Criteria and Guidelines for the Promotion and Admission of Equity Partners

By Nick Jarrett-Kerr

1.Introduction

Traditionally, law firms have not wholeheartedly embraced systematic methodologies for the selection of their partners. All too often in the past, decisions in many law firms were made out on emotional grounds ranging from fear ("he/she will leave unless we promote him/her") through to implicit blackmail by a power partner insisting on promoting one of his/her team members. More recently, law firms formalised their processes and have developed promotion criteria, usually based on hard measurable data for revenues, hours and originations. Particularly at lateral hire level, this often resulted in a seemingly irresistible business case based on performance whilst soft features – including qualities such as integrity, openness, drive, commitment, leadership, and the ability to inspire trust – were often given scant regard.

These difficulties are not confined to the world of legal services. As Jack Welch[1] puts it, "Your goal in hiring is to get the right players on the field…It's so easy to hire people like you. After all, you'll be spending the majority of your waking hours with them….But friendship and experience are never enough. Every person you hire has to have integrity, intelligence and maturity. Once you've got those, look hard for people with the Four Es[2] and passion. Beyond that, at the senior level, look for authenticity, foresight, the willingness to draw on others for advice, and resilience."

The problem is that these matters are difficult to assess, although judgements can be made about people who have worked with you for some time.

Promotion prospects are also likely to be dented by the current downturn – there is growing evidence from the legal journals that a considerable number of law firms are promoting fewer partners.

2.What an Equity Structure should achieve - Twenty Objectives

It is clear that the promotion of partners to equity status is a vital element in the firms Equity Structure. This structure must be linked to the firm's overall strategy and therefore must achieve the following

1 Jack Welch (former CEO of General Electric) deals with these issues at length in his book 'Winning' (pages 81-96).

2 Jack Welch's 4-E framework includes Positive Energy, ability to Energise others, Edge or the courage to make tough decisions and Execute – the ability to get the job done

Strategic

1. Identify the areas where the firm must perform as a whole in order to achieve its strategic and economic objectives which can then be drilled down into the 'Critical Areas of Performance' discussed in paragraph 3.
2. Ensure that remuneration levels match contributions to strategic objectives of the Firm as well as the maintenance of cultural values.
3. Recognize/reward long term growth towards strategic objectives rather than just short term results.
4. Encourage partners to support new ventures and develop new services in line with objectives.
5. Encourage, motivate, value and reward high achievers who are critical to the firm's strategic success and who contribute to an exceptional level
6. Manage and develop performance in the broadest sense in all performance areas within the 'T' discussed in paragraph 3

Teamwork

7. Sustain concepts of teamwork between partners with greater collective responsibility for the performance of practice areas.
8. Encourage and reward the most capable partners to lead the firm and practice areas as effectively as possible.

Culture, Values etc

9. Reflect the values of the partnership and cohesion of the Firm.
10. Value performance which contributes to the sustained growth of the Firm and one firm approach
11. Embrace a firm-wide approach to enable partners in different practice areas to be rewarded on a consistent basis.
12. Discourage maverick behaviour

Human Capital Development

13. Clarify the differing roles of partners as working lawyers, producers, managers and owners
14. Enable the Firm to attract and retain partners of the highest calibre and introduce partners from other firms.
15. Be linked to internal training and review processes which support the development of partners' development and improvement in performance.
16. Recognise that partners have different qualities and should be encouraged to focus on areas where they have strengths whilst contributing in all areas.
17. Link with the Firm's Career Development Structures for its professionals

Performance Expectations

18. Achieve clarity in the processes for reviewing/appraising partners and setting objectives
19. Define the requirements and appropriate performance levels for partners at each stage of progression on the firm's lockstep ladder or partner career structure both qualitatively and quantitatively
20. Identify the data and evidence which will be collected and used to measure performance

3.Essential Steps in establishing promotion criteria

Promotion to equity partnership should not be seen as an isolated activity but should be part of the overall talent strategy of the firm and should be an integral element in the firm's long term business strategy. The formulation and implementation of talent strategies requires resources and should be an issue high up the firm's agenda.

It is not an easy task to set down in words a comprehensive definition of the qualities which aspiring Equity Partners need to have in any firm in order to be promoted to Equity Partnership. To set the guidelines too high may be both unrealistic and demotivating. On the other hand, the objectives and goals of most firms require a constant striving for improvement and excellence in the quality of their people - partners included. As has often been said, the good is the enemy of the great.

