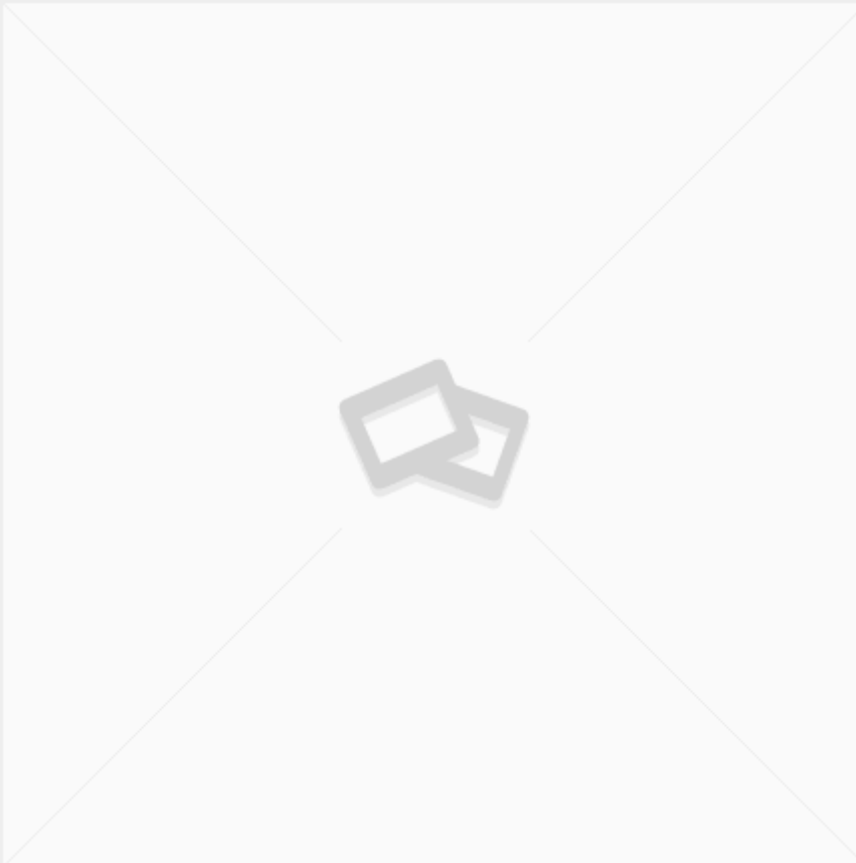


"CONSIDERING ALL THE OPTIONS"

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Iberia's law firms assess the potential of more performance-related remuneration schemes

El Grupo de Expertos de Iberian Lawyer aborda el tema de la remuneración y estudia las ventajas e inconvenientes de que los despachos adopten una política de sueldos más flexible y programas de

incentivos. Mientras algunos están de acuerdo con la relación que puede haber entre remuneración y rendimiento, otros consideran que estas medidas en un entorno de desaceleración económica pueden ser vistas como una forma cínica de reducir costes. El reto para muchos expertos sigue siendo el cómo evaluar el rendimiento de los abogados, del equipo o del bufete, y si estos programas de remuneración deberían dirigirse no sólo a los abogados sino a todos los empleados del despacho.

Flexible remuneration is a tool that is being given closer attention by Iberia's top law firms, especially in light of a slowdown in economic growth, reveals Iberian Lawyer's latest Group of Experts survey.

As Pedro Cardigos at ABBC puts it: 'It is ironic that it took an economic downturn to increase the awareness for alternative performance-based schemes and flexible career paths.' DLA Piper's José Sánchez Dafos agrees. For him: 'Performance-related bonuses are increasingly being demanded by lawyers. However, they do not see them as a replacement for the fixed component of their remuneration but as an add-on to reward outstanding performance. For law firms taking this approach it allows better cost control particularly in a potential economic downturn.' João de Macedo Vitorino notes though that: 'Changing fixed fees for performance bonuses during or in anticipation of an economic slowdown will be easily perceived as a way of cutting costs or reducing salaries by both parties.'

Achieving the balance between fixed and variable remuneration is not easy. José Miguel Jídice at PLMJ reports that at his firm, 'A protective minimum amount is awarded to associates (not a remuneration but only a guaranteed payment even if the partnership does not perform well) alongside a performance-related payment. PLMJ gives senior associates a direct participation in partnership profits, based on points that, through annual evaluation, will increase or decrease based on a performance that is globally analysed.' His colleague, Rogério Fernandes Ferreira, cautions that a more flexible scheme of remuneration might be disadvantageous where there is a risk of unbalanced distribution in the workload, both in terms of quality and quantity, especially for younger lawyers.

What are the potential benefits or disadvantages of law firms adopting more flexible remuneration schemes?

"A lower fixed salary and higher performance related bonuses results in part of the business risk being passed to associates. I would say this is a step backwards and not forwards... risk should lie with the partners, with associates receiving a high enough basic salary to meet their expectations and talent. Bonuses should be to reward star performance."

