

HOW CAN SENIOR MANAGEMENT ENCOURAGE HEALTHY DEBATES AMONG THEIR PARTNERS? FOUR EXPERTS SHARE THEIR INSIGHTS AT A MANAGING PARTNER ROUNDTABLE.



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In what situations do you think it is important for partners to have strong opinions and even to disagree?

David: I think in any major policy move of the firm, it's very important to have a discussion to get the buy-in of partners, so undoubtedly there will be some disagreement on things like mergers and new offices.

But I think the level of disagreement is directly proportional to the trust the partnership has in the firm – if the partnership trusts the senior management, there's far less of that discussion.

Michael: I think probably the important thing is having established norms and behaviours within a firm so that there is an ongoing dialogue with senior management and people don't get frustrated. Equally, they need to understand that if they want to have a discussion about something of strategic importance, it must be in the correct forum. You don't want to have huddles of partners having their own *ad hoc* discussions, which can undermine the leadership of the firm.

Christian: It's always more troublesome if there are thoughts and ideas being exchanged not in the official forums but after work over drinks, when they start discussing the facts that are simply not related to an issue.

I think that partners should voice every opinion they have, but they should only have strong opinions when it comes to strategic matters. There should be a forum where they can talk about everything on their minds, but on the other hand they should agree that to a certain point they might voice their opinions and after that they should accept that others have better expertise.

As an example, we are currently considering developing our insolvency, bankruptcy and restructuring practice. So, should we have a new practice group throughout all our offices or should it be part of the corporate M&A group? This is where I'd like to hear the opinion of almost everyone within the firm.

But when it comes right down to questions like what would the brochure of this new group look like, there are many partners who have a strong opinion on this but they shouldn't, because we have

specialists to deal with these matters. And then it's just a question of how you make it clear to a partner that he might briefly discuss this or at least give his opinion, but that he is not further involved in the decision-making process.

Andrew: I tend to try to get leadership teams to think of decision-making as a sort of circular five-stage process: evaluating, debating, deciding, acting and reviewing.

The first stage should always be centred on analysis and evaluation, where you try to understand what the problem is, what its context is, and what's contributed to it. The second stage is the debate phase, and that will typically involve open discussion, structured workshops, one-to-one meetings, electronic surveys and roadshows. The third phase is the making decisions with strong consensus, after which detailed involvement of most partners should cease.

The fourth stage is all about active implementation and is the job of the firm's operational managers or perhaps one practice group head or office head reporting back to the firm's board

or to the managing partner. And at the end of all this, it is crucial to review the results against the initial expectations and objectives. Have we achieved what we set out to achieve and, if not, why not? What can we learn for the future?

This framework helps to keep partners engaged at the right level, rather than having them involved all the way through in things where they often lack expertise and which are diversions from their core client-facing role.

Michael: I think that if there are conflicts with partners who are somehow opposed to the direction of the firm, it is really an indictment on management that the problem has got to that point – it should have been resolved.

In some ways this may go to the point about management by consensus, i.e. not trying to have a consensus about every decision but ensuring that there is a consensus in the wake of management decisions.

Do you generally find that partners need to be encouraged to voice their opinions?

Christian: It really depends on the partner – some voice their opinions before you can even ask questions!

Some definitely need encouragement. I think that often it's a question of their knowledge about procedures and the amount of time they have, especially when you have new partners who do not really know about the firm's decision-making process. They can look at the partnership agreement and find something about the AGM and board, but in real life it is often different. So they often need encouragement, especially if you can tell them when they have to raise their voice – that's the least part of encouragement that you can give.

You also have to be there to discuss their ideas, that really helps.

David: I think it also depends on the culture of the firm. If the culture of the firm is one of transparency and provides the right outlets or forums for discussion, then you do get a broad number of partners participating in the discussion. Obviously some people don't like to participate in open forums, no matter how you design them. But generally we've not found it an

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issue to have people speak their minds on matters of substance or importance.

Michael: I think that if you're maintaining a dialogue with your partners, you should as their line manager be aware of what their particular thinking is, so that when it goes into a formal or semi-formal forum, if they are keeping quiet, you can encourage them to talk.

The issue is really the opposite, it's about cutting off some of the partners who like to hold court and hear their own voices in isolation. And every firm will have one or two of those partners who can be too dominant in meetings, so I think it's about controlling those individuals.

Andrew: Michael, do you find that is best done by cutting off people in advance or by strong chairmanship of meetings? What sort of tactics do you employ for that sort of thing?

Michael: Physical violence, Andrew, physical violence! Seriously, I think it's just strong chairmanship; I also think humour is a good way of dealing with situations so that the partners don't necessarily get too intense with one another. You can use humour to regulate a meeting and move things on to allow other people to talk.

Christian, do you find that in Germany there is a different management culture?