The establishment of equity partner promotion criteria does, however, set a framework for a lockstep ladder or for the firm's partner career progression – the base point from which equity partners will ascend upwards both in terms of rewards and in terms of contribution.   Hence it is a critical foundation in any partner remuneration system.

What we see, in many firms considering this topic, is five basic steps to achieve these vital criteria.

3.1. Step One: Define the Sort of Partners you want

We think the first step is to try to define the sort of people the firm would like to see as partners, using the firm's own language to describe their human qualities. Both the words used and the firm's need for particular skills and personalities will differ greatly from firm to firm. Most sophisticated professional service firms are looking at "success factors" – the factors about a candidate's attributes and experience which are likely to make him or her a success at the firm. What some firms do is to carry out internal observation and research into the attributes and behaviours which make for a successful lawyer. At many firms, much thought has already been given to this topic at an advanced level. In addition to the obvious requirements of legal skills and revenue generating abilities, the firm will often have put in place criteria to identify a consistent track record of hard work and performance, and factors such as interpersonal skills, behavioural patterns, a positive personality and loyalty to the firm, team working and mentoring abilities, and high standards of professional ethics as well as long term commitment. These are all good qualities to which can be added

Does he or she have an entrepreneurial outlook?

Does he or she have a global view?

How does he/she shape up against Jack Welch's 4 Es and a P - Positive Energy, ability to Energise others, Edge (or the courage to make tough decisions) and Execute – the ability to get the job done, plus Passion

Collegiality - how will the dynamics of the Equity Group be affected by the promotion?

Culture - Will he/she fit in?

Professional Standing - is he/she widely admired?

Will he/she add 'something' to the Partnership?

Does he or she consistently demonstrate qualities like flexibility, dependability etc.?

In summary, newly promoted Equity Partners should either be, or have the clear potential in the short term to be or to have the following human and personal qualities:-

Pre-eminent or well regarded in their field with an established reputation for maturity and professionalism inside and outside the firm with the ability to inspire trust in fellow Partners and others

Capable of leading and supporting substantial teams or a substantial team

Capable of making a major long term contribution to the proprietorial dimension of the Business and not just a competent fee-earner; this could be by being in command of a substantial client base, but would normally require something else as well

Work finders as well as minders and grinders

The ability to contribute creatively to the strategic planning of the firm and its implementation

The ability to develop, manage and sustain client relationships at the highest level

To be open with and approachable to fellow Partners and throughout the Firm

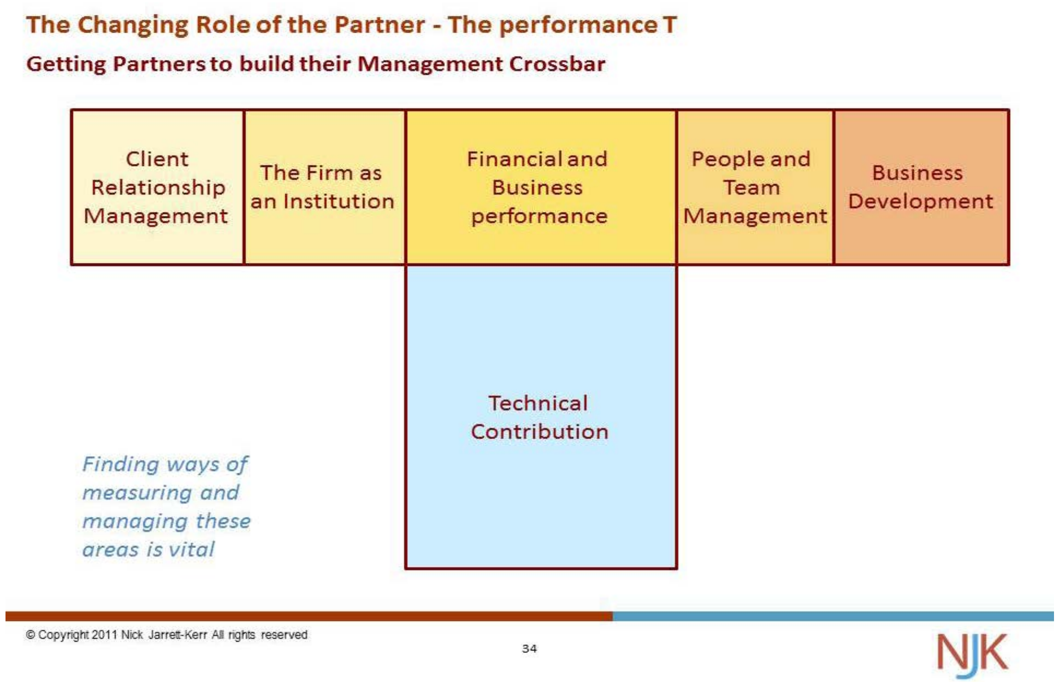
To be committed outright to the Firm and fellow Partners

To have a global and entrepreneurial view

3.2. Step Two: Define the 'T' and the Competencies and Skills needed within the 'T'

Many firms employ a 'balanced scorecard or 'T' describing the critically important areas of performance for partners (CAP). This usually needs some development and the attached 'T' is used here as an illustration of possible CAPs.

