

Rapid response

When a team of partners moves on, the firm is left in a vulnerable position.

Clare Murray and Susanne Foster share their damage limitation tips

How can firms losing a team of partners respond to protect their position? Even if the firm does not want to retain the team, the move will impact client relations, staff morale and market perception; controlling the exit quickly and firmly is key.

- Find out why the team are leaving and try rapidly to resolve the issues internally – all may not be lost. Consider asking for time to try to resolve the issues and if necessary bring in outside support to address them – it's rarely just about the money.
- Can you hang on to mid-tier members of the team with a promise of increased status and remuneration? Being heavy handed though will just unite the team.
- Focus on clients, reassure them and under no circumstances bad-mouth the exiting team – it always backfires.
- If there is real harm to the firm, quickly gather supporting evidence:
 - a) Ask direct questions of individual team members about unlawful solicitation of colleagues and clients, unauthorised disclosure of confidential information and diverting of business opportunities etc.
 - b) Obtain statements from any potential witnesses.
 - c) Are you entitled under the firm's internal policies to access individual email accounts and computers of the team members for evidence, for example, of unauthorised disclosure of confidential information or client solicitation?
- Review the partnership documentation to identify partner notice periods; whether you can place key members on garden leave; their restrictive covenants; and any provisions allowing the firm to withhold monies due to them if the firm suffers losses as a result of their breaches.
- Control the internal and external PR message quickly, as soon as the team move is irretrievable: leaks will be impossible to prevent. Again, bad-mouthing the team will be counter-productive.
- Send a shot across the bow of the team members and possibly also their new firm, to warn them off against further breaches.
- Consider legal remedies: if there are clear breaches, the firm may want to seek compensation or an account of profits, and/or an injunction against the team members (and in certain circumstances their new firm).
- But be realistic – team moves happen all the time. It will be hard to argue breaches by a departing team with a straight face if the firm has itself encouraged similar breaches by incoming teams of partners.

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this is precisely why they are occupying premises – to highlight the greater social ill of scores of empty properties that should render their owners ineligible.

Fixer upper

If a change to the statute is on the agenda, practitioners are likely to want to see similar rights afforded to the owners of non-residential properties and protection widened beyond those deemed to be either displaced occupiers or protected intending occupiers.

A general criminal offence in relation to squatting would arguably simplify the procedure as the only test to be applied would relate to ownership and refusal to leave and not, as is currently the case, the imminent intention of the owner towards the property in question and whether the same comprised residential or commercial premises.

However, given the huge number of empty properties, should we really be treating this as the primary issue? Would it be better if this was addressed by the law requiring people to take responsibilities for their properties rather than leave them vacant without good cause? The general perception of those who squat in properties is that they cause damage and distress. Squatters of course challenge this – indeed the well-organised groups often provide little short of a caretaking service. If offered the opportunity, many say they would happily pay rent for their accommodation. So perhaps we should be looking at the bigger picture.

Whether we will actually see an increase in the number of homeowners utilising their legal rights under these proposals is a question of time. It could also be a question of how serious the government really is about taking action – perhaps once they decide the message has got through that they are tough on squatting, it will be relegated for more pressing Big Society concerns.

What seems clear is that the law makers and the law enforcers also need to consider the root of the squatting problem if it is ever to be reduced. It is well known that simply making something illegal is not always enough of a deterrent. Listening to why people are squatting in the first place, and tackling that issue, is surely just as crucial.

Sceptics might consider that the nervousness within the corridors of power are less about the social injustice of squatting and more about reacting to whom this behaviour is affecting. Would this issue be such a high priority if squatters were targeting a generic terraced house rather than a grand London mansion block?

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photo: D.G.Jones

A squatters' group calling itself 'Topple the Tyrants' occupied a £10.9m house, believed to belong to the Gaddafi family, last month in north London

the power to enter premises to arrest anyone on suspicion of criminal damage and theft. It should then follow that the case of the displaced hotelier could potentially have begun and ended with a call to the police and subsequent arrests, and not a court hearing and an eviction notice.

No one would question that knowledge can be a powerful weapon when used correctly. If homeowners and police are aware of what action they can take when faced with a genuine incidence of squatting, then the number of these cases should decrease, reducing the cost to the homeowner and also the cost to the courts.

Dedicated squatters groups would undoubtedly challenge the perception that they have simply not read further than section 6. Many squatters will argue that they know enough of the law to ensure they only occupy buildings that are not covered by the above Acts. In recent incidences, they argue