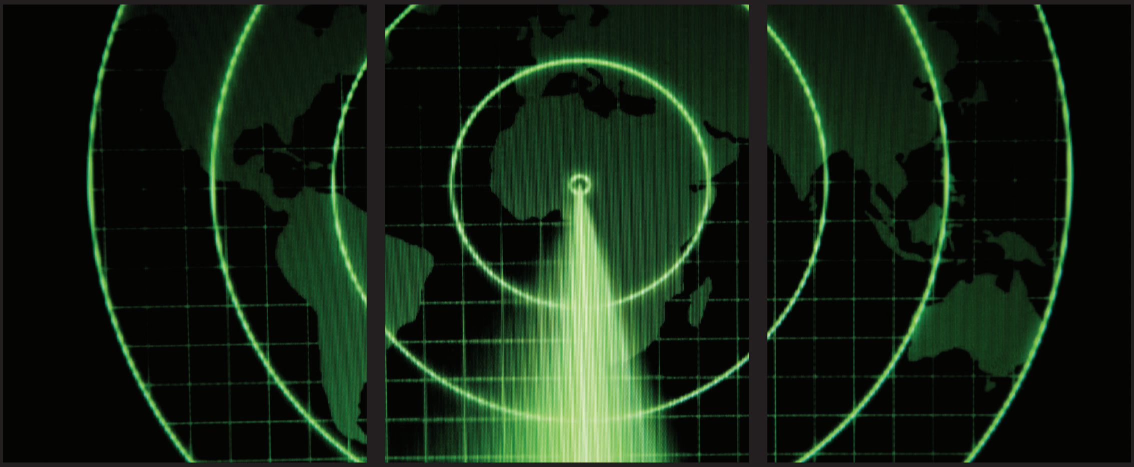
Lateral Partner Hiring for Law Firms: Hiring for Success

MARK BRANDON



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Chapter 1 – Market background, a few facts, a bit of theorising

IN THIS section I will look at the febrile environment for partner lateral hiring in the London market. I will discuss the findings of my own research, touch on some other interesting facts and figures, and draw out some of the abiding themes that push and pull at hiring in London.

I make no excuses for focusing in this report primarily on the London market. The UK market is considerably further advanced and more densely-populated than any other legal market outside the US, and London dominates it thoroughly. As such, it is very much the legal recruitment epicentre of Europe.

In this crucible, the business of partner lateral hiring has evolved to a greater degree than anywhere else, again, excepting the US; and indeed the UK regional and European legal recruitment markets are dominated by the outposts of London recruiters, just as they are dominated by London law firms (or national firms-become-Londoncentric international powers).

It is here, then, that the greatest number of partner moves takes place, here where the greatest observations are to be made and greatest lessons to be learned.

London – partner recruitment ground-zero

The last six years have seen nearly 3,000 announced partner moves in firms of any size in the London market[1], the peak being 2011 and the nadir in the depths of the recession, 2009. This compares, for interest, to some 2,500 a year in the whole of the US[2].

This demonstrates London's outsize influence in the UK and indeed global market, if one looks at the relative sizes of the legal markets in question. The England and Wales solicitors' profession comprises around 128,000 lawyers with practising certificates[3], while the US profession is ten times the size, with 1.268m licensed practitioners[4]. Of course, the US profession is a fused one, so for accuracy we should add the 15,000 barristers in practice in England and Wales[5].

Of the 143,000 practising lawyers (of both types) in England and Wales, some 24,000 are partners in law firms, most (42 per cent) in very small or sole practice firms, and roughly half of those in London. It doesn't take a maths genius to work out that the London partner market is one with a fair amount of mobility.

Having said that, last year, 2012, was an uncertain year for London, reflecting a UK legal market tracking the fickle UK economy, a stagnating Europe, and an Asian market still trying to decide whether it had peaked for the moment or not. The London market in 2012 saw 400 moves in firms of sufficient size/importance for their moves to be announced to the legal press[6]. This includes virtually all of the Top 200 firms – which account for the lion's share of lawyers in all firms – plus many smaller market-focused London practices.

