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Should They Stay Or Should They Go? Leaders Discuss Mandatory Retirement Within The Public Accounting Profession

Succession planning is one of the most talked-about topics in firm management, perhaps because it remains a perennial problem. IPA's 2020 data on more than 500 firms shows that less than half (42%) have a written (formalized) succession plan.

Inadequate long-term planning has serious consequences. If too few younger professionals are groomed for leadership positions, firms are frequently forced to merge up. Last year's survey data shows 181 mergers and acquisitions were reported among all responding firms (excluding the Big 4) of less than $5 million on up. One in 12 MPs is over the age of 65.

IPA is examining one aspect of succession planning: mandatory retirement policies. The three MPs and law firm consultant who were interviewed all handle the issue differently. One MP says a mandatory retirement age is arbitrary, and even unfair. One says it's a major reason he's in the MP role today and would never work for a firm without one. Another MP says firm leaders tried going without a mandatory retirement age, but they changed their minds when problems cropped up.

Setting a mandatory retirement age – which can mean leaving the firm altogether or selling shares and working year to year – is a strategy used by 71% of non-Big 4 firms, according to IPA's 2020 National Practice Management Benchmarking Report.

Here's a look at the benefits and drawbacks of mandatory retirement through the eyes of four professional service firm leaders.

A 'Share Sellback Age' Keeps HW&Co. Fresh

Brandon Miller's conversations with MPs in their late 60s or early 70s naturally turn to retirement. Some tell him they need to keep working because no one's prepared to take their place. **HW&Co.'s** approach – requiring partners to surrender equity at age 62 – is designed to ensure that doesn't happen.

"I think if we didn't have the mandatory retirement age, I wouldn't be here and there wouldn't be a lot of the younger partners here," says Miller, 45, MP of the Cleveland-based IPA 300 firm. "Probably what would have happened is they would have had to upstream the firm 15 years ago and it wouldn't exist."

The firm was founded in 1990. The seven original partners chose 62 as the mandatory retirement age – or the mandatory "share sellback age," as Miller calls it – to motivate younger professionals to seek ownership and bring new perspectives to the firm. Regular rotation of partners means young professionals are better prepared to take over, which helps HW&Co. maintain its independence.

Since the late 2000s, when Miller became a partner, about a dozen of his peers have hit the age limit. While some fully retire and leave the firm, others opt to stay on in a different capacity. The firm can reap the benefits of their expertise and institutional knowledge while opening a partnership spot at the same time.

Those who want to stay with the firm can shed partner responsibilities they don't care for and focus on the work they enjoy the most (and are best at). One such former partner writes a "phenomenal" monthly article on fraud, says marketing director **Phyllis Sossi**. "He probably couldn't have done it when he was an active partner because he wouldn't have had the time."

Miller notes that relinquishing equity at age 62, which is younger than the norm, has worked for HW&Co., but 65 might be better for other firms. He believes more important than the details surrounding a specific age is the overarching strategic plan, which guides the direction of the firm, including whether ownership will be handed down to the next generation. "I would not want to be part of a firm that didn't have a mandatory retirement age," he says.

Sossi notes that the rule means the firm is guaranteed to have a young leader. "You're always going to have someone who's forward-thinking and innovative and energetic. That's a good thing."

Mandatory Retirement Age Is Unfair, Inflexible Says Steve Marcus

Steve Marcus, MP of Woodbury, N.Y.-based IPA 200 firm **Gettry Marcus**, doesn't believe in setting a mandatory retirement age for partners. Instead, he believes firms should have the ability to work one-on-one with senior partners to make sure they're producing top-quality work and transitioning clients to the next generation.

In a recent exchange with IPA, Marcus delved into the retirement debate to share some of his thoughts on the topic.

Why did your firm decide against a mandatory retirement age? What was the impetus behind the decision? We did not feel that a mandatory retirement age was fair. However, our partners agreed to a transition period with reduced compensation and understand that up-and-coming partners and staff members need to be compensated at higher levels.

Our partners are also available to mentor younger partners, as well as to meet certain client needs when necessary. Transitioning takes time and includes both clients and business contacts. Our partners understand the importance of increasing the client base and not staying stagnant.


Steve Marcus

What benefits have you seen from this approach? Firms need to be able to have the flexibility to work with each partner situation separately. We work with our partners to make sure that they are working at their highest level. Should there be issues with this, we address them. Partners need to understand the importance of progressing younger staff members to partner. This allows them to build new business opportunities for the firm.

What would you advise leaders who are thinking about whether to implement a mandatory retirement system? It is not that easy for all firms to establish firm brand versus partner brand. While we all try to do so, IPA 100 firms are more likely to have a firm brand. That allows them more flexibility in setting a mandatory retirement age.

Consider setting a "normal" – but not mandatory – retirement age of 65. Should they choose to retire, age 65 entitles the partner to receive retirement compensation. By the time a partner reaches age 65 their clients should be fully transitioned to others so that the retirement process is seamless.

Transitioning takes a minimum of three years. It's very important to have the right staff in place to transition to, but that's not always an easy task. All working partners, no matter what their age, should still be subject to partner goals and accomplishments and be compensated accordingly.

No Mandatory Retirement Works Great … When Partners Are In Their 40s

In the late 1990s, the executive committee of Birmingham, Ala.-based **Warren Averett** decided that partners should give up their equity at age 65 but stay with the firm year to year if they were asked. None were even close to retirement at the time; the MP was in his 40s.

In fact, the next retirement didn't come until years later, current MP **Mary Elliott** says, and that's when difficulties with the arrangements started accumulating for the IPA 100 firm.

