

# Talent management: Sustainable growth

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MASTERCLASS

# Striking partners out

Nick Jarrett-Kerr discusses the ten main reasons for partner underperformance and how to deal with them

**THREE THINGS YOU WILL LEARN FROM THIS MASTERCLASS:**

- 1** The main reasons for poor partner performance
- 2** Which causes are fatal and which are remedial
- 3** How to sensitively tackle underperforming partners

A few years back, most well-managed firms identified the clear misfits, shirkers and serial underperformers in their firms and managed them out. But it is a tough world and no partner can ever be regarded as safe.

In the face of market pressures, even the biggest firms have set about restructuring their partnerships to remain competitive and – where they have recognised that the firm has become over-partnered – are working to slim down the partnership.

Some partners have been finding that they are simply in the wrong place at the wrong time. At the same time, hasty choices can be regretted if the reason for underperformance is temporary and recoverable.

Hence, it is worth reviewing the ten main reasons – some fatal but some remediable – for partner disappointment, disaffection and poor performance.

**Reason 1: Wrong choice of partner**

Poor hiring decisions are easy to spot fairly early. In many cases, laterally-hired partners have been recruited predominantly because of their books of business, which sometimes fail to materialise.

The attraction of the extra revenue and the lure of a star partner can blind firms to the uncomfortable truth that they can end up hiring difficult personalities who are hard to manage or do not fit in with the firm's culture.

Poor partner promotion decisions are less easy to identify early. The promoted partner has usually been the protégée of an existing partner or practice group and will have jumped over all of the usual promotion hurdles.

The potential which was seen in the partner at associate level may not yet be realised, or the partner has got stuck on the 'intermediate plateau'.

A connected reason is that the skills which are needed to perform as an able technical lawyer at associate level are quite different to the more managerial skills needed in a partner. Hence, some associates never manage to come to terms with the role of the partner.

#### **Remedial measures**

This problem is usually fatal. Wrongly chosen partners should probably be asked to move on. Over-promoted partners can sometimes be demoted or moved to another position in the firm, but the history of such redeployments in law firms has not been encouraging.

#### **Reason 2: Failure to keep up with the pace of change**

In many cases, firms develop faster than the ability of some of their partners to keep up. Technical legal skills – perfectly attuned for firms with smaller clients and less complex engagements – are no longer adequate or relevant for more sophisticated clients and demanding client engagements.

Equally, some partners find it difficult to adapt to a legal world that has steadily become more demanding and price sensitive, and that requires partners to work harder, more efficiently and more cost effectively.

While most partners still pine for the golden days of law practice, a sense of realism and the urge for survival has enable most to keep their heads above water. Furthermore, as legal services commoditise further, the amount of partner-level work has continued to reduce.

Thus, the role of the partner is skewing increasingly towards managerial skills – particularly work-getting, client-caring, work supervising and team managing – and away from the role of the partner as a technical legal expert.

#### **Remedial measures**

Support and training can sometimes cure this reason for underperformance.

#### **Reason 3: Non-core areas of law**

The practice mix of law firms tends to change over time. Weaker and non-core practices vary from firm to firm, but neither benefit from nor contribute to the mainstream practices of the firm. These are freestanding practices that do nothing to enhance the firm's reputation, create new business or generate profits. They may have been areas of law that were once profitable but are now less so.

At a personal level, partners in non-core areas of law feel under increasing strain. It is not pleasant to find your continued



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presence in the partnership barely tolerated by your partners and to perceive your type of work in many cases looked down upon with disdain.

Non-core areas tend to starve to death. Young lawyers will quickly see no prospects and will leave for a firm where their work will be both core and appreciated. When they are not replaced, the practice area shrinks still further and the performance pressures increase on those who remain.

At some point, the area loses all critical mass and the partners become superfluous. In more dramatic cases, whole

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areas of law simply fade away or become so unprofitable through commoditisation that they are no longer viable.

#### **Remedial measures**

Redeployment sometimes is possible where a partner is in a non-core area. The firm would need to allow the redeployed partner time to learn new skills and to find his own feet.

#### **Reason 4: Internal political troubles, quickly-formed perceptions and favouritism**

Many law firms are intensely factional and display elements of cliquishness, favouritism and in-crowds. Memories of successes can be short, while memories of mistakes can be long. Perceptions are also easily formed and hard to change. Even an isolated client complaint or a bad year can form a hard-to-remove label.

Partners can thus easily become marginalised and excluded from work-winning and work-sharing opportunities. Also, partners who experience disapproval, lack of respect, little appreciation and scant expressions of confidence will tend to disconnect intellectually and emotionally. In short, underperformance becomes a self-fulfilling prophecy.

#### **TACKLING PARTNER UNDERPERFORMANCE**

- ✓ Design a process for the ‘intensive care’ of underperforming partners that supports and rehabilitates them.
- ✓ Consider at all times the interests (and morale) of the firm as a whole, as well as those of the underperformer.
- ✓ Understand, in each case, the reasons for underperformance.
- ✓ Where the cause is possibly remedial, work out how to support and rehabilitate the partner.
- ✓ Agree a reasonable timetable for remedial action.
- ✓ Where the underperformance requires the removal of a partner, grasp the nettle without delay, but do so sympathetically.

#### **Remedial measures**

It is sometimes possible to rebuild confidence in such partners. Counselling and general support can help them to appreciate their strengths and to work on their weaknesses. Among their peers, try to support underperformers by rebuilding their credibility.