Within this framework, there is a trend in many leading professional service firms to use competencies or skills benchmarks both for professional development and for assessing lawyers on a partnership track. The term competency is used to describe a learnable skill. The starting point is to define their expectations in terms of the behaviours, indicators, goals and outcomes which the firm would expect to see in the CAPs. Here, it is important to recognize that whilst firms may talk about People Management Skills, or Business Development Skills, they are not specific skills in themselves, but situations



or contexts within which certain skills are needed.

In the context of a law firm, the required competencies are such skills as Social/interactive skills, Communication/listening skills, Emotional intelligence & resilience, Analytical skills, Mental agility and Creativity, Mentoring and Coaching skills. These underlying skills and competencies to meet the firm's outcomes and goals in the principal areas of performance tend to become – for the Law Firm at least - part of the sub-text, but are significant tools for building partner development and assessment frameworks. Some firms may have a dozen of more competencies to consider in this context.

Our preference is to define – for every area of CAP within the 'T' – the competencies which are needed to perform well within that area and the behaviours which successful lawyers display in demonstrating their level of skill and competency. Take for example, the area of financial and business performance. The first step is to define the essential skill or competency level which an incoming equity partner might be expected to have. This might read something like "has the ability to make a significant contribution to the overall growth and profitability of the firm". The next questions to ask are "What do these competencies look like? What behaviours do we see successful partners exhibiting?" This will then cascade down into some attributes or behaviours needed to demonstrate successful attainment of the required level of skill and competency. These attributes and behaviours in the area of financial and business performance might then look something like:-

Financial and Business Performance
Consistently for at least three consecutive years has achieved the firms revenue targets for a salaried partner
Evidences the capability to command a book of client business of at least £x per annum
Works at least 50 hours per week
Plans for and achieves high value matters
Achieves superior performance against chargeable hours targets
Maintains good financial disciplines
Negotiates and prices engagements commercially and confidently

3.3. Step Three: Define the metrics or measurable baselines which candidates have to achieve

Once the competencies have been defined, the next step is to consider some measures or metrics - compact descriptions which enable us to summarise accomplishments and thus to mange both the expectations and the performance of aspiring partners. Most often, the description is quantitative (number of hours worked or revenue generated) but they can also be qualitative (achieving the grade 'excellent'). Additionally, some of the measures will look at past achievements whilst some will be more prospective in nature.

Outcome measures therefore are used to describe results and accomplishments already achieved. Prospective measures describe two different types of metric. First, there are activities and projects which partners have undertaken but which have yet to show any success or return on the invested time. Second, there are surrogate measures; these are activities where the cost or the input can

Measures	Factual Criteria (Quantative)	Assessable Criteria (Qualitative)
Outcome Measures (Outputs and Results already achieved)	Hours, Revenue, Realisations, Evidence based client originations and cross-sales Appraisal Objectives met Value/price of engagements negotiated	Assessment of contribution based on internal and external feedback Directory ratings File and client Audits Complaints (internal and external) Staff retention rates
Prospective Measures (Inputs and Partner Effort): Performance Measures (Activities with future or long term impact) Surrogate Measures (Resources & Time spent/used)	Specific BD projects, Documents/Templates etc for Knowledge Management, Time/Effort spent in Client visits, Course attendance General marketing efforts Efforts to develop particular expertise Delivery of training, coaching, associate development, Practice area development Teamwork	Assessments of contribution based on feedback from clients, partners and staff Calculation of likely outcomes of projects Assessment of chances of success on prospecting efforts Post-course evaluation forms

be measured (such as training expenses), but where no measurable outcome can yet (or sometimes ever) be quantified.

The table below sets out some examples.

