

# Why Succession Planning is a Key to Success

By Tony Williams, Principal, Jomati Consultants LLP

For any organisation an orderly succession to the next generation of leaders is essential to ensure the continued success of the business. This is particularly so in the case of law firms where partners are not only the key owners and managers of the business, but also the key revenue generators and the custodians of the firm's client relationships.

This article considers the role of succession planning in law firms. It examines why this can be a difficult and emotional process and reviews some of the techniques used to make it less painful and more orderly.

Considering succession planning can be challenging. In some respects, it is like writing a will. We know that is a sensible thing to do, but admitting to ourselves that our time with our firm is limited and that we should plan ahead is hard to accept. Accordingly, we may prefer to defer this for another day. But this may not be the responsible thing to do.

Succession is not just an issue in relation to those with leadership roles in the firm but also applies to any partner with any client relationships.

For founders of law firms, the issues can be particularly complex. They took a major risk in establishing the firm and their name is part of the firm name. They invested considerable time, money, energy and emotional capital in developing the firm to its current state. They may feel that those who joined the partnership later owe much of their success to the platform and contacts that

they built. The firm is their baby and they do not want it taken away from them.

Additionally, and this applies to any partners. A partner may feel that by raising succession issues he or she is inevitably raising expectations as to their departure from the firm. Indeed, some may feel that mentioning succession brings forward their likely date of departure. This is not an unusual experience. CEOs of major companies and senior politicians may be very reluctant to develop and identify a successor for fear that the person, once identified, will want the incumbent out. While this may be understandable, a leader needs to realise that succession issues may be taken out of their hands as leaders from Julius Caesar to Margaret Thatcher have learnt to their cost.

In our Jomati report "The Paradox of Partner Retirement", we examined the challenges inherent in partner retirement discussions and succession planning.

For lawyers there are many factors that may inhibit constructive discussion of the issue which can be summarised as follows:

## Denial

A partner's role is often all consuming. Client demands have left little time or energy to consider what a partner might do next. Despite the pressures, the partner role is generally intellectually and financially rewarding. Partners tend to be highly motivated individuals and get a sense of achievement and satisfaction from helping their clients through difficult stages of their business and personal lives. The thought of giving this up risks creating a significant void and perceived

lack of purpose to their lives. As a result, some partners refuse to admit that their retirement is approaching.

## Status

The role of a law firm partner has a certain level of social standing. Many partners interact extensively with their clients on a social basis. Accordingly, being a law firm partner is a key element of their business and social standing. There is a concern that if they retire, they will lose that status and be seen as yesterday's man (or woman).

## Financial Security

A partner retiring in his or her early to mid-60s can reasonably expect to live a further 30 years, 25 of which should be in reasonably robust health. Accordingly, understanding what is a sufficient level of savings to ensure a good standard of living for that period can be difficult. This is compounded by possible second marriages, young children, university age children or children hoping to purchase their first property with the help of the bank of mum and dad. This is further complicated by the fact that the partner may also have elderly parents to support. Helpfully many partners now contemplating retirement may have done well out of the property market and have considerable equity invested in their homes. But, for a variety of reasons, including status, they may be reluctant to downsize in order to release some of that equity.

## What would I do?

Because the role of a law firm partner is so all encompassing, few partners have given any serious thought as to what they

might do when they retire from their firm. Some may want a continuing consultancy or similar role with their current firm. Others may wish to develop a series of non-executive roles in the corporate and not for profit sectors. A few may wish to pursue academic study while others may genuinely wish to spend more time with their family. Whatever approach a partner wants to take, a level of preparation may be necessary. A long holiday immediately post retirement may enable a partner to decompress and develop plans for the next stage of his/her life.

But the challenges are not just for the individual partner. The firm too may find addressing the succession issue difficult for a range of reasons.

#### **They Respect the Partner**

The partner is respected for his or her role in the success of the firm (even more so if a founder) and therefore raising the issue of retirement with someone one respects or has been your mentor can be personally challenging. The firm does not want to give the impression that the partner is no longer valued, but it does want properly and respectfully to plan for the future.

#### **It Needs to Promote Younger Talent**

Any firm, to ensure its continued success, needs to recruit, retain, train and motivate the next generation of lawyers who will, in due course, take the firm to its next stage of development. If younger colleagues see their career aspirations blocked by more senior partners who appear entrenched, the best performing younger lawyers may well leave as good lawyers always have career options. This may compound the firm's problems when the senior partner finally retires as there may be no one suitable to assume their role.

#### **They Want the Partner to be an Ambassador**

Increasingly, firms recognise that anyone leaving their firm (not just partners) will either leave as a detractor of the firm or as an ambassador for the firm. This is true whether or not the person goes to a competitor. Detractors can have an adverse impact on the firm for many years, even decades. They may deter

potential recruits from joining the firm or potential clients from instructing the firm. Conversely the ambassadors will encourage potential recruits to join the firm and potential clients to instruct the firm. In relation to senior partners this is particularly important. They will have an extensive range of client, business, political and social connections which are important to the firm's market position. Any perception among this group that the partner has been badly treated by his or her firm can have a seriously adverse impact on the firm's market reputation. But, for senior partners, it is not just a matter of making them ambassadors. It is also important, if possible, to ensure that they have no reason or incentive to join a competitor firm or to establish their own firm as either of these can have an adverse effect on their current firm.