#### **Reason 5: Trouble at home**

Personal problems carry both an emotional and a practical cost. In practical terms, the sickness, incapacity or death of a close relation can exact a huge toll in terms of time and energy, which then impinges on a partner’s work performance. In emotional terms, the strain of divorce, bereavement or illness can impact hugely on a partner’s capacity to do his work well.

Almost universally, firms are sympathetic to these issues in the short term, but will expect the affected partner to return to peak performance in due course.

In some cases, however, the trauma suffered will lead to long-term issues. In other cases – such as a permanently disabled spouse – the partner’s long-term capacity to continue as a full-time partner will be affected.

Equally, personal problems and trouble at home can lead to financial difficulties, along with drink and drug-related problems.

### Remedial measures

Time is a great healer, but the affected partner needs a lot of patience and support from the management team and the firm if rehabilitation is to proceed smoothly.

### Reason 6: Stress, depression, insecurity and loss of confidence

Pressure in itself is not necessarily bad and many people thrive on it – it is when excessive pressure is experienced that stress and ill health can result.

Several factors can lead to work-related stress – an inability to cope with the firm's performance demands, insufficient control over the way work is undertaken, lack of support from the firm both generally and when partners are finding it difficult to cope, and poor or conflicting relationships at work.

An additional cause goes back to the role of partners – stress can be caused where partners do not understand their roles within the firm or how their work fits within the overall aims and objectives of their team, department or firm.

Finally, the impact of change can also cause stress, particularly where partners do not understand the reason for any proposed changes or where they receive little help and support during the change process.

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### Remedial measures

In general, managing partners should be working hard to reduce the levels of work-related stress in their firms. In particular cases of stress-related illnesses, the firm should support the affected partner in whatever way seems appropriate, including remedial help.

### Reason 7: Burnout and boredom

Burnout is evidenced by long-term exhaustion and diminished interest, resulting from long-term involvement in emotionally and mentally demanding work.

There also links between burnout and workaholism – where the need for work has become so excessive that it creates a notable disturbance or interference with a partner's bodily health, personal happiness or interpersonal relationships.

A Johns Hopkins University study found that lawyers are the most likely group to suffer major depression and are 3.6 times more likely than all occupations studied.

Further, a study by the National Institute for Occupational Safety and Health found that lawyers have higher suicide rates than other occupations. Lawyers suffer alcohol and substance abuse at a greater percentage than the population in general.

### Remedial measures

A new career can help with reinvigorating a burnt-out partner. It is often kinder to support them sympathetically with and through a career transition.

### Reason 8: Lifestyle and comfort zones

Some lawyers select the legal profession as a lifestyle career, choosing to work in order to live. Such lawyers work only as hard as they have to to get by and many will regularly appear on the fringes of underperformance. Some, however, have keen antennae that keep them just above the minimum performance line.



**“A burning bridge scenario (jump or fry!) can sometimes galvanise a lazy or complacent partner into action”**

Other lawyers drift into a comfort zone of working and, particularly towards the end of their careers, a mid-life crisis or impending retirement makes them lazy. Problems can also surface following a merger or if performance demands increase within the firm.

#### **Remedial measures**

A burning bridge scenario (jump or fry!) can sometimes galvanise a lazy or complacent partner into action. Try to confront (early) any partners who are doing just enough to get by.

#### **Reason 9: Imbalanced personal scorecard**

Many firms have criteria or critical areas of performance, with clear indicators and standards. Some partners inevitably find that there is an imbalance in their capabilities. They may be very good at technical work and care well for their clients, but they may not be so good at other aspects of management.

Most firms insist upon partners achieving at least a baseline competency across all areas of performance and, if a partner proves to be totally inadequate or incapable in any of those areas, this can threaten the partner's future.

#### **Remedial measures**

Coaching or training can sometimes help to remedy shortcomings.

#### **Reason 10: Mergers and extreme change**

Law firm partners are often heard saying “this is no longer the firm that I first joined. It has changed beyond all recognition”. There is no doubt that a merger affects the partner dynamics immensely.

A merger often gives rise to a partner cull, not least because many firms find that a duplication of resources and practice areas, as well as conflicts between certain types of

clients, result in choices having to be made between rival partners.

Partners who are slow to change are likely candidates for a cull. Management teams will look at the partner list and choose between those who seem to fit the bill in terms of capabilities or performance and those who do not appear to be of sufficient quality.

#### **Remedial measures**

Getting leopards to change their spots is an uphill battle. It is often in everybody's interests if such partners move to a smaller firm that more closely represents their old firm.

#### **On the leader's shoulders**

One of the primary roles of a managing partner or law firm leader is to understand why a partner is either underperforming or choosing not to meet standards and expectations.

Underperforming partners can quickly become isolated and marginalised, and this can swiftly become a self-fulfilling prophecy. When support and sharing from the group dries up, the underperforming partner soon sinks and drowns.

In the short term, managing partners should try to offer protection from the inevitable, subtle and informal pressures within the firm. In practice, most underperforming partners are given both assistance and every last chance and support to become rehabilitated. Only a few firms leave their partners to sink or swim.

At the end of the day, however, tough decisions have to be made for the good of the majority of the firm's members. Asking an underperformer to leave is not a task to be relished, but it helps if the firm can satisfy itself that the reasons for underperformance are impossible to remedy.

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#### **Endnote**

For further information, see *Tackling Partner Underperformance in Law Firms*, Nick Jarrett-Kerr, Ark Group, 2011