LexisNexis Chief Legal Officers' Forum: Assessing and measuring the quality of in-house legal teams

On March 21st 2017, the Chief Legal Officers' Forum, facilitated by Sophie Gould, Head of the LexisPSL In-house team at LexisNexis, met to discuss the value and effectiveness of measuring the quality of in-house legal departments. Central to the discussion was identifying the pitfalls and sharing practical lessons that can be learned from adopting such metrics into the business.

The key topics discussed in this paper are as follows:

- Why build and use metrics?
- Cost-saving vs. time-wasting
- How to gather data and metrics
- Challenges and practical lessons
- Aligning with the business
- What would an ideal metric measure?

Introduction

"There's a myriad of things that need to be done."

The Forum opened with the acknowledgment that many in-house legal teams are struggling to incorporate metrics into their work. The general consensus amongst the Chief Legal Officers (CLOs) in attendance was that little was being done by their legal teams to measure their performance or gather information that could be used to demonstrate their quality. This was partly attributed to the lawyers' understandable dislike of being 'measured'.

However, there has also been a notable shift in thinking in recent years. Whereas in the past, lawyers felt that demonstrating their "value" to the business was simply not something that they needed to do, it is now generally accepted that the need for and use of assessment frameworks in the legal team is inevitable. Metrics allow CLOs to evaluate and improve the performance of their legal teams and, ultimately, manage them more effectively.

After all, as one attendee noted: "Lawyers are unique in that they are able to touch every part of the business." But just as they touch every area of the company, they are also part of the company and their performance, and like their colleagues, need to justify their way of working and prove to be cost-efficient.

Why build and use metrics?

"Be a businessperson first, and then a lawyer."

In today's business market, performance efficiency is paramount. Metrics offer CLOs the tools to:

- assess and improve the performance of their lawyers
- clearly demonstrate the value of the department to the business
- usher in change
- reduce costs

For example, metrics and matter-tracking can reveal areas where a legal team is asked the same questions repeatedly from the wider business. By identifying such areas, the legal team can put in place proactive measures such as providing training to its employees on the issue or producing a manual for day-to-day guidance. This can alleviate the time pressure on the legal team and free up a significant amount of capacity, thereby improving the department's cost-efficiency.

One of the attendees shared that metrics gathered on how the legal team works identified that often the team's more highly-skilled expensive lawyers were spending a considerable amount of time on relatively low-value, low-risk contracts. This was an inefficient use of their time and resources. As a result, the contract team was broken down into three levels: complex (high-risk and high-value contracts); and mid-level (transactional contracts) and contracts dealt with by an offshore team. This change in workflow and structure allowed work to be allocated more efficiently.

The group also discussed how metrics can also be used to identify areas that require preventative measures to be put in place. For example, in the area of dispute resolution and litigation, metrics can assist lawyers in looking at the root cause of the issue, essentially cutting off problems at the origin before they become litigious. This is more efficient than simply waiting for the work to arrive at their desks and then spending money to instruct local counsel.

Cost-saving vs. time-wasting

"This is work that we want to do, but is it work that we necessarily need to be doing?"

The members of the Forum recognised that while such measures, ushered in by the use of metrics, can save money and time, many of the areas identified as "inefficient" were often the areas lawyers enjoyed working in the most. Many in-house lawyers like to develop and maintain relationships, to be the trusted advisor, the go-to problem solver.

So how do you 'streamline' aspects of a lawyer's job that they enjoy? The forum members reflected that such changes would indeed be difficult to implement, even if – as in some cases – they halved the company's external legal costs and delivered significant cost reductions across the board.

The forum all agreed that you cannot measure the performance and value of the legal team until you identify what you want to measure and why. The first step is to identify the purpose of your legal team. What is your objective? From here, you can start to consider which types of metrics can be built in. Common objectives could include:

- Financial: reducing costs
- Training: provide training and develop the skills of the legal team
- Customer satisfaction: the legal team to be recognised by the business as providing a good level of service
- Efficiency programmes: implementing process improvements

How to gather data and metrics

Matter management systems	to track data such as: the types of transactions/contracts, the volume, responsibility for the work, how long it took
Surveys / score cards	to get a sense of how the legal team is perceived and can identify areas of concern. One of the members noted that while the feedback from their survey was very positive it did reveal that the legal team had a tendency to "hold the hand" of the business, which was an unsustainable practice.
Key Performance Indicators (KPIs)	These can be both for the legal team and law firms. Provided they are SMART the list of potential KPIs is endless.
Law firm reports	track metrics such as the amount of spend and the volume and types of work being sent to external counsel

Challenges and practical lessons

"People spend more time trying to avoid the process rather than following the process."