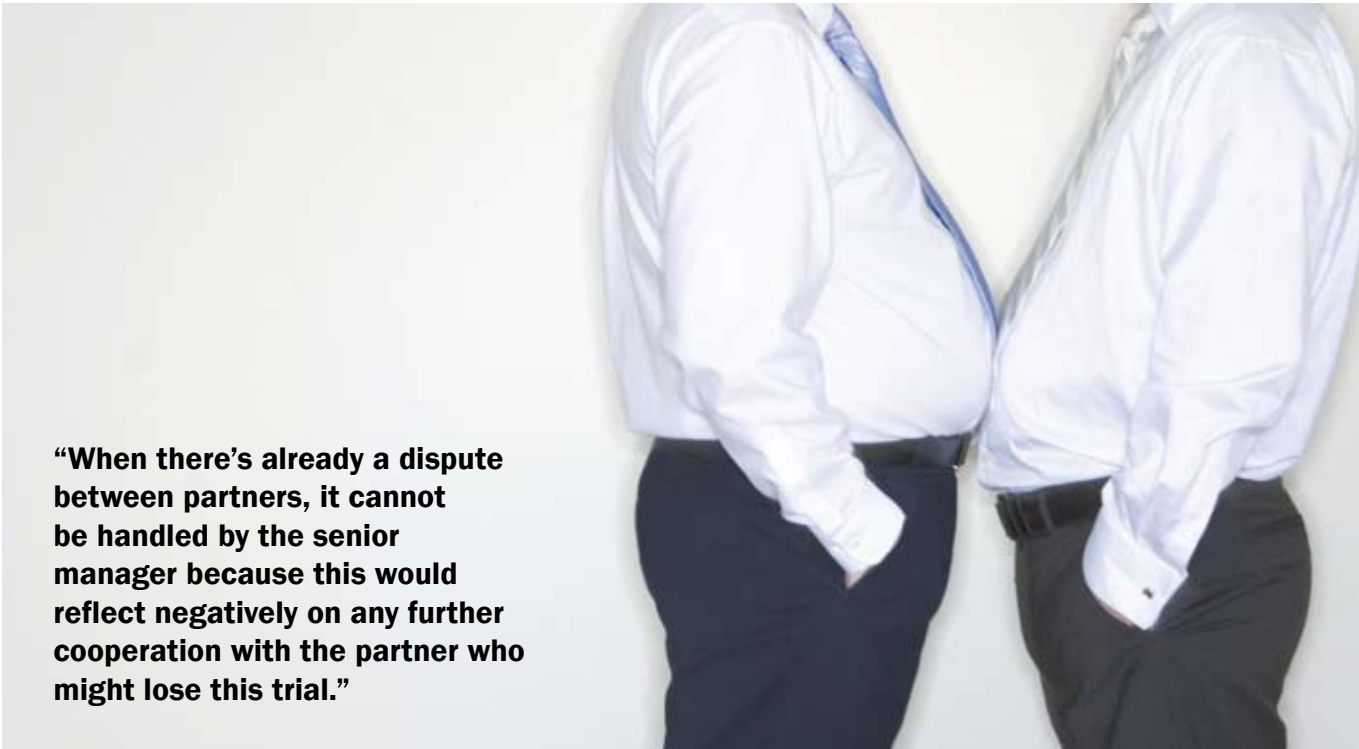
Christian: Among the German law firms, it can be quite different. But I do think we are more lifestyle-type firms, so partners have many opportunities to get involved in decision-making processes. And, at least in discussions, we do not have such a strong top-down leadership like the Anglo-Saxon firms.

David, what would you say is the management culture in Canada?

David: We have a broad variety of management styles and cultures, and some Canadian firms are very top-down. I think it's hard to generalise; the tendency though is very similar to UK firms.

Michael and Andrew, what are your views on UK management culture?

Michael: Of course the style of senior management within the firm changes from time to time, as does the implicit license that's granted by the partnership group as to what's acceptable. So in times of difficulty such as a weak economy, I think that there's an acceptance and desire



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on behalf of the partners that senior management become far more directive.

Andrew: Most law firms have, on paper, a process-based approach to making decisions, and yet the reality is that most of them make their decisions in practice in a consequentialist sort of way – they start with the preconceived results they want and work backwards, rather than starting with the decision framework and working forwards.

Do you find that you end up having to mediate disputes between partners?

Michael: I think the starting point is to try and get them to recognise the need for them to resolve their disagreements themselves.

David: I would say I agree. The role that I or the local managing partner would play is a facilitation role – which is a little different from a mediation role – and then by and large the partners can resolve these issues themselves.

There are cases however where there is a need to have a resolution and determination made independently. You might have from time to time – I’m sure all of us have – business conflicts where one has to choose between one client and another and, under those circumstances,

it’s difficult to have a win-win scenario. In such a situation, we would do an investigation in an attempt to determine the plusses and minuses of the conflict and then make a recommendation to the board, which would ultimately make a decision.