Manuel P. Barrocas, Barrocas Sarmiento Neves

'We have always had a mix of fixed remuneration plus bonus. In the last few years we have been pushing for the variable part to increase proportionally. It now stands at around 20% but our target is to get it up to a third of overall remuneration' Anonymous, Portugal

'What must be avoided is that the bonus scheme converts in practice to become part of a fixed salary, and that people consider that they are entitled to a certain amount of bonus even if performance is not brilliant.'

Francisco Guijarro, Hammonds

'I do not quite see the connection between flexibility of working conditions and career paths, on the one hand, and performancebased remuneration schemes on the other. Firms should certainly accommodate the expectations of the new generation of lawyers. The way they are remunerated is only a small part of the picture and, in my opinion, not the most important one.'

José M. Balañá, Lovells

✖ The firm follows a long-term strategy. We are not thinking of changing our remuneration system. The salary element is preestablished quantitatively and the bonus is linked to the overall results of the firm.'

Lourdes Ramos, Garrigues

'Any remuneration scheme based on performance is positive for law firms financially, but young lawyers usually do not like uncertainty in their salaries.'

Rafael Montejo, Legalia

'All of our offices have a variable remuneration scheme that is applied to lawyers with a pre-



determined

experience and category. The advantages and disadvantages of this policy vary in function of the objectivity of the applied criteria and of their measurement. There is no greater disincentive than a performance bonus that is no more than a fixed salary supplement, which is paid under discretionary and purely subjective criteria.'

Luis Crespo, Deloitte

If firms are to go along such a path, on what basis should targets be set and work be rewarded? how would firms ensure that appraisals are credible through transparent and objective methods?

❌ 'Objective goals (for instance, turnover) may be sometimes unfair but are certainly easier to apply and control. However, you must be ready to deal with some exceptions and to be flexible in some cases.' Raimundo Segura, Cuatrecasas
'What is difficult to establish are objective criteria. There will always be a measure of subjectivity in the drawing up of those objectives or in the appreciation of their achievement.' Francisco Prol, Prol & Asociados

'Ideally we must reward individual team and firm performance in respect of all lawyers and non-lawyers. But that is not feasible for everyone. As we see it, the level of reward differentiates partners from senior associates and these from the other lawyers. As you progress you should benefit more from other colleagues work.'
João de Macedo Vitorino, Macedo Vitorino

'In the case of my firm, I feel that it is still only justified for lawyers to be included in a fixed and variable pay scheme, although I can understand that non-lawyers could also be included in this type of package.'

Pedro Guimarães, F. Castelo Branco & Asociados

'Appraisals should be conducted on a 360 degree basis – the associate's input on how to improve the firm is

just as important as the firm's appraisal of the associate's performance.'

Manuel P. Barrocas, Barrocas Sarmento Neves

❌ 'I believe that the trend is there, but it could still take time to consolidate. Valuation should be objective, fair and clear, with objectives set out from the start, but again some degree of flexibility may need to be introduced. Clearly this should mainly apply to lawyers, not to non-lawyers in a law firm.'

Jose Ignacio Jiménez-Blanco, Clifford Chance

'Targets should be set transparently and on the basis of very objective methods, as is already being done by companies in other sectors. In fact, lawyers are advising those companies on how to reward and target flexible remuneration schemes.'

Joan Roca Sagarra, Roca Junyent

Indeed, Raimundo Segura at Cuatrecasas notes that flexible remuneration, 'may not be appealing for junior associates as they may feel insecure as to what their final remuneration might be. In addition, they can hardly influence the achievement of the goals normally chosen to quantify the bonus.'

Support for flexible remuneration is not universal though. As one Portuguese managing partner noted: 'A lower fixed salary and higher performance-related bonuses result in part of the business risk being passed to associates. I would say this is a step backwards and not forwards. Most firms here still operate on this basis which could be described as 'eat what you kill' depending upon how the bonus element is structured. It can lead to unfairness and unhealthy competition between associates and should be discouraged.'

Setting targets

Our experts agree that setting achievement targets, and striking a balance between performance measurement, objectivity, transparency and fairness can be difficult. Cuatrecasas has turned to technology, as Antonio Hierro explains: 'We have designed an entirely transparent computerised tool that will enable us to make more objective the professional assessment of all of us who work at the firm.'

Other firms assess their associates against a matrix of functions that they would carry out as future partners, such as product delivery (technical excellence), profit delivery (billing and cost control), client management (responding to clients), business development (winning new clients and cross-selling) and resource management (staff motivation and teamwork). Few firms focus on just the achievement of billable hour targets by associates or consider the bonus to be that useful in enhancing retention. Others concede that an unhealthy competitive environment between associates could lead to overrecording or 'padding' situations.

Interestingly, several respondents highlight the need for associate appraisals that also feed back information and

ideas to management. As one managing partner explained:
'Appraisals should be conducted on a 360 degree basis – the associate's input on how to improve the firm is just as important as the firm's appraisal of the associate's performance. To be credible and constructive, associates must understand the importance of their contribution.'