While the benefits of metrics are undeniable, one of the members noted that they struggle to definitively determine the 'value' of their lawyers due to the fact that such an assessment is, fundamentally, subjective. They conducted a business survey which looked at how the company rates the legal support, commented on what improvements were needed, and compared how they find working with the legal teams, both internally and externally. This exercise improved how the legal department interacted with the business as a whole, and showed that they needed to streamline their templates to make them easier for the business to use. However, while the survey proved useful, it is not used on a regular basis to measure or track the 'quality' of legal teams because such subjective aspects are harder to record and measure on a regular basis – as opposed to, for example, using costs metrics. An advising role is very difficult to measure.

An additional challenge of using business surveys to gather metrics is that the value of the information can be limited if the majority of the employees have worked at the company long-term. How can you benchmark a legal team over time if the people being surveyed have no frame of reference? While surveys provide an interesting indication of how people feel, they do not yield a useful indication of what can be done.

Process analytics can be used as an alternative means of assessing the legal team. Such a metric tracks the work done by the team, getting information on who worked on which project and whether it was delivered on time and to the client's satisfaction, for example. This can enable the legal team to put pre-emptive measures in place, such as providing more resources and training, and workflows for self-service.

However, the Forum noted that all metrics systems invariably have a materiality threshold. There is therefore work that the systems do not pick up on since it happens below the radar. But such work adds up, making this a problem for a thorough and accurate assessment of the team. Anything above the threshold is easy to account for, but the small tasks can be tricky to uncover. The solution? Ask the lawyers how they work, and what they are doing, rather than just asking them to justify their time.

For example, one member discovered that not all of their legal team were using DocuSign. Instead, they were using the paper version of contracts, which was ultimately a waste of time because the contracts weren't stored properly on the system. It was pointed out that lawyers don't reliably adopt technology that puts structure on their work.

In addition to the challenges highlighted in collecting metrics the members discussed that storing and reporting on the information is also a challenge. It's not sufficient to simply keep the information in a spreadsheet.

Aligning with the business

"Is the work we do aligned to the business strategy?"

There is increasing pressure on in-house teams to align with the business. The members noted that many of their lawyers are being asked to be more business-focussed, which often results in them getting pulled into project management. However, this frequently results in them being questioned about whether or not they're spending their time effectively – primarily on core legal work.

There is a tension at work here. Many organisations want to make the legal function a business function, which means that expensive lawyers don't deal with their core legal work, but rather step into the role of project manager.

Increased visibility is the best strategy here. Allow the legal teams to see what the ultimate business strategy is, and provide the business with an enhanced understanding of the role and responsibilities of the legal team. They can then make the assessment for themselves as to whether the work they are doing is aligned with the business strategy.

What is an ideal metric measure?

"When using metrics you need to be careful of what behaviour you're driving."

The members went on to discuss that there are lots of different types of software out there for metrics but have found that none of the systems are priced/packaged appropriately for in-house lawyers who often have a limited budget, and they also don't integrate well with other systems used by the legal team. The group discussed that their ideal metric dashboard, would need to include features such as:

- **Full automation of contracts:** This would enable self-service. You should be able to access information pertaining to different contract types and how long a contract took, for example. It should also track which contracts turned into litigation and how much money was spent on external counsel.
- **Simplicity:** Clean and simple interface, preferably with charts. Nothing like that exists currently. Members commented that if the data was joined up, it would give people the freedom to do more interesting things with it.
- **Scope:** The metric would be able to detect all the 'under-the-radar' work undertaken by the team, allowing CLOs to spot issues.
- **Flexibility:** It would need to be able to change and grow as the team and its needs grow.

Conclusion

The members acknowledged the benefits of metrics, citing numerous instances of advantageous outcomes of their use. But they also renewed their commitment to directly asking the lawyers in their teams about their workload. They should interact and engage them in the process, getting them to assess how they can improve their performance; the importance of self-assessment is not to be underestimated.

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