Also the promotion of an associate within a department to partner can sometimes become a matter of dispute. But we have a procedure that deals with that at the local office and national level, where an admissions committee looks at and resolves those sorts of disputes.

Christian: I think that when there’s already a dispute between partners, it cannot be handled by the senior manager because this would reflect negatively on any further cooperation with the partner who might lose this trial.

In my firm, if both partners are in the same office, then the local manager (who is a member of the board) will take care of the dispute. If it is a dispute between partners from different locations, then the role of senior management can only be to exchange the arguments, try to mediate this dispute and, if that’s impossible, bring it to the board so that the six wise men can decide how this it is to be handled.

But there are some disputes which have to be handled by management. So if it’s PR, for example, when it comes

to our submissions to a legal directory, of course everyone from every practice group wants to talk to the journalist about their cases. But the solution is crystal clear: they can’t! Our decision is that only the practice group leaders and a few designated partners talk to the journalist, it’s something that I have to make clear to everyone.

How can managing partners ensure that they are seen to be impartial?

Christian: I think it can be very difficult for senior management to really be impartial, or at least to make everyone believe that they are impartial, if they have been a partner in that firm before.

My advantage is that before I started my role at Buse I wasn’t even working for the firm. I assume that it’s more difficult if you have been a partner in the firm for a long period; when you become MP, everyone believes that you are not impartial and that you are probably just the executor of the wishes of a certain group within your firm. Then it’s an even greater challenge to be impartial.

Andrew: I think that’s absolutely right, especially if you’ve been in some sort of contested process. I think the urgency and the imperative to demonstrate impartiality

is there from the first day. People will be looking for you to do things which simply reinforce their preconceptions of you, and there is a level of political skill needed which is often underestimated in terms of not only being fair but also being seen to be fair.

Michael, did you face these issues when you were promoted to managing partner?

Michael: It sounds a bit conceited, but no! I think I was quite fortunate in the way things panned out for me. I was forced to take quite radical actions very early on which nobody could possibly interpret as being partisan in any sense, but were just taken for the good of the firm at the time. I've been accused of a few things, but being partisan is not one of them.

Do you think that partner disagreements should be handled by someone other than the managing partner?

Michael: No I don't think they should, the possibility of disputes is only a small facet of what comes from an ongoing dialogue with partners. I would find it very odd if the primarily consumption of my time was not in dialogue with members of the firm, particularly partners.

By its very nature you are almost in the realms of amateur psychology, but you try to help people see that they are capable of achieving more if the dispute is resolved. I think generally you're just trying to coach people across the peace.

So you're necessarily talking to partners all the time and, in doing that, you are resolving the potential conflicts that might arise. It's part and parcel of your job.

David: I agree that it's part of the job. As I said before, there are certain disputes where we have structured mechanisms – so to some extent disputes are delegated to others – but I also have a general responsibility to deal with conflicts among the partners.

I think it must be the managing partner's responsibly, because fundamentally the MP's prime responsibility is the management of the firm's human capital. We all have people to deal with finance, HR and marketing, but



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Christian: I'm absolutely happy with the system that we have in place and it's not too time consuming at the moment. When it comes to the big partner disputes, I can only prepare matters and try to mediate before I hand them over to the supervisory board, but I agree that the general responsibility to look after disputes between partners should be with the management.

And that's one of the strengths that the managing partner should have, being able to talk with people and find out what is behind the dispute and what is the easiest thing you can do to mediate it – that's what the managing partner should do and be able to do – and I'm glad to do it.

We deal with educated lawyers who are used to arguing about things, and that sometimes makes things easier or even more problematic, but I think mediating disputes in a law firm is probably easier than in other organisations.

Andrew, who do you think is the right person to manage a law firm? When I look back at least 15 years in Germany, it was the most senior partner, who was probably 65 to 68 years old. Then later we found out that that was probably not a good idea

and then the rainmakers became managing partners, again that was probably not the best idea because they should still work with clients. Nowadays, I think there is a trend for the job to go to managers who may not be lawyers and may even have come from a totally different background. Is this a trend or is it typically German?

Andrew: I think we're certainly seeing a trend in the UK of non-lawyer managers – I guess we call them chief executives – being brought in, not in the very largest firms but certainly in mid-sized firms.

What I would say from my experience is that you don't need to be a lawyer to manage a law firm, but I do think you need to be a lawyer to lead a law firm, and I think that those two roles may become separated. The leadership and the work with partners – as well as the vision, direction, coaching and strategy – will always for the foreseeable future fall to someone who is part of the culture of the law, i.e. a lawyer. However, I can really see the business side of things being the responsibility of someone who isn't a lawyer but understands the cultural issues and is an experienced manager. ^{mp}

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