THE TIMES

The little grey cells have a leading role in the best firms

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While UK firms are letting their 'old' partners go, US firms in London are snapping them up

DURING the 1990s it became accepted practice for partners in their mid-fifties, or even early fifties, to retire from their law firms — particularly from the top ten UK firms.

Although this trend is continuing, will it persist? There are a number of factors that should bring about a reappraisal. First, the rapid expansion of partnerships in the mid-1980s means that firms face a demographic time bomb. The baby-boomer partners of that generation are now reaching their early fifties. In some firms perhaps 75 per cent of the partners (or 75 per cent of the equity units are held by them) were born in the 1950s.

They are senior practitioners with experience, high market profile and developed client-handling skills. To lose too many of these partners too quickly will leave firms without some of their best rainmakers. This is occurring at a time when clients are making it clear that they want high quality practitioners with deep experience. In addition, as a small number of clients represent an increasing percentage of a firm's turnover and profits, the effective management of these clients and the credibility of the lawyers in the boardroom of these clients becomes essential.

Secondly, US firms, especially those based in New York, have never adopted the British approach. It is quite normal for leading New York lawyers to be practising fully, despite the punishing New York hours regime, into their late sixties and early seventies. They are mystified why London partners retire when approaching what US firms consider to be their prime.

With more than 100 US firms in London they are an increasingly potent force in the London market, especially for the top end and high mid-level work. They are now attractive to a significant number of English partners in their mid to late forties who, for a variety of reasons, wish to be able to continue working and be involved up to their sixties. A move in their late forties enables them to take as many of their clients as possible and to enhance their "transfer" value.

Accordingly, the divergence of approach between American and British firms is advancing the departure date of some UK partners to a stage where it risks real damage to the British firms.

Thirdly, even though law firm profits have held up reasonably well during the recent downturn, many partners may not now have adequate pension provision or be able to accumulate such a provision over the next few years. This is because of an unfortunate series of events. The stock market fall over the past few years has destroyed significant pension fund value, many partners used Equitable Life as a "safe" home for their pensions and have suffered accordingly, interest rates despite recent increases are at historic lows and life expectancy projections have substantially increased.

Accordingly, a 55-year-old retiring partner with, say, £1.5 million in a pension fund in 1999 could probably have retired with a pension (to be increased in line with inflation subject to a cap) of say £85,000 a year. Now, a partner in a similar position would have a pension fund of about £1 million and be able to buy a pension of about £45,000 a year.

This position is being exacerbated because many partners under about 47 are unable to make significant tax-free pension contributions because of the Chancellor of the Exchequer's raid on the tax-free status of dividends in pension funds and his proposed lifetime limit of £1.5 million on the value of a pension fund.

Fourthly, in 2006 it is likely that legislation will be in place to prevent ageism. This may outlaw compulsory retirement dates in partnership agreements and the selection of partners to be counselled out on the basis of age or years in the partnership. This may have a significant impact, especially upon firms that maintain a strict "lockstep" system.

The pressures of legal practice result in some partners relishing early retirement. Indeed, given the rate of change in the legal profession it will be appropriate for many partners who are unable to perform against a constantly rising bar to be eased out, not just in their fifties but even younger. However, many partners in their fifties feel forced out of firms they love and move to more flexible (often US) firms to take roles as senior general counsel or other substantial positions in business or the public sector. As law firms compete more effectively internationally the absence of an appropriate group of experienced and motivated "grey-haired" partners may have a negative impact on the clients' perception of the gravitas and credibility of some firms.

To address these issues firms are going to need to be far more flexible about how they retain and keep motivated their most successful "senior" partners. If they fail to do so they will be discarding an increasingly valuable asset. It remains to be seen whether many of our top firms are even aware of these issues let alone devising strategies to address them.

By Tony Williams