Lateral partner hires only account for a part of the law firm growth story, of course. Mergers, particularly the Transatlantic bonding of US and UK firms, dominate the headlines in the legal press. Transatlantic mergers in turn have created a new kind of law firm – the hybrid – and in turn a new type of destination for the partner looking for a new home, as well as, the firms would claim, a new service offering to international clients.

A study of the London lateral hire partner market also evidences what seems like the relentless march of the US firms in the UK market. Organic lateral partner hiring remains US firms' main growth methodology in London, and so it is fairly easy to see their success through looking at how many partners they take on, and how many they lose.

While the lion's share (60 per cent+) of London moves are from one UK firm to another, US firms account for a solid 20 per cent of hires and – crucially – consistently show a net gain of partners, compared to a more mixed picture for UK and hybrid firms, albeit that the latter tend to suffer from a degree of post-merger 'shakedown'.

US firms are also partly responsible for the concentration of hires in the capital in the two main transactional areas (corporate and finance), the two accounting for 30–40 per cent of London market partner hires in total. This emphasis on hires in transactional areas can be seen from Figure 1 below, which covers hires from 2005–2011 (the results for subsequent years are very similar).

US firms are hence also partly responsible, of course, for the higher apparent failure rates in both those areas, given the overall higher failure rate of hires into US practices in general (which we will discuss in more detail later).

Supply and demand

While London sees the greatest number of hires, it also acts as a feeder to regional firms and to some extent outwards to Europe, the Middle East, and Asia (usually, it has to be said, via internal moves to European outposts of London-based firms).

As the market has developed, along with recruitment consultancies either proactively sourcing candidates for a specific client (search) or encouraging partners to instruct them with the intention of introducing them

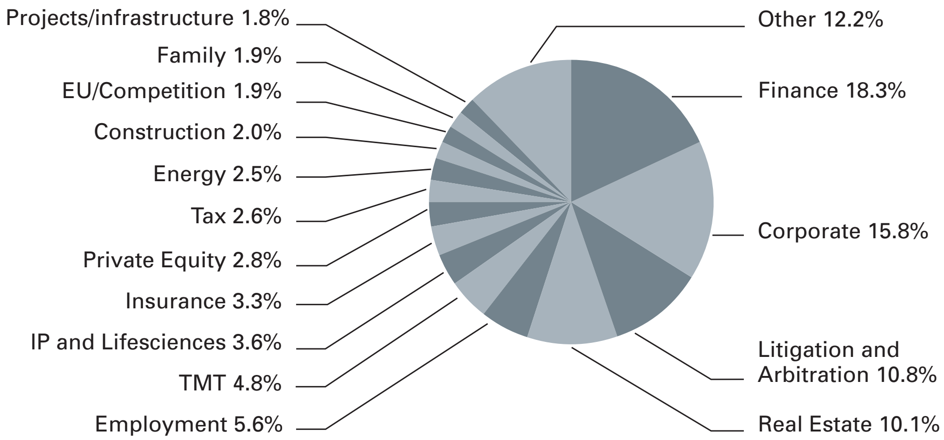

Figure 1: Lateral hires in London, 2005–2011, by practice area (2,295 total hires)

to a range of clients (contingent recruitment, so called because the fee is contingent on success; also sometimes known as selection, in reference to the use of advertising to attract response), London partners have thus become accustomed to the idea that they will move once, perhaps twice or three times, during their career. This is in stark contrast to the 'job for life' that partnership once promised those fortunate enough to gain admission to its hallowed halls.

The supply of lateral partner candidates in the market is not simply composed of ambitious, successful partners looking to upscale their careers. Mergers create a degree of fallout, and the supply has been swelled still further by continuing attempts by law firms to manage their equity structures. Most firms undertook a degree of thinning at partner level during the recession, and this continues as I write.

That in turn offers opportunity to smaller firms, to acquire new partner talent via lateral hiring from their larger brethren. But as many have found, this can bring challenges of its own. I will talk a little later about some of those particular challenges.

Another phenomenon has been the collapse of entire firms, which has released further partners onto the market. US firms such as Dewey & LeBoeuf and Howrey hit the headlines, as did UK firm Halliwells. The diaspora from these catastrophic collapses have been seen as very attractive candidates, simply because there no longer exists a firm to try to hang onto their clients or enforce restrictive covenants.