#### **We Need to Set a Precedent**

The way in which a partner approaching retirement is treated by the firm will affect how other partners behave when they too are approaching retirement. If they see that the partner was treated fairly and with respect, that his or her contribution

to the firm was acknowledged and that he or she left with dignity and on good relations with the firm, they will be reassured that their own position will be similarly handled.

#### **It's about the Clients**

An orderly transition of client relationships will help to protect and enhance the firm's relationship with the client. Such a transition requires time and focus especially for the client to develop trust and confidence with the new partner. The active engagement and support of the outgoing partner is a critical success factor in this process. It needs to be understood that succession is not just an issue for the law firm. The client too may be addressing succession issues and the firm may need to ensure that it has numerous points of contact with the client so that the client's succession issues do not endanger that client relationship.

Given the range of concerns of both the individual partner and the firm in relation to any potential partner succession, it is inevitable that there are a myriad of



opportunities to get this wrong. Indeed, many partners and firms bear the scars of handling this badly whether in terms of damaged pride, lost clients or damage to the culture and operations of the firm.

In order to mitigate these potential difficulties a number of steps can be taken. These are best summarised as follows:

### Clarity

If the partnership agreement is clear as to when a partner is expected to retire, what impact retirement plans will have on a partner's remuneration and the financial terms of retirement (including repayment of partner capital and any retirement payments), this can help to provide clear expectations on both sides and reduce the need for specific and difficult negotiations at the time of a partner's retirement. Some partnership agreements provide enhanced rights for the founders in terms of retirement age or post retirement income. Care needs to be taken in relation to any pension or annuity payments. They must not be so large as to jeopardise the future earnings potential of the remaining partners. Indeed, some firms cap such payments in aggregate to the percentage of the firm's profits. Consideration also needs to be given as to whether such payments should be time limited e.g. three to five years after retirement. Pensions that are unlimited in time and which are unfunded can impose a significant financial burden on future generations of partners.

### Financial Advice

To assuage a partner's fears as to the adequacy of his/her savings, the provision of independent financial advice may be of assistance. This can provide projections of future income from investments, the cost of medical insurance, the partner's likely income level to maintain an acceptable standard of living etc.

### Safe Discussions

In order to normalise what can be difficult and embarrassing conversations, some firms arrange regular review sessions with partners, say every five years, to discuss their career goals and what

they are looking to achieve personally and professionally over the next five years. Some firms use outside advisors to conduct these on a confidential basis, others use members of the law firm's management or previously retired partners. The key element is that the discussion is seen as a safe place in which the partner can be open and honest. This discussion can help to provide a level of structure to a partner's career and help the partner maintain personal control over his or her career.

### Clients

Some larger firms in relation to any significant client relationships always involve both a more senior partner and a younger partner or senior associate in the relationship. In this way not only does the client always have two primary points of contact but also a succession plan is embedded into the relationship. If this has not already happened, ideally another partner needs to be introduced to and work with the client for at least two years before the senior partner retires. Anything less can jeopardise the relationship. The involvement of another partner may have implications in relation to the firm's remuneration system. While remuneration systems differ significantly between firms, it is important to ensure that good succession planning is appropriately rewarded, and that a failure to implement succession plan is not rewarded or even penalised.

### Life After the Firm

There may well be roles that the firm would like a retiring partner to perform in the future. These roles should not reward poor succession planning, but could include areas such as lawyer training, undertaking client reviews, developing the firm's contacts with international firms and preparing events and articles on thought leadership which enhance the reputation and positioning of the firm. These potential roles need to be thought about and properly scoped well in advance with a level of clarity as to the time commitment required, the remuneration payable and the outcomes expected. There may also be wider roles that the partner could perform whether on government committees, industry

groups, the voluntary sector or otherwise. Some of these may directly benefit the firm, others less so. Given that a partner's contact base outside the legal sector may be limited, it may be important to allow the partner some time prior to retirement to develop these opportunities. Some independent career counsellors can help partners transition to the next stage and the firm may wish to cover some or all of the cost of such support.

### Be Firm

Some partners facing retirement may be in denial throughout and not engage in any of the processes mentioned above. This can be very difficult to handle especially if the partner's performance no longer justifies the profit share that he or she is receiving and if the partner is in a senior leadership role. I have occasionally assisted firms in this position by calmly but firmly explaining to the partner that a succession plan needs to be prepared and implemented. They may need to be told that not doing so jeopardises not only their own position but the entire future of the firm. These can be emotional discussions but they are necessary. For leaders to understand that their "sell by date" is approaching and to plan for it requires a high level of self-awareness, and can be personally and professionally very difficult to accept. Unfortunately, many firms do disintegrate in the face of this challenge so addressing the issues, whether or not with the help of an outsider, is essential.

Succession planning is not an easy issue to address. There are therefore plenty of excuses that can be used to put it off for another day. Succession planning is not just a business issue. It is a personal, professional and emotional one. If a firm has clarity as to when and how succession issues are addressed it will have made a great start. But as I have tried to make clear in this article, there are a range of steps that need to be taken to ensure that succession is handled well, the clients retained and the partner leaves with dignity and respect and as an ambassador for the firm. As Julius Caesar found, no matter how difficult succession planning is, it is far better than the alternative. ■