THE NEW LAWYER EXPERTS MANAGING PARTNER REPORT

Who's sorry now? The GFC that wasn't

Michael Bradley

In the turmoil of the GFC, firms have rid themselves of precisely the people they're going to need in an upswing. ***Michael Bradley*** *talks post-recessionary planning and how it all went wrong.*

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As it becomes apparent that the GFC didn't really happen, or at least it didn't really happen to law firms in Australia, there is a proliferation of articles dedicated to the topic of post-recessionary planning.

In particular, how to motivate staff, who've just spent 18 months on a salary freeze, in circumstances where they've probably noticed by now that their employers didn't actually suffer a fall in profitability at all, to not express their disappointment by no longer turning up for work.

This is a tough one. Certainly there was a lot of overreacting going on last year, not that anyone should be criticised for thinking that things were going to be a lot worse than they turned out. We all got that wrong. It's how we planned for and reacted to it that matters.

How do law firms manage a downturn? Same as they do most things, in a very predictable way.

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Here's the conventional approach:

1. Give the final year law students, who have already received and accepted a graduate offer for next year, a lesson in basic contract law by cancelling them. If you're nice, sling them some money so they can go backpacking in Europe instead.

2. Change the Christmas party from a masked ball at the Westin to a $40 a head limit for each team to go to the pub. And remove the free soap from the showers (true story).

3. First round of retrenchments – junior lawyers lacking patronage from influential partners.

4. Second round of retrenchments – some mid-level lawyers who weren't going anywhere anyway.

5. Third round – "voluntary" – some of the more expensive senior associates and everyone who works part time.

6. Fourth round – surplus admin staff. HR goes last.

After that, in a real recession, the partners would have no choice but to turn on each other. That's a genuine spectator sport.

What's interesting is the order of priorities. Graduates and juniors are always the first victims because it's well known that they are unprofitable. And very replaceable, given the endless supply of new graduates.

However, it tends to be forgotten that today's graduate is the year after next's two year-out lawyer, which we know is a mythical beast for whom firms are willing to pay recruiters outrageous fees when things are good.

Therefore, what the firms have just done is to get rid of precisely the resource they're most going to want, and find it hardest to acquire, when the market rebounds. While at the same time alienating everyone who didn't get sacked by asking them to wear (from their perspective) the whole cost of the GFC.

But what was the alternative? Loyalty? Actual, not just notional, sharing of risk? The partners (gasp) taking a pay cut themselves? Or even accepting, as owners of a business, that part of the capital risk of ownership in the real world is the possibility in bad times of having to reinvest most or all of the profit back into the business itself?

You're right, that's crazy talk. Better to cash out now, but then at least spare us the disingenuous hand-wringing about how to convince the remaining employees that you valued them more than your parking space.

Michael Bradley is managing partner of Marque Lawyers, voted Australia's Coolest Law Firm 2009. Admired and disregarded by its peers in equal measure, Marque is busily rewriting the rules of legal practice with youthful glee and a wide screen TV. Marque is law, done differently.

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