All these phenomena have combined to create an increase – no-one knows by quite how much – in the availability of partner candidates.

Generally, an increase in supply in a marketplace leads to a consequent fall in price, and while it is true that many firms have picked up ostensible 'bargains' from the wreckage of failed firms and the odd mistaken de-equitisation/departure of a valuable partner from a large firm, partner worth – and hence remuneration – continues to be tied very much to what that partner will bring with them in terms of client 'following'.

What has changed, in the harder new environment forced on firms by economic circumstance and honed by bitter experience with lateral hires who have promised more than they have delivered, are the expectations of firms, and, accordingly, the packages on offer.

Whereas law firms were traditionally content to peg remuneration to a rough 1:3 ratio of compensation to overall practice size – so, a partner with a practice of £1m could expect to earn around £330k–£350k – the new environment has stretched that ratio towards 1:4 or even beyond, with the possibility of augmenting a modest fixed portion with a performance-related bonus.

But the impact of new remuneration packages and revenue targets is only really relevant where the hire actually works.

The Motive Legal research

In my former career as a recruiter, I was well aware that partner recruitment seemed to go wrong almost as often as it went right. Clients would complain darkly of having been 'burned in the past' by hires who over-promised and under-delivered, only to leave or be exited shortly after the game was felt to be up.

What intrigued me was the shrugging *c'est la vie, c'est normale* attitude of recruiters – who benefit massively from this kind of churn, whatever their protestations to the contrary – and the dismal acceptance of most clients that a certain rate of attrition was simply par for the course.

Nothing was going to change in the absence of data, of course, and so I resolved to try to work out how successful an enterprise lateral hiring might be. I had no agenda, and was determined to publish the results whatever they might say, even if lateral hiring had a 90 per cent success rate – which would have done me no good at all!

Luckily, I was well aware that it did not have a 90 per cent success rate. In fact, my first year's research, which looked at 1,944 partner moves in London in a five-year period, found that a third of partners hired between 2006 and 2011 had already left the firms they joined by the start of 2012. Two years on from that, the figures are remarkably consistent. The 2013 survey encompassed 2,763 moves over a seven-year period and again found that a third of hires (32 per cent) had not endured.

To put that slightly differently, out of the 2,763 hires, 893 had failed to go the distance of the research period. Put another way, at an average cost-per-hire of £100,000, that's £89.3m in wasted costs, and that's just in recruitment fees and other related costs; it doesn't take into account any ongoing investment that might be flushed away. Lateral hiring failure is an expensive business.

One recruiter recently commented to me that one-in-three not working was 'not that bad', but it is worth noting that the 32 per cent figure is simply an average across the research period, which benefits from the very low failure rates in the first two years of hiring. Beyond that figure, there are pockets of quite remarkable calamity.

For instance, many hires made immediately prior to the financial crisis failed. Fully 67 per cent of corporate hires, 66 per cent of real estate hires, 65 per cent of litigation hires, and 57 per cent of finance hires made in 2007 had left the firm they joined by the end of 2012 (see Table 1, Mainstream areas by number of hires, and attrition rate). That, in anyone's money, is some heavy attrition.

I will not go into the results in any more depth here; a detailed pdf is available for download, free of charge, from www.motivelegal.com or via e-mail directly from me, if you would prefer to get in touch that way (details on the website).

The headline findings of the research, though, are these:

- Lateral partner hires into key transactional areas such as corporate and finance fail significantly more often than those into many support

Practice area	Number of qualifying hires	Attrition rate (overall)	Attrition (2008 hires)	Attrition (2007 hires)	Attrition (2006 hires)
Corporate	500 (18%)	35%	48%	67%	47%
Finance	495 (18%)	34%	47%	57%	50%
Litigation	427 (15%)	28%	38%	65%	66%
Real estate	270 (10%)	36%	47%	66%	55%

Table 1: Mainstream areas by number of hires, and attrition rate among partners hired 4, 5, and 6 years ago

To From	UK	US	Hybrid
UK	31%	41%	25%
US	32%	39%	21%
Hybrid	27%	29%	31%
In-house	41%	55%	35%

Table 2: Failure ratios of partners moving between different environments

or secondary areas, such as tax, competition, and regulatory.

