Law Firm Management – Three Hats and an Inverted Pyramid

By Barry Wilkinson

Some years ago Edward De Bono identified that in carrying out our jobs we have to fulfil different roles at different times, and suggested that we need to adopt different modes of thinking to successfully carry out each role –and in management games he suggested the wearing of different coloured hats.

Our analysis has shown that the typical equity partner in a medium-sized law firm wears three very distinct hats – investor, manager and worker (i.e. fee earner) – and that this has a number of implications for successful law firm management.

Ability and Clarity

Firstly, both now and in the future firms need to be good at all three – investment, management and fee earning. However, a lack of clarity about the roles being undertaken at any point in time can lead to a distorted decision-making process. For example, it may be apparent that the firm needs to improve its efficiency through some investment in IT systems, and that all partners can see the economic need for an improvement. However, if the partner is wearing their "worker hat" rather than the "investment hat", they may be uncomfortable with the potential changes required in the method of working and obstruct the investment. Although this is a perfectly rational thing for the worker to do if they don't want to change, if every partner does this then the firm's investment will not produce the required return – the partners will have far lower drawings.

The second point is that a partnership confers rights on the partners which can make the management of the firm more difficult. A partner who is concerned about the performance of particular areas or individuals may decide to take it upon themselves to interfere in areas for which they are not directly responsible. In the short term this might actually produce an impact but it has two adverse side effects. Firstly, it creates confusion in the minds of the employees about whom they are answerable to – most people work better when they know what is expected of them and who they answer to. Secondly, it erodes the authority of the other partner/manager who is actually responsible for getting the job done effectively. Many partners believe that because they are an investor they have an automatic right to manage – lots of partners have an investment in Marks & Spencer, but does that entitle them to tell the store manager how to run the shop?

A Balancing Act

Partners obviously have to balance at times the conflicting demands of the different roles. In theory, the hierarchy should put investment at the top of the list of priorities – the continued existence of the firm and the income available to the partners being the most important issue. In firms of any size the successful management of the operations and ensuring the performance of the practice area or group of people for which partner is responsible would come second. This would mean that the fees personally generated by the individual partner should come third in the hierarchy.

But this hierarchy is usually inverted. Many partners operate on the basis that the most important thing is to be able to generate an acceptable level of fees themselves before they can be in a position to devote any attention to management or investment. This creates a vicious cycle, particularly in difficult times – the harder the business environment, the more the partner focuses on their own results, and the more likely they are to neglect the business's performance in terms of investment – which in difficult times, of course, needs more attention than ever.

The Inverted Hierarchy – Institutionalised

This thought process can become institutionalised and often dominates the process of selection for the roles of partner and manager. People come to be partners in the first place because they are good at earning fees, which means that the people they select to become the next partners are usually also those who are good at earning fees. This is hardly a recipe for ensuring that the firm is well managed and that the return on investment is maximised. It is as if partners are relying upon the same kind of "invisible hand" that Adam Smith described in the Wealth of Nations. The underlying thought process seems to be that if we have some intelligent, capable people earning a reasonable level of fees, they will be able to divert some of their time into ensuring that other people employed by the firm will produce a result.

Far too often we find that the economics of a medium-sized law firm do not bear this out. We have a simple calculation which dictates that "If the profits of the firm are less than the fees of the partners, you are subsidising your staff".

To Conclude – Law Firm Management and Partners' Roles

The confusion in partner roles often leads to an assumption that every manager must be a partner. This can lead to unhappiness all-round. Many partners simply hate management – and as a result, they don't do it particularly well, while the people who work for them don't like being badly managed…

For better or worse, the days of the law firm as a "thinly capitalised workers' cooperative" are coming to an end. Partners and staff need clarity about their responsibilities, and selection of people for a particular role (for example, as part of a law firm management team) needs to be based on their suitability for that role, not on their competence in a completely different one (such as fee earning!).

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