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Balancing Effective Governance and Partnership

Law firms today are under pressure to grow and evolve, through mergers, organic growth, and in response to client demands. As firms change, either in size, in practice mix, geography or legal service delivery, the exercise of re-evaluating governance structures becomes critically important. One essential part of a well-functioning governance structure is finding the right balance of empowering leaders to make the right long term decisions for the firm, and maintaining the partnership ethos that values the ownership stake of equity partners. Effective firm governance structures therefore need to strike a balance between the delegation of authority and partner input into key decisions of the firm.

Not surprisingly governance structures in law firms differ markedly both within and across geographies. While each firm needs to find a structure that fits its culture and strategy, certain models tend to work better than others. In our work with law firms, as well as in a recent Fairfax governance benchmarking study focused on US firms, we identified three main mechanisms that firms employ to help balance authority and participation: (1) the leadership committee structure itself, (2) the selection process, and (3) the use of term limits on leadership. Together, these elements of governance contribute to the quality of management of the firm.

Committee Structure

While there are many variations in leadership committee structure, we find that they tend to follow three models: (1) one leadership committee that focuses primarily on policy and strategy, (2) a leadership committee coupled with a much larger partner board, and (3) a dual committee approach with one committee focused on strategy and one focused on operations. (As described below, in the first two models, there is not always a clear delineation between strategic and operational decision-making.) Each of these structures has benefits and disadvantages.

The one committee approach is a simple structure with decision-making focused in one leadership body, typically numbering about 10-15 partners, although in some cases it can be smaller. While some of these committees work very effectively, some find that tactical decisions have a tendency to overtake strategic action. And in the larger committees the meetings can be long and somewhat inefficient unless individual members are responsible for their own particular portfolio. Furthermore, with just one committee, there are often simply fewer partners involved in management, which works fine in firms with a culture of deference to firm leaders but would be less effective in firms with a more participatory approach. The one committee structure is also more commonly found in smaller firms where there are fewer partners to involve in leadership and operations are less complex.

The second structure maintains the single leadership committee but complements it with a much larger partner board. In these firms the leadership committee is tasked with strategic and sometimes operational issues and the partner board serves essentially as a communication vehicle, providing a mechanism to deliver input from the partnership on issues facing the leadership committee and then communicating decisions and garnering support with the partnership as a whole. While the intentions behind the partner board are commendable, in practice, firms often end up frustrated with this structure. With electronic forms of communication, the partner board's role can be diminished as the leadership committee has the ability to leverage other ways to gauge partner input and communicate decisions. Many firms also struggle with differentiating between the roles of the two groups, and often end up duplicating large portions of the agendas. In our research, some firms have told us they felt their partner boards were an inefficient use of both leadership and influential partner resources.

The third structure explicitly divides up leadership tasks between two committees, a larger committee focused on strategy and a smaller committee focused on operations, complemented by professional c-level managers. Firms with this approach generally feel that the structure is effective and it is the same approach followed by many UK firms. The larger strategy-oriented group focuses on policy and strategy and ensures that influential partners are involved in key decisions. The operational groups of 3-5 people work well partly because the groups are kept small to enable quicker action on the multitude of operational decisions that need to be made on an ongoing basis. The dual committee approach is also typically (but not always) paired with a dual leadership structure with a chairman leading the strategy committee and a managing partner focused on the operating committee. One important element of this structure is properly delegating decision-making authority between the two groups so that everyone is clear on their roles in firm decisions. If authority is unclear and, for instance, the strategy committee members start debating tactical decisions, both groups become less effective.

Selection Processes

Another way that firms balance authority and participation is through the selection process for both committee members and the top leadership roles. While some firms use open, competitive elections, in the US this approach is less common as firms worry about polarizing the partnership and retaining high performing partners who lose in a competitive election. Instead, firms are more likely to use partner interviews and input and partner ratification of the candidate(s) to encourage participation and engagement in the process.

Partner interviews are an important aspect of the selection process in many firms. Members of the leadership committee or a designated nominating committee speak to partners about their desired criteria for future law firm leaders, generate names of potential future candidates as well as evaluate the support of existing candidates. The advantage of this approach is that in addition to gauging the leadership potential of various partners, it also provides a chance to discuss the direction of the firm more generally. Used well, these interviews provide critical information to leadership about the temperature of the partnership and the perceived strength of the next generation of leaders. Once the interviews are completed and the selection committee processes partner input, a preferred candidate can be chosen based on partner support and an evaluation of firm needs.

Some firms couple the nomination and selection process with a non-competitive vote by the partnership as a whole. When selecting a committee, this ratification vote generally reflects a chosen slate of committee members instead of each member individually. For top leadership roles, the partners may ratify an individual into the role. While it is very unusual for the partnership to vote down a candidate, this step provides candidates with an important platform of support on which to draw during their leadership tenure.

Term Limits

Firms often struggle with the question of terms and term limits. Generally, leaders like the concept of term limits for committee members because it ensures not only the infusion of fresh perspectives as new members join but also keeps the committee members from becoming complacent in their roles. An additional benefit to term limits is it provides an opportunity to involve a greater number of partners in leadership over time. In our research and experience, the most common approach is to have strategic leadership committee members (such as those on the Executive Committee) subject to terms (usually about three years) and term limits (two to three terms). Terms and term limits for operational committee members are less common, partly because membership on these committees is often an appointment or based on one's role as a practice group leader or office head, and sometimes because the time commitment to these roles is greater, so that transitioning in and out is more difficult.

While many managing partners and chairs have terms, they are rarely subject to term limits. (Here, US firms differ markedly from the UK firms; the latter generally do impose term limits on their top leadership roles, typically two to three terms of three to four years.) The reasoning behind the no term limit approach is that while these leaders need to stay accountable to partners through a periodic re-appointment process, once the firm has identified a good top leader, there is no reason to remove him or her from the office arbitrarily. Furthermore, many firms find it difficult to identify strong candidates who have the right combination of leadership skills, confidence of the partnership and the willingness to forsake some or most of their client work to take on the role of managing partner or chair. While term limits for the top leaders are rare in US law firms, some leaders are compelled to step down when they reach a certain age. Many firms have age restrictions placed on equity partners or firm leadership roles that once triggered, require people to pass the leadership mantel.

While there is no *right* approach to governance, the most effective firms manage to balance partner input with efficient decision-making in ways that fit in with their culture and history. As one Chairman told us:

"In this market, you have to be able to make decisions and be nimble and move business. It's not a country club. It's not like you can have 200 partners debating every last thing. You've got to have a process and structure that allows the business to move forward. On the flip slide, you've got 200 partners who are owners of the business and need to have meaningful participation in the core direction of the firm. We need to straddle the two of them. We're constantly trying to balance those two dimensions and get it right. It is difficult to legislate— it's more of a shared ethos."

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