- US firms find it more difficult to hang onto lateral hires in London than do UK firms or hybrids.
- Partners coming from US firms or hybrids are more likely to succeed in US firms than partners moving directly from UK firms.
- Lawyers moving from an in-house position into law firms are significantly more likely to fail (43 per cent) than those moving from another law firm (31 per cent). The figures are even worse for in-house counsel moving into US firms (55 per cent). (See Table 2, Failure rates of partners moving between different firms.)

What is failure?

The research continues to be somewhat controversial, not least because it rules – arbitrarily in the view of some commentators – that hires who have departed during its study period are 'failed hires'.

While I accept that having a partner stick around for seven years may be seen as a qualified success (if they have attained profitability quite quickly and contributed significantly to the finances and the life of the firm during that time), my researches among London's top law firms indicate that top HR directors feel that anything under five years' duration must certainly be judged a failure in the final analysis and the vast majority of departed hires have not made it to the end of the five-year period.

In point of fact, very few firms seem to do any meaningful analysis of when lateral hires break even. This is not a fact that is widely-acknowledged. Most firms tend to admit this quite sheepishly. The best we can say is that firms seem to judge that they would be hard-pressed to recoup their overall investment costs in anything less than five years.

The truth of the matter is that lateral hiring is not simply a financial transaction, and it is in the devilish details that the problems of assessment and analysis arise. We will look in more detail at these details later.

However, I do think it is useful for firms to attempt to calculate when lateral hires are going to break even, not least because, armed with that information, they will be better able to see the full implications of making the decision to take on someone even if the financial criteria are not being met, and take appropriate action to subsidise the hire if necessary. (Chapter 4 deals with lateral hire break-even in more detail.)

Ultimately, it is up to each firm to judge the success or failure of lateral hires on its own terms, and indeed in terms of developing its own strategy. Equally, it is up to firms to try to assess the value of lateral hiring on their own terms. Whereas some lateral hires are simply designed to add firepower, many have an overriding strategic imperative – such as running a department or group – which may alter the parameters of the calculations.

Beyond outright failure – the partner leaving or being judged to have performed so poorly that the firm gets rid of them – there are what one managing partner friend of mine calls the 'drizzlemakers': partners who fail to call the mystical rain but who manage to produce just enough revenue to wet the ground.

This phenomenon – the semi-successful hire – does not show up in my research and is impossible to assess in terms of how it might affect the market as a whole, but it is clear that to hire successive 'drizzlemakers' will degrade a firm's profitability over time.

This raises the whole question of whether lateral hires add financial value to a firm. Again, this is very difficult to assess. There are any number of factors which will increase revenue or profits – key client wins, the contribution of internal fee-earners, increased efficiency – but it would seem obvious that the whole point of lateral hires is to increase revenue and profit, and so, surely, those firms which have been successful at lateral hiring should demonstrate increased financial performance over time.

This was what lay behind a secondary piece of research I undertook, attempting to discern the extent to which lateral hires generate value for the practice they join.

The value of lateral hiring

Determining the value of lateral hiring by looking at firms' financial performance over time[7] was always going to be a difficult piece of research to stand up simply because of the manifold factors which can affect performance. However, I was heartened in my pursuit by reading a study that looked at whether European M&A had managed to fulfil its objectives[8]. In this, frankly staggering, piece of research, chief executives involved in 200 European mergers or acquisitions prior to 2007 confirmed that their mergers were 'completely successful' in only nine per cent of cases, a figure that 'plummets to an alarming three per cent' in the UK, according to report authors, Hay Group.

Given the similarity of partner moves to M&A – a topic we will revisit later – it is perhaps hardly surprising that many of them will fail to meet the optimistic expectations at the time of hire.

In case you might be wondering how many of their hires law firm managing partners would count as 'completely successful', this research has not, to my knowledge, been conducted, but, privately, one or two have acknowledged to me that the figure of ten per cent would not be far off.

In any event, the question of how much value lateral hires actually deliver to organisations is one that has also piqued interest on the other side of the Atlantic in the US. Professors William Henderson and Christopher Zorn, respectively of Indiana University and Pennsylvania State University, have examined the US lateral market in an extensive study[9].

The Henderson/Zorn research made a number of interesting findings, not least that there was no evidence that an aggressive strategy of lateral hiring was linked to greater profits; on the contrary, firms with the highest profits make the fewest hires.