Most firms will give partners credit for both inputs and outputs. After all, the results of effort towards longer term strategic objectives may not be seen for some time. Even shorter term business development activities may well take more than a year to bring any reward. Additionally, partners should be encouraged to develop new clients and new area of work and not just rely on 'farming' the existing client base. As one firm has made it clear, "We feel a balanced approach is essential. Whilst outcomes are important, the effort and actions taken by a partner in seeking to achieve the business objectives of the firm should also be valued." In terms of new entrants to equity, some credit obviously has to be given for both their perceived potential and activities in which they have energetically engaged but which have as yet not borne any fruit.

What is important in every case is to attempt to describe all the required attributes and competencies in terms which will enable two important things to happen. First, it is vital for the salaried partner on the equity track to be able to discuss appraisal objectives in terms which specifically help him or her to understand what he/she need to do to gain

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promotion. Second, it is important to satisfy all partners that a fair view of performance and competency will be taken.

As before, the effort in establishing the promotion measurement criteria will be an invaluable baseline to inform all aspects of partner criteria at every stage on the lock-step.

3.4.Step Four: Set up a rigorous but fair assessment process

Partners are notoriously suspicious of attempts to evaluate, assess or judge them. In the context of promotion to equity status, it is therefore important to be clear on the process and methodology used in the decision-making process. The simplest method is for a committee or board to make an overall judgement, having considered the candidates record of achievements, having taken into account any views and feedback which might have been expressed to it and on the basis of a business case for the promotion prepared by the candidate or his or her sponsoring department or office.

Many professional service firms have established and developed assessment processes for the purposes of both promotion and remuneration, particularly where there are bonuses or discretionary elements to consider.   Some of these systems require a grading assessment of professionals at every level, and – where such systems are in place – they are often used for assessing various levels of promotion as well.   Where a balanced 'T' is being used, it is important here to recognise the principle that partners can choose the amount of effort they make in each performance area, through their appraisal objectives, but they must make an effort in each category; a balance will have to be achieved across all performance areas. Partners cannot pick and choose, and should attain a baseline competency across the board. It is important to make to clear that the partner will need to show superior performance, above that expected of a salaried or fixed share partner; what 'superior performance' looks like will need clarification and definition.

A number of larger professional service firms – mostly outside the legal sector – conduct promotion assessment centres. These are lengthy staged tests, interviews and assessments over a period of three times. Candidates are expected to respond to a case study or set of problems, to make a presentation and to submit themselves to a number of interviews mainly designed to assess the characteristics set out in paragraph 3.2. In other firms, an interview process is all that is required although irt is becoming quite popular to require the candidate to make a presentation in response to a case study or problem. Some firms also expect incoming partners to undergo medical and psychometric testing.

3.5.Step Five: Implement a Programme

and Partnership Track for Associates and non-Equity Partners.

There are two aspects to this step.

3.5.1.Development programme for Associates and non-Equity Partners

Most leading global professional service firms now have an organized formal training curriculum for the first three years of an associates career but it is clear that such development becomes less formal and more ad hoc after that. Most firms are however now ramping up their efforts to provide a partnership track for promising associates, to evaluate/review progress regularly and to encourage career plans. These often involve self-assessment and goal-setting, together with the use of a balanced scorecard or career development benchmarks established by the firm. Associates are expected to align their career plans with the strategic goals of the firm or their practice group and receive regular mentoring and counselling in addition to their appraisals.

3.5.2. The Promotion Process and Timetable

The promotion process should be open, clear and sympathetic. This process should be conducted in a way so as to avoid, on the one hand, raising false hopes of aspiring applicants or, at the other extreme, of being arbitrary and susceptible to favouritism. About a year before promotion, on-track candidates should be given support and objectives which will enable them to meet the agreed criteria. Candidates who are not quite on-track should also be helped to understand their short-comings and what they might do to address them. The partners with whom most firms have difficulty are those non-equity partners who, in the view of the firm leaders, are never going to make it though the promotion gate. In many instances, firms would like to keep these partners and are reluctant to have a conversation with them which may cause them to leave or may otherwise be demotivating. Although it clearly helps if the promotion criteria are sufficiently rigorous to enable partners to assess their own chances realistically, nevertheless, it is never easy to tell a candidate that he or she is insufficiently entrepreneurial or dynamic.

The following process is fairly typical of a process and timetable which would usually start several months before the start of a new financial year.

1. Aspiring Equity Partners are usually invited to indicate their interest to Board in writing within an agreed timetable. This application is usually encouraged (or discouraged) by the candidate's mentor, the Practice group head or the Managing Partner.

