

February 2010

> GENERAL TRENDS

The dramatic decrease in recruitment activity in the legal sector over the previous twelve months has been well publicised, as have the redundancies of professional and support staff across the profession. In the six month period from September 2008 recruitment activity in the professional legal market came to an almost complete standstill. We saw active job orders fall by almost 90 per cent overnight. During this period the lack of job opportunities was matched by a dramatic reduction in high quality candidates on the market as concerns over job security discouraged the best and brightest candidates from exploring the few job opportunities that were available during this time.

It is interesting to note that the number of redundancies has not been as high as some industry analysts predicted. Clearly law firm management has learned from previous cycles and predicted the short term nature of the economic downturn. Determined to retain the human capital which had taken a great deal of time and money to acquire over the past three years, many firms took a proactive and strategic approach to managing the excess capacity which was created by at the beginning of the downturn. The tools commonly used by firms included redeployment of staff, sabbaticals or long-term leave without pay, selective redundancies and flexible working arrangements.

In-house teams have also been affected, many reducing team numbers or moving lawyers onto flexible working arrangements. Organisations with European or American parent companies have been worst affected with some even closing legal departments in the Asia Pacific region. There have also been a small number of lawyers displaced by corporate mergers and restructures. As an indication the majority of General Counsels have affirmed they are 'doing more with less' (people resources).

The dark clouds began to dissipate around April 2009 as the combined effect of the government stimulus package and the fiscal policy stance of the RBA started to have a noticeable impact on business confidence and the employment market bottomed out at this time. In the six month period between April and August 2009 we saw a small increase in employment activity with many firms taking advantage of realistic salary expectations and the high level of direct applicants in the market enabling them to reduce external recruitment expenditure.

During this period recruitment activity fell into one of three categories namely backfilling existing roles, talent churning (or trading up) by replacing existing staff with more qualified employees, and the recruitment of lawyers in areas of growth such as employment, insurance litigation (especially in the professional indemnity area), commercial litigation and construction/infrastructure (which has seen an increase in activity due to the Federal Government's fiscal policy).

> WHAT HAVE CANDIDATES BEEN DOING?

Since July 2008 employed lawyers have tended to take a more conservative approach to their career planning. Many lawyers have chosen to remain with their current employer opting for security over the opportunity to advance their career or increase earnings.

Those private practice lawyers that have remained employed have been able to develop new skills by transferring practice groups i.e.: banking and financial services lawyers moving into the banking litigation groups or corporate restructuring groups.

Although the last 15 months have been an exceptionally stressful time, it has also been a period for lawyers to develop their careers while their less fortunate and redundant peers have been taking contract roles, junior roles or opening their own consultancy practices. There has been a sizable increase in the number of lawyers seeking to move in-house as more and more practitioners become disenchanted with the private practice model. Many of these lawyers have taken the opportunity to up-skill believing post graduate qualifications will give them a competitive edge when the employment market recovers. The three main areas of study that have seen an increase have been the Graduate Diploma of In-house Legal Practice, MBA/Master of Laws and the Graduate Diploma of Applied Corporate Governance.



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> SURPRISES OVER THE LAST 12 MONTHS

The increase in insolvency based work has not been anywhere near as pronounced as some experts had predicted based on the trends of recent economic downturns. While we have seen some large insolvency matters (particularly in the financial services sector) most medium and small organisations in distress have been able to avoid insolvency with the assistance of restructuring and corporate advisory lawyers.

On the flip side of the coin, merger and acquisition work has not decreased as much as one might have expected with many private acquisitions and distressed disposals to right balance sheets keeping lawyers busy.

Legislative reforms in the employment/industrial relations jurisdictions have predictably led to a large volume of advisory and litigation work for firms as their corporate clients have had to re-evaluate their industrial relations strategies twice in the last couple of years.

Corporate Finance lawyers have also been busy as listed companies attempt to refinance an estimated \$76 billion in loans between September 2008 and June 2010. There have also been a number of successful issues of shares and corporate bonds which in some cases were even oversubscribed.

> INTERNATIONAL

The downturn in international legal markets in 2008/2009 has had interesting ramifications for the recruitment market in Australia. Opportunities for Australian lawyers in London and New York have all but disappeared during this period. The two to three year stint in a UK Magic or Silver Circle firm which became a rite of passage for Australian top tier lawyers over the past decade has temporarily subsided and good quality lawyers are staying at home due to the absence of attractive international opportunities.

International recruitment in other overseas markets outside the UK and US has also been badly affected. Whilst the beginning of 2009 saw a limited number of opportunities for Australian lawyers still available in the Middle East, large scale redundancy programs by firms who had been such big recruiters of Australian talent has dashed the dreams of many lawyers looking to move to the Middle East for the benefit of high expat salaries and international work.

The stories of deserted ex pat streets in Dubai, half finished buildings, and leased cars being abandoned at the airport have all been confirmed, and the limited recruitment activity in this market has been limited to internal transfers within a firm's international network, or lawyers who are already working in the region with local experience and language skills. Saudi Arabia is one area where there are still opportunities for Australian lawyers but this is a less attractive option for candidates, and even here, the competition for roles has been high.

In other international markets, places such as Moscow which in 2008 bought many US and UK firms to Australia on large scale recruitment campaigns in the search of talent, saw a flood of redundancies and no requirements for foreign trained lawyers. The one resilient market for Australian lawyers seeking international experience is Asia (mainly Hong Kong and mainland China), which particularly in the last couple of months has shown a rebound of activity and a number of new roles released.

On the flip side, we have been surprised at the relatively low numbers of Australian returnee lawyers seeking opportunities back in the domestic market. The expected influx of returnees has failed to eventuate and while a small number of lawyers have sought to come home, many have taken the opportunity to reassess their situation after the receipt of huge redundancy pay-outs. We have heard of many candidates deciding to use their severance package to travel the world and delay their return to Australia until the market bounces back, or indeed when that time comes, return back to overseas markets. Other lawyers have taken the opportunity to leave the law completely, or take time out to pursue further education, often choosing to conduct these studies in the UK rather than cut short their overseas plans.



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FUTURE TRENDS

Despite the positive news that the Australian economy is to grow 2.25 per cent in this fiscal year, employment is a lagging component of the economic cycle. It is unlikely that we will see a marked drop in Australia's unemployment rate over the next twelve months, this does not, however, mean that we are not going to see an increase in recruitment activity in the legal profession. Regulatory changes in many sectors as well as an upturn in economic activity are likely to lead to increased activity in the in-house recruitment space.

On the private practice side of the fence we are expecting an increase in turnover as candidates start to focus on career enhancement and the relative value of a secure work environment diminishes with an improving economy. While turnover will increase we are not expecting the increase to be of the order of magnitude we have seen during the recent economic boom especially in light of the fact that international opportunities have all but dried up over the past twelve months.

Our message to employers is that now is a good time to be engaging in strategic workforce planning exercises as the war for talent is likely to intensify greatly in the next 24 months. The important thing for employers to bear in mind is that the structural factors affecting demand for legal talent have not fundamentally changed over the past twelve months, and while there has been a short term decrease in demand, the supply of quality lawyers has not increased. In addition to workforce planning now is also a good time to start to re-focus on retention and engagement as well as the promotion of the organisations employer brand.

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