

# The Hunt for Talent

Going in-house to a financial institution has always been an option for disgruntled lawyers and it is no longer just those nearing retirement that make the leap. However, law firms have been fighting back and continue to gain significant ground says Dominique Graham, a director at legal recruitment consultancy Graham Gill.

For many years, the financial institutions have been home to highly talented in-house legal teams, populated by lawyers who were either nearing the end of their careers, or simply dissatisfied with the up-or-out mentality of private practice. Going in-house used to mean a pay cut but a more manageable work-life balance and better fringe benefits seduced many lawyers.

Today, banks have made huge strides when it comes to attracting and motivating top talent. The decision to move in-house is not for everyone though and a successful general counsel requires a specific mindset. These institutions need lawyers that can think strategically and analyse issues from a more commercial perspective. Banks have steadily come to embrace their general counsel and enhance their status. This year, UBS has nominated its general counsel, Peter Kurer, to chairman. This comes at a time when UBS has had to announce writedowns of £9.5bn and reported sub-prime losses of £6bn - the worst reported losses of any European bank. Other banks will no doubt be watching how this general counsel gets on in the top job.

It is not just at the highest levels that the banks are recruiting the crème de la crème. Ambitious associates increasingly regard a move to a client as a positive development for their long-term career. They are attracted by the fact that counsel are often afforded a very broad overview of the business and are less pigeon holed than in private practice. Banks are increasingly attracting the best associates earlier in their careers. This allows the banks more time to hone those skills sets they deem particularly pertinent.

Up until now, banks have been able to attract this top talent, despite paying lower salaries, by offering better fringe benefits and unparalleled room for manoeuvre. Banks are adept at offering horizontal career moves that successfully avoid the traditional pyramidal structure offered by private practice. This is a

significant offering to a frustrated associate for whom the allure of partnership is diminishing. Law firms still do not offer that flexibility. As a result, the banks may lose their in-house lawyers to the business side, but at least they keep them within the organisation.

In June 2007, at a roundtable forum organised and hosted by Graham Gill, some of the top lawyers in the country met to discuss the issues facing law firms in the fight for talent. Judith Shepherd, deputy general counsel at Barclays, believes that one of the attractions for young lawyers to Barclays, at least, was the sheer size of the legal group, with over 500 lawyers. The bank now has legal groups throughout the business, as well as specialist teams in the centre. Judith said, "You can go from being a specialist litigator in the centre, to being a group leader of a business cluster team, to moving up anywhere through the hierarchy. You can move around all the time."

Nadine Faruque, Head of Legal for continental Europe at Merrill Lynch, agreed and believes that Merrill Lynch offers its people unparalleled flexibility in the work environment. The bank often considers flexible working hours for its staff including working remotely for part of the week. This remains something the legal industry still finds difficult to accommodate.

These comments have served as a wake-up call to law firms because they have learnt the hard way that the banks are not alone: hedge funds, private equity funds and corporates are all increasingly wooing bright young talent away from the partnership track. The answer for law firms, it would appear, lies in more open and honest conversations with the next generation, and substantially increased flexibility. Successful managing partners have now had to accept that their junior associates consider partnership to be just one of a long list of options in their career and they know they have real alternatives.

The American firms may still be one step ahead of the UK in this regard, if Michael Hatchard's experience as a partner at Skadden Arps is indicative. He believes Skadden has positively encouraged associates to go off and try other things, and welcomes them back into the fold should they decide to stay in private practice. Whilst most of the

associates making partner in the Magic Circle are normally 8 to 10 years PQE, at Skadden, they may be 14 or 15 years PQE. They have been accorded this time out without their chances of joining the partnership having been affected.

Rich Rosenthal, managing director and European general counsel at Morgan Stanley, believes that clients expect their lawyers to have this thoroughly rounded experience. As an American, he believes the UK culture is gradually evolving in the same way as in the States: "The dynamic has changed pretty significantly over here, and people are now much more expansive in their thinking. They plan to take a year off, try in-house, maybe revert to a law firm, and then possibly consider going into the government before going somewhere else".

Law firms, in fairness, have also evolved in this competition for talent, and private practice has achieved some radical changes in a short period of time. There has been a concerted effort to address historical frustrations in the traditional lockstep model of partnership. Private practice has become more corporate and compensation is now increasingly meritocratic. This has meant that the hungry and ambitious are encouraged to remain in the fold, with many receiving additional recognition and reward for their efforts at origination.

With many of their original frustrations addressed, lawyers in private practice have also seen the pay gap between themselves and general counsel widen disproportionately. Lawyers in private practice have seen their salaries rise exponentially with the wider economic growth. So for the ambitious at least, a move in-house has become considerably less attractive financially. Of course, the flip side of a more flexible compensation structure is the emergence of an "eat what you kill" culture, which brings problems of its own. Firms have to tread a fine line to avoid creating a culture that would frustrate and alienate the very talent they are trying to foster.

David Cheyne, the senior partner at Linklaters, said that the brightest associates in the City still get partnership, and only marginally later than they did in his day. Nigel Boardman from Slaughter and May said that those with "personality, intellect and ambition" would invariably make the cut. But facilitating dialogue

between all individuals about their career aspirations and options remains critical. It helps recognise that some associates will not make partner: some will be better suited to other organisations, whilst others should be encouraged to stay and be allowed to contribute in different ways.

In 1998, McKinsey & Co released a report that coined, for the first time, the term “war for talent”. It highlighted a combination of factors that would result in a shortfall of skilled and talented workers entering the market place and stated that the only viable response lay in the implementation of long-term talent management programmes. It is not enough to simply attract the best talent, management have to reconsider best

practice in order to retain it. Firms that communicate meaningfully with their employees will have the edge because they will play to their strengths.

Law firms need to stop seeing this competition for talent as a threat, but rather as an opportunity to develop more rounded advisors to their clients. Regular conversations with associates at all levels are the key to that, and sit at the heart of a successful law firm. SJ Berwin has embraced this and introduced a process where the young lawyers now give 360-degree feedback at partner appraisals. Associates grade their partners on the way they work, their leadership skills and people management abilities. It means the system is completely transparent and

associates feel genuinely engaged and valued.

Therefore, the question is no longer whether the banks or law firms, in isolation, provide the best platform for lawyers. The question has become which business model is best suited to adapting and interacting with their people to become the employer of choice. Successful business models will accept the inevitability of change and embrace it as a positive and cathartic experience. Talent, being finite, will be the resource that defines the business model itself. A well-managed business allows for this to happen.



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