This mirrors experience in the UK to a degree; many of the larger firms, especially the Magic Circle, make very few lateral hires. Here in the UK, as in the US, the 'chasing pack' are among the most energetic hirers of lateral partners.

From the rather obvious point that a firm's culture affects its attitude to lateral hiring, I wondered whether there was any evidence that might point to how that might impact on revenues and, inevitably, to the success or otherwise of the firm as a whole.

I looked at six 'matched' pairs of UK law firms across a six-year study period (2006–2011). I chose pairs of firms which were very similar in composition, character, and location and which, at the start of the study period, were also closely-aligned in various key financial measures, notably revenue per fee-earner, revenue per partner, and profits per equity partner. So, among the chosen firms was a pair of big City firms, a pair of private client firms, and so on.

I then looked at the numbers of lateral hires each firm had made across the six-year period, how many had been lost over the same period, and then noted the changes to each firm's financial measures at the end of the period.

Again, the detailed conclusions are available on a free pdf from my website, so I won't go into too much detail here, but suffice to say there were some interesting data.

Now, I am perfectly aware that all manner of factors may affect the financial performance of various law firms over time, particularly a time of such economic turbulence as the period 2007–2012. However, my research found a correlation between financial success and moderate – as opposed to ardent or negligible – lateral hiring.

In each case, those firms which had pursued lateral hiring either very ardently or negligibly had performed worse than their twin, despite practically identical 'starting positions'.

I therefore felt reasonably confident in concluding that a 'Goldilocks strategy' – not too hot, not too cold – was the most successful approach to lateral hiring for UK firms.

This is perhaps something of a common sense conclusion, to some observers. Hire practically no-one at all and you fail to inject new blood and new thinking into a practice, leading to stagnation, not to mention losing out on the possibility of new clients acquired via the hire; hire lots of people and you risk creating a volatile culture in which people might feel destabilised, where creating common standards and a coherent brand might be more challenging, and where there is less inherent loyalty to the organisation.

Common sense it might be, but there are plenty of firms that have chosen to pursue very active or very arid lateral hiring strategies nonetheless, with varying results.

Market consolidation and client ownership

The Henderson/Zorn study also found that significantly more partners were moving to firms of lower profitability than those who were moving to firms of higher profitability.

This is also a measure I have tracked myself in my own research here in the UK. Here, the results are less stark than in the Henderson/Zorn study, at least at the moment, but the trend is identical. Put bluntly, more partners are 'trading down' than are 'trading up'.

In both cases, this points to a consolidating market. But this is, clearly, not a case of larger firms getting ever larger. Big firms tend to grow from internal promotions rather than lateral hires, given their large associate base. No, this is a market in which the rich, if you like, are getting steadily richer; in other words, the larger, more profitable firms can afford to suck up talent and enhanced income on a selective basis from the chasing pack.

The size of practice required to sustain equity partnership at a Magic Circle or top US firm in London is beyond the reach, both in pure revenue terms but also 'quality' (in the sense of major, institutional clients) terms of the average partner in the chasing pack, so there is little real upward mobility.

At the same time, the larger firms shed partners whose performance has slid, or while it may have remained constant now sits underneath an ever-rising bar; invariably, they move to less profitable firms.

Given the reduced likelihood of taking large clients from the major firms to smaller firms, for various reasons, many firms in the middle ground are taking on laterals which do not add significantly to firm profitability.

This consolidation has moved in tandem, of course, with a rash of mergers, not least Transatlantic ones, which as we have seen has created a new type of firm, the hybrid. This in turn also provides a regular outflow of partners who do not fit the new mould or who are surplus to requirements, who also move, invariably, to less profitable firms.

Side effects – the level rule, and the diffusion headache

There are two side-effects of consolidation that I would like to discuss for a moment, because they are both very relevant to the lateral market and to hiring lateral partners.

The first is the flip-side of escalating required practice-size among equity partners in the top firms, the entry-requirement, if you like, for equity partnership.