2. Within a reasonable period (to be indicated) after that, the following steps will take place.

a. The aspiring Equity Partners are usually asked to put forward their applications and to provide a business case for promotion, if this has not already been done. Sometimes, the aspiring partner will be asked to put forward his or her Business Plan, whilst the Practice Area head is required to provide a more objective and dispassionate Business Case for his or her protégé's promotion.

b. The aspiring applicants are then often interviewed. As mentioned previously at paragraph 3.4, this can often become a lengthy and detailed process.

c. Promotions are then discussed/approved at a meeting of the Board or the Equity Partners and formal invitations to Equity Partnership are then issued, but usually subject to a medical and in some cases psychometric testing.

4. Setting and Agreeing Entry Terms

In setting the starting rewards package for a new Equity Partner, three factors have to be triangulated and aligned.

4.1.Market benchmarking

The first consideration is to establish typical entry level remuneration for new equity partners at similar firms, and even at global firms with which the firm is competing. Additionally, many lawyers are lured away from private practice into banks and corporations and an idea of competitive salaries outside legal practice is also helpful. As time goes by, these benchmarks are becoming more and more available both formally (Directories and International Business Intelligence services) and informally through the firm's own networks and contacts of good friends.

4.2.A worthwhile step up.

The starting point for equity partnership should show a potential clear step up from non equity status, both to provide a worthwhile promotion incentive and to recognise risk. As profit shares are based on a projection of last year's profits, many firms now offer a safety net (usually individually negotiated) for the first two to three years. As an alternative, a number of firms operate their points structure on a three tier system, providing as the base of the three tiers a starting salary which operates as a floor to the incoming equity partner's package. Hence a floor or 'salary' for an incoming equity partner might be fixed at roughly the same level as his or her salary package as a non-equity partner, with his or her points package providing the necessary elements of uplift. An alternative approach is to fix these 'salaries' at roughly the amount needed to align with the monthly draw.

4.3. Preservation of an appropriate ratio from top to bottom of the equity

It is axiomatic in any lockstep structure that the partners on the top level of points will be earning more than the partners at the bottom of the lockstep. We often see a ratio of 3:1 here, with plateau partners earning three times (or more) the earnings of an entry level partner. Ratios higher than 3:1 appear to be exceptional, at least in the UK and Europe. According to the Lawyer in the UK, DLA Piper are said to have a spread of 5:1, whereas Slaughter and May are at 2:1. Clifford Chance, Linklaters, Freshfields and Allen & Overy all vary between 2.3:1 and 2.5:1 [3].

Annexe

Sample Baseline Promotion Requirements for Equity Partners

1 Financial Performance (Economic Capital)

- Consistently for at least three consecutive years has achieved the firms revenue targets for a salaried partner
- Evidences the capability to command a book of client business of at least Rs 4 crore per annum
- Works at least 50 hours per week
- Plans for and achieves high value matters
- Achieves superior performance against chargeable hours targets
- Maintains good financial disciplines

2 People Management, Leadership and Team/Skills Development

- Has a strategic grasp of manning

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requirements and plans to ensure appropriate level and mix

- Creates a dynamic atmosphere for teamwork
- Coaches and delegates responsibly
- Displays the ability to motivate and inspire people
- Professional Expertise and Technical Skills
- Recognised widely as an expert with deep specialised knowledge in chosen area of law
- Consistently delivers services to meet client expectations
- Seeks and plans for future trends, opportunities and threats, anticipating the need for change
- Cascades knowledge throughout the practice area

3 Business Development

- Develops and maintains strong and profitable client/referrer relationships which are critical to the Firm's success
- Raises the Firm's profile nationally and (where relevant) internationally
- Enhances the Firm's reputation in its chosen markets
- Assists the Firm's efforts to develop its differentiation
- Shows clear accomplishments in bringing in valuable new work

4 Client Management

- Has developed a deep expertise in client industry sectors
- Achieves role as trusted adviser or business confidant to major clients
- Plans, measures and manages all aspects of Firm's interface with its clients
- Plans innovatively for better service delivery

5 Technical expertise and Contribution to the Firm as an Institution

- Very well established reputation for special expertise in a relevant practice area with a portfolio of successful significant completed transactions/matters
- Contributes creatively to the strategic planning of the firm and its implementation
- Contributes to the building of the Firms Intellectual Property including precedents, templates, case management and workflows
- Assists in the development of leading edge Knowledge Management and high level technical know-how
- Actively helps builds the Firm's processes and systems which contribute to the Firm's ability to grow its business including quality control/improvement, governance and management structures
- Contributes to the development of a homogeneous culture and esprit de corps.