparency builds trust. We hear time and again from younger generation partners that compensation decisions should not be made in a “black box” environment. They do not need to know every detail of each decision or even each partner’s compensation. But they want to know the criteria, have some idea of the weighting and have input about their past and future performance. Do you need to tweak transparency to rebuild trust?

2. Overweighting Originations

When the tide is out, we may find that originations from high performing partners are down, and that average performers had even weaker originations. If firms place high weight on originations, especially over only the past year, the quantitative compensation rankings may be very scrambled at 2020 year-end. There may be pressure to penalize or exit partners at the bottom of the rankings. Those same partners may have proven their worth in more qualitative measures but get little credit. The tweaks to consider will be:

- down-weighting originations, even in more flexible, non-formula systems;
- placing a specific weight on originations and other quantitative factors; and
- averaging originations over two years back, plus the current year.

3. Increased Weighting for Qualitative Factors

We often help firms articulate and measure qualitative performance that will be given weight in partner compensation systems. We think that, this year, some of these factors were very critical to the future of the firm, though we won’t recognize that importance until late this year. Looking at partner performance over 2020, review the partners who excelled at:

- Client relations. Keeping stressed clients informed and supported. Cross-referring those clients to other firm services, such as real estate partners who could help re-negotiate a lease.
- Mentoring, training and counseling. Even the best associates will be concerned about getting enough hours or getting feedback. In a remote working environment, effective partners replicated the office “drop-in” or coffee break discussion by making individual video calls or doing small-group check-ins.
- Innovation. What did partners do to pivot the firm’s business, attract clients to new services or create legal project management innovations? A crisis can be an opportunity for innovators. Does the compensation system recognize innovation efforts, even though some may fail?

If these factors do help offset weak originations and keep associates busy and onboard, should they not be upweighted in the future?

4. Your Benefits Package

When associates and staff reflect on their pandemic experience, the benefits of some meals and the gym membership may not seem as important as some other benefits. First among these, though not listed in the benefits package, is job security. Every associate and staff member will be thinking about this as we move toward reopening. Firm leaders and partners will have to take specific actions, mostly through communications, to “keep the keepers”. Reassure your best people. Talk them through their next level of development.

Health care, sick leave and disability benefits will be under a new spotlight. Firms may need tweaks or new plans to meet new employee and partner needs. For example, will some need leave to care for sick or disabled parents? Do you have such a benefit?

5. The Level of Monthly Draws

In most firms a core amount of partner compensation is really paid in advance of collected profits. These are monthly draws that are viewed by many partners as “guaranteed minimums” (but of course, they are contingent on actual collected profits). On reflection, do you need to re-balance the amount that is pledged to monthly draws compared to year-end distributions? Another common category is a bonus pool amount that is held for year-end, both for associates and partners. That category will certainly be downsized at year end. All the pieces of compensation distribution may need review, and if you are making those adjustments for 2021, the internal consultations have to start now.

We all hope the tide will come back shortly after reopening. A candid review of your crisis response and tweaks to your compensation will demonstrate leadership and stability. Above all, you won’t be swimming naked in 2021.

*In addition to compensation reviews, Edge performs Cultural Assessments in law firms, to test the reality of the culture the firm believes it has. Contact david@edge-international.com to learn more.

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