If a level rule is run across the partnership – say, demanding a practice-size of £1.5m in annual revenue generation, for instance – this may make it considerably more difficult for some practices to justify their ongoing existence. This has, in many firms, impacted on support practices such as tax and pensions, and made certain 'gateway' practices such as regulatory and employment vulnerable. In areas where there is market oversupply (real estate) or where prices have been driven down consistently by a combination of competition and commoditisation/standardisation (IT), this has also resulted in a net loss of partners, particularly equity partners, from larger firms.

The result has been a withering of some of the key component parts of the full-service offering in some big firms. Not only are available resources not as great as in specialist firms, but work is often restricted to deal support, which can have a demotivating effect on practitioners. This has led to some firms having to outsource work (such as pensions) or turning away work they can no longer service profitably, occasionally causing systemic damage to the client relationship.

The fact that tax, regulatory, and other non-core partners – especially if restricted essentially to deal support work – generally have much lower portable client bases than, say, corporate partners, in turn impacts on their mobility, a fact which may explain why hiring these kinds of partners is more successful, in terms of them not leaving once hired, than corporate or finance partners, for instance. (See Table 3 for evidence of the lower failure rate of partners in specialist disciplines.)

As an aside, no-one can yet know the long-term structural effects of effectively abandoning swathes of legal practice, but it is worth reflecting that once a firm de-emphasises, disassembles, or loses the ability to undertake, say, pensions work, then it may never be able to get it back.

This may or may not matter in the final analysis, but the legal market is littered with examples where firms have tried to recruit their way into a particular practice

Discipline	Hires (% of total)	Failure rate
Employment	138 (5%)	33%
TMT	133 (5%)	29%
IP	86 (3%)	31%
Tax	66 (2.5%)	30%
Energy	59 (2%)	25%
Projects/ infrastructure	57 (2%)	35%
Construction	54 (2%)	37%
EC/Competition	53 (2%)	23%
Family	52 (2%)	35%
Insolvency/ Restructure	51 (2%)	25%
Regulatory (includes corporate crime, fraud, etc)	50 (2%)	22%

Table 3: The specialisms – specialist areas by number of hires and overall attrition rate

area and utterly failed in the process. Many City firms, for instance, are ruing the day they booted their private client lawyers out (mainly in the early 1990s), given the degree to which moneyed individuals and families are now a source of excellent corporate and finance work.

It is worth noting that firms got rid of private client partners because they were, generally, deemed not to be billing enough, and, further, that the capacity to increase fees was limited because of the nature of the work and the perceived fee-tolerance of the client base. This was, largely, dressed up as private client being somehow ‘non-core’ to large law firm operations, but would seem to show a certain lack of foresight, with the benefit of hindsight. Firms busy at present de-emphasising their real estate or litigation practices may or may not be correct in the long run, but law firm crystal balls are clearly far from failsafe. For instance, one major City firm, which piled resources into corporate and finance hires for a decade prior to the recession, has recently been forced to pare back corporate partners who were underperforming their colleagues in litigation.

The second side-effect of consolidation worth noting is that of reduced partner mobility on the aspirations of individual partners, and in consequence on the culture of law firms and the partner accession process.

For some reason, many partners still delude themselves that they can attain the highest heights of the legal profession by dint of talent and application alone. This is absolutely not the case in today’s legal market, yet recruiters are still forced to go through the demoralising process of adjusting candidate expectations via failed applications to firms beyond their reach.

There is considerable anecdotal evidence to suggest that firms are tacitly encouraging a continuation of this feeling, certainly in UK firms. While it would be a brave firm indeed that spoke about the potential portability of clients – I have certainly not come across this phenomenon in partner assessment centres! – the tendency of UK firms to try to diffuse client ownership across groups of partners and, in some cases, to penalise 'client-hoarding' works against a partner's personal interest, making them less portable in the market.

Very often, in fact, the diffusion strategy results in a situation where an individual partner has little or no real impact on the actual profitability of the client work they are undertaking. This has led to many situations where partners once thought key to the client relationship have been de-equitised or ushered out of the practice. It also lets the people in control of the client relationship architecture play politics with other partners' jobs.

Where there is little impact, there is little feeling of responsibility, and the distant sense of client ownership contributes to a feeling of disenfranchisement among many line partners. Some end up feeling like superannuated associates; as one partner friend of mine in a top UK firm, a department head no less, put it: 'It's got to the stage where we're all just looking over our shoulders wondering when it's going to be our turn for the chop.'