Coming up with compensation after de-equitizing proved tricky, for example. A technical tax expert could be paid by the billable hour, but a dollar figure is more difficult to nail down for those with so-called soft skills, such as recruitment or mentoring. Annual compensation was set at approximately 20% of their previous earnings, while working a reduced schedule. While no one complained, it was hard on the executive committee, she says. "It was growing into a big problem."


Mary Elliott

Complications began to increase about five years ago, when Warren Averett merged in a firm with no requirement for partners to give up equity at 65. The partner group included several approaching 65 and two in the 65- to 70-year-old range.

"So what we found two or three years into that was that some people did not ever want to retire," she says. "Sometimes they became a little disruptive, not intentionally, but trying to find some value in themselves. Sometimes it was a problem, but not on the client end."

After discussions, the executive committee decided that partners must retire completely at 65 – with no part-time work or other arrangement. "It was a really difficult decision. Some who merged in weren't at all happy with it," Elliott says, who will be retiring in five years. "I'm certainly not dreading it."

Because the transition isn't always smooth, the new requirement was phased in over time. The firm offers partners in their last three years a three-month sabbatical, giving them an idea of what life will be like without the firm. (All staff, after 10 years, receive a one-month sabbatical every five years.)

Now the program is easier to administer and paves a path to partnership for younger professionals while allowing for more diversity within the group. Elliott recognizes the talent shortage is real, and that many retirement-age partners are valuable contributors to clients and the firm. However, the age 65 cutoff ensures a strong bench, which is an absolute requirement for successful succession, she says.

But she admits that getting to this point took an evolution from the firm's initial well-intentioned retirement arrangement. "It was such a great plan when no one was retiring."

Transitioning Law Partners From One Generation To The Next Requires Strong Management And A Link To Compensation

Peter Johnson estimates that only 10% of his law firm clients follow a solid succession plan. Some have one but never look at it, and many leaders resist asking partners about when they plan to retire.

"It reminds me of someone avoiding signing estate plan documents because they're dealing with their own mortality," he says.

Johnson, founder of **Law Practice Consultants** in Newton, Mass., typically helps firms with fewer than 150 attorneys improve succession, compensation and governance, and he's provided more than 700 attorneys with one-on-one coaching. In accounting, IPA's 2020 National Practice Management Benchmarking Report shows that 71% of participating firms have a mandatory age for retirement and 54% set that age at 65.

Whether in law or accounting, creating opportunities for new leaders hinges on increasing the number of partners and moving younger professionals into slots vacated by retirements or other moves out of ownership positions in the firm. "I think they have many of the same issues when it comes to succession," Johnson says of both law and accounting. Avoidance is common because retirement conversations can get personal fast. One party approaches retirement from a business perspective while the other sees the issue as intensely personal. Prickly exchanges can result if management does not recognize this, fails to show empathy or does more talking than listening.


Peter Johnson

"If you have a firm of 30 people, where people have grown up together and practiced together, and all of a sudden someone is X years old, and he or she needs to de-equitize and has been told – in sum and substance – 'You don't have your fastball anymore,' it becomes personal."

Johnson sees many sides to the retirement issue, as all firms are different with their own culture and personality. Some law firm leaders simply do not believe a mandatory retirement age is necessary.

Age is arbitrary, after all. Determining an attorney's ability to perform does not necessarily correlate with hitting age 65 or 68 or 70. Johnson has seen 75-year-old attorneys bringing in significant amounts of new business, and yet, "I've seen a lot of 50-year-olds who should retire a lot earlier than the 70-year-olds."

When times get tough, retirement decisions accelerate. Late last year, the legal news service *Law360* surveyed 584 partners on the effects of the pandemic – 34% said their firms de-equitized partners in 2020, while 38% said their firms had asked partners to retire.

One downside of mandatory retirement is an unintended boon for competitors, who are able to hire well-connected experts commanding high fees at the prime of their careers, he says. On the other side of the argument, making retirement mandatory provides clarity. It's a black-and-white rule outlined in partner agreements. "Every time you have subjectivity, you have the opportunity for debate and disagreement."

Larger firms (of roughly 500 attorneys or more) are more likely to have retirement provisions in place, but he's seeing fewer "pack your bags and have a good life" mandates and more loosening of the requirements. More partners are being asked to de-equitize and sign year-to-year contracts. At that point they are evaluated on performance, whatever that may be. Retirement-age partners can be "graded" on how well they mentor younger professionals rather than on originations, for example.

It's tricky, he says, unless management takes a strong, hands-on approach. "To get rid of somebody at a law firm is a complicated process."

Tying retirement compensation to a successful handoff of clients is one method of succession that can work well, Johnson says, because the ultimate motivator for behavior change – certainly for the generation that is currently retiring – is money. He says some firms identify a time at which clients must be transitioned to designated successors. Sometimes firm leadership picks the date, or the senior partners themselves do. "Part of their compensation is based on how much of the revenues come in after that partner leaves, so that he or she has a vested interest in making sure that relationship is a loyal relationship for the firm."

There's no one plan that works for every firm. Johnson approaches a consulting engagement through anonymous surveys, asking about the challenges/issues around retirements and suggestions for overcoming them. Johnson, who has two graduate degrees in counseling psychology in addition to a law degree, tries to build consensus based on the information he receives.

"There is a lot of emotion involved in retirement and the activities and philosophies and consequences attendant to that, and that's the way it is," he says. "There are not too many people I know over 35 who can't wait to get older." ■**IPA**

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