Now, this diffusion strategy is entirely in the firm's interest, but it is absolutely not in the individual partner's interest unless they are going to stay with the firm for the very, very long term or if they are in control of the client relationship management (CRM) architecture.

It is my considered belief that this defensive strategy has longer-term behavioural consequences for UK firm partners in general, making them less focused on winning and retaining work, and in maximising profits, and more focused on servicing client relationships. In turn, they pass on these behaviours to their troops.

This would be all very well if UK firms and UK partners lived in a bubble where nothing changes and no-one moves, but they do not. On the contrary, they live in a market with increasingly successful US and hybrid firms with much deeper pockets and a strong and abiding culture of client ownership.

This is clearly one of the key reasons behind the higher failure rate of UK laterals moving to US firms. Client relationships at UK firms are so diffused that many partners no longer have the gift of bringing the entire client's business with them. As one goes further up the 'food chain', as it were, the likelihood of bringing large listed companies or institutions with them in their entirety reduces. Not just that, but the client ownership system, red in tooth and claw, can come as such a shock to the heavily-institutionalised UK partner that they simply do not have the tools to cope with the change in culture.

More defences, and the curse of excessive specialisation

UK firms of course have other defensive mechanisms which US firms eschew, and which further complicate and hamper partner mobility. I speak of course of restrictive covenants and long notice periods, most including garden leave.

That US firms manage to do, in the main, without either of these restrictive practices, suggests that they are not necessary to successful legal practice. In fact, one might venture, if UK firms were as devoted to fulfilling the wishes of their clients as they say they are, they would not seek to annoy them by trying to enforce covenants or keeping their favourite advisers out of the market for as long as possible.

Rather, this hangover of guild-thinking means UK firms get to indulge in a peculiarly parochial version of doublethink, requiring incoming lateral partners to disclose privileged information and obtain effective guarantees that clients will follow, all the while crucifying their own partners if they attempt to do the same in order to leave the firm and join another.

As one friend who moved to a US firm from a UK one commented to me: ‘Yes, these guys are ruthless b*stards, but at least they’re honest about it! You know where you stand, and if you want to leave, you get to do so with all your clients intact.’

A further side-effect of the diffusion strategy is excessive specialisation, which is a feature much more pronounced in UK firms (with some notable exceptions, including the most profitable firm in the UK, Slaughter and May (go figure…)) than in US firms.

This is perfectly illustrated by the conversation I had with a projects partner in a major UK firm, when he moved to a US firm. All of a sudden, not only was he getting projects work, but he was also asked to advise on corporate work, including M&A, commercial, and even employment matters for a variety of US clients. I asked whether this was because the firm had limited capability in London, which seem to me to be an obvious answer. ‘No,’ he responded. ‘It’s because the client feels that I am “his lawyer” and expects me to be able to help him out whatever his problem is.’ Few UK lawyers would take on that challenge, but he found it refreshing, and the client knew that he would refer anything really complex or specialist.

The growing power of US firms in London is, I would offer, not simply by dint of their deeper pockets. It is because the aggressive, internally-competitive model of client ownership practised by US firms has inculcated in their lawyers, imprinted in their corporate DNA if you like, the need to win and to keep clients. Against a cultural and market background (the UK) which is supposed, in theory, to be actively hostile to this kind of practice, US firms continue to build both revenue and profits.

While it is difficult to generalise, it has been my observation that partners who succeed in their moves from a UK to a US environment are those who ‘get with the programme’, that is, the client ownership model. Those who cling to the hope that other partners, as part of a team ethos, are automatically going to refer work or share clients may find themselves disappointed.

The irony for UK firms is that in fostering a degree of internal competition by focusing heavily on partner personal billings and matter-partner billings, vis-à-vis other partners, and restructuring their partnerships accordingly, while making the partnership as difficult and painful to leave easily as they can, they are ‘fixing’ one half of the problem without fixing the other.

It is only by encouraging and fostering a culture of client ownership that US firms are able to build their practices so profitably; it is only by allowing partners to be as mobile as possible that they demonstrate not only their own business confidence but encourage partners to invest time in winning and protecting clients.

Of course, the client ownership model does have its downsides. In some firms, there is a perverse incentive to refer clients outside the firm to friendly partners in other firms, so as not to lose a share of the client. Equally, client ownership drives lengthy and sometimes bitter discussions over compensation. The partnership compensation committee at one US firm I know takes five or six months every year to settle disputes arising out of its determinations, something which cannot be healthy, one might think, for the corps d'esprit and collegiality of the partnership.

Lessons in London?

Compared to the relatively culturally-homogenous recruitment market(s) in the US – principally New York, but also Washington, Chicago, and Los Angeles, as well as a host of regional markets – London is the fulcrum of a global battle between the two dominant legal cultures in the world, each with its own strategy for survival and conquest.

Partner recruitment – essentially the migration of chunks of revenue income as well as the transfer of scarce skills from one organisation to another – is a vital part of that battle.

As with many battlegrounds, it is here where the greatest lessons are to be learned. And it is on this battleground that some of the most delicate and complex hiring processes to be found in any industry take place. It is little wonder that it goes wrong so often.

In the chapters which follow, we will explore in more depth how and why partner lateral hiring goes wrong. We will look at how better planning might avoid some of the more obvious pitfalls, but learn that it can have cultural consequences far beyond the hire. We will examine the hiring process, a process which has not developed substantially since its inception, and look at why many of the protagonists have an active interest in maintaining the status quo, inefficient as it may be. And we will consider the least well-executed part of the process: what happens after the hire.

Some may consider my characterisation of the London market as a tussle between two cultures as exaggerated, given the fact that each law firm is an independent commercial entity, whether it is a UK firm, a US one, or a hybrid of the two.

But aside from law being one of the UK's most successful export industries, English law spans the globe, with many contracts written with English law determination, regardless of the nationality of their participants, and the English court system is still highly-respected. It is important what happens to that industry.

English law firms are, in some ways, analogous to the brokers and merchant banks prior to the City's Big Bang. For centuries they have relied upon a gentlemanly, in some cases scholarly, approach to life, an approach which some may say is still alive in the most rarefied corners of that unique British institution, the Bar.

In today's City of London, none of the old British merchant banks survive as independent entities. To an institution they have been acquired, mostly by foreign competitors.

This is not especially important in the grand scheme of things. Banking has for some time been an entirely international, one might say stateless, industry. But law is different. Law does not – with a few exceptions, as noted – travel across borders. There is no truly international law, and each country's laws are woven deeply into the fabric of its economy. In other words it matters, greatly, who 'wins', especially when the legal sector is a disproportionately-important part of the economy, as it is in the UK.

The word used most fondly of the old-fashioned English law firm – collegiate – harks back to the college system of Cambridge and Oxford universities, where the top law firms still find a great number of their graduate trainees and which account for a disproportionate number of their partners.

Talk to any City partner, and they will say those days are, mostly, gone. They will often say it with a rueful smile of fond remembrance (and not a little mythologising…). In its place is a stark and often ruthless modernity where partner performance measures, net profit per matter, and working capital management are more important than old-fashioned notions of trust, loyalty, and mutual respect.

The standard bearers of modernity – ironic, given their often slightly archaic and arcane partnership cultures – are the US firms. If they win London's culture war and out-hire their UK rivals, it will forever change not only the nature of partnership and the nature of one of the UK's most successful export industries but, as night follows day, subtly alter the economic landscape very much as it has done in the US. There, nothing is done without recourse to law, and litigation has become one of the key weapons in the corporate arsenal, creating an 'industry' worth $264bn in 2011, or 1.75 per cent of US GDP.[10] (By comparison, that is nearly as large as the entire US mining industry, and larger than the US agriculture industry.[11])

Not for nothing are the revenues of most large US law firms composed of 50–60 per cent litigation fees, compared to 10–20 per cent in most large UK firms. And not for nothing, then, are the pockets of US firms so much deeper than those of UK firms.

So then, call me Cassandra if you will, but indulge me, for the rest of this text at least, in presenting partner lateral hiring in London as rather more important than the simple movement of individuals from one commercial entity to another. In its study we are witnessing the gradual disintegration of one of the fundamental pillars of British society, the ultimate consequences of which can only be imagined.

Still, I digress. On with the show…

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