

LexisNexis In-house Advisory Board

Briefing note: Innovative ways of working with law firms

LexisNexis In-house Advisory Board

Briefing note: Innovative ways of working with law firms

On 19 April, the LexisNexis In-house Advisory Board met to discuss innovative ways of working with external counsel. The discussion, led by Josh Box of Ocean House Professionals, is summarised below.

What is innovation?

“Innovation” is an over-used word. It derives from the Latin word *innovatus*, which is the noun form of *innovare*, meaning “to renew or change.”

The Advisory Board discussed the meaning of innovation in the context of the delivery of legal services in an in-house environment. Four main strands of innovative practice emerged:

- Incremental improvements in service levels.
- New resourcing models (for example, Eversheds Agile, Axiom or Lawyers on Demand).
- Using technology.
- Process re-engineering.

Barriers to innovation encountered by in-house lawyers, and ways to overcome them

The economic climate is creating more pressure for efficiency and effectiveness. Consultancies and technology providers are more eager than ever to help in-house teams think creatively about achieving this. Yet examples of successful innovation are notable in their rarity. Why is this the case?

Some point the finger of blame to law firms, who as a group are often deemed not to truly understand their clients’ business needs, or to judge correctly the value of a consultative process leading to innovative solutions. Firms are also often seen as too comfortable with the inefficiencies of the status quo to take a lead in driving change.

However, the onus is equally (if not more) on in-house lawyers to drive the innovation agenda. If you don’t, you may well find that your Finance Director does instead!

The following are some barriers to innovation in in-house teams, and some suggested solutions:

Barrier	Description	Suggested solution
Lack of time	<p>In-house lawyers are frequently too busy fire-fighting to step back and unpick the processes within which they are operating.</p>	<p>Put bluntly, make the time to critically analyse the way that you work. This is too important to languish on a back-burner. Consider making use of internal business resource (for example, finance, procurement or IT) who can provide support. The long-term benefits will outweigh any short-term challenges.</p> <p>Some practical tips for making time for more strategic thinking include:</p> <ul style="list-style-type: none"> • Go offsite – remove yourself from the maelstrom of day-to-day activity for a period. • Get business backing for a project to explore opportunities for improvement. • Save time through being clear on what you are trying to achieve – your business’ overall objectives is a good starting point.
Lack of skills (in in-house teams and/or law firms)	<p>Lawyers often lack the business skills to capture the attention of the executive team and implement innovative solutions.</p> <p>For example, project management is only now beginning to emerge as a core skill for a lawyer (whether in business or in private practice). Yet this is rarely taught at law school.</p> <p>Generally lawyers are not trained to be open-minded and are more inclined to be creative within accepted modes of practice.</p>	<p>In-house lawyers are well-placed to make use of, and learn from, the expertise of business colleagues.</p> <p>Offer project management training to members of your team and encourage cross-functional working groups to come up with innovative ideas to help the delivery of the law for business.</p> <p>Consider hiring people with diverse, non-legal backgrounds into the team, whose perspective may lead to new ways of thinking. Encourage law firms to do the same.</p>

Barrier	Description	Suggested solution
Lack of business understanding	<p>Frequently business colleagues see the practice of law as a mysterious art beyond the comprehension of the uninitiated.</p> <p>A consequence can be that while there is certainly pressure to cut costs or increase efficiency, sometimes the business does not truly challenge the legal team to innovate and think creatively.</p> <p>A CEO might say "I'm not sure what you do but you are doing it very well. Just do it for less."</p>	<p>A basic metrics programme is the starting point to help you communicate and demystify the value of the legal team to the business.</p> <p>This should be combined with a proper examination of the business strategy and objectives, aligning the critical legal strategies and services to the needs of the business (instead of fire-fighting short term workloads).</p> <p>This is a key way to engage business colleagues in the work that you do. (For more practical insight into building a metrics programme, see earlier Advisory Board thinking here and here.)</p>
A culture that stifles innovation	<p>"No-one got sacked for hiring IBM" is a mantra that preserves the status quo in the legal industry. Lawyers are often skilled at concealing weaknesses, rather than being prepared to take risks, and possibly fail.</p> <p>They are sometimes not focused enough on how what they do impacts the bottom line by creating money, saving money or avoiding risk. The effect can be a service characterised by inertia and risk-aversion.</p>	<p>Be brave and take control of the culture and the raw intellectual ability within your team to create useful and well regarded outcomes for the business.</p> <p>Encourage an environment where failure is seen as a stepping stone on the route to success.</p> <p>Reward creative thinking and truly original ideas. Start small if necessary. Without a proper reward programme that encourages new ideas and change, innovation will always be slow to take hold.</p>

Some ways in which law firms and in-house teams have recently innovated to deliver more value:

Tying efficiency outcomes to law firm remuneration

In 2010, the legal team at shoe manufacturer Wolverine Worldwide inspired US firm Seyfarth Shaw to adopt six sigma management processes.

This arrangement ties the firm's remuneration to outcomes it delivers for the business.

The firm subsequently revamped its business using the six sigma management process. The new client service model focuses on creating "value-based" relationships that incorporate six sigma techniques, process improvement strategies, alternative fee approaches and technology. In some cases, the firm has been able to reduce fees by 30 per cent.

Innovative fee structures for litigation

Valorem Law Group is a US litigation practice that offers a new way of pricing litigation work.

It promotes the use of non-hourly fee structures, co-ordination with LPOs or contract lawyers, joint-venturing with other firms and the implementation of project management tools to handle lawsuits or portfolios of litigation.

The firm also gives clients the choice of a 'value adjustment' on all invoices; allowing the client to reduce the fees if they are not happy with the service they receive.

Will this become more commonplace?

Customised value-add in financial services

US firm Cleary Gottlieb, Steen & Hamilton has introduced a customised interactive database that tracks financial regulatory reform for clients.

The database is customisable and meets a pressing business need that many in-house teams struggle to stay on top of.

In the UK, Allen & Overy has introduced a similar tool for financial services clients called 'Global View'.

Creating efficiency in commercial transactions

Radiant Law is a UK-based law firm focused on technology and commercial transactions. Operating on a fixed fee basis, the firm collaborates with LPOs and has built its own contract management software tools to automate the contract process for clients.

Deriving maximum value from panels

In 2009, Pfizer implemented the Pfizer Legal Alliance, which covers about 75% of its worldwide spend. The alliance includes 19 law firms, all with relationships structured on a value basis; and an annual fixed fee for each firm set in advance and paid monthly.

Fees cover all matters within broad buckets of work; firms provide secondees; and a Pfizer Roundtable provides joint governance of the Alliance for each region and promotes collaboration among the firms.

The firms' and Pfizer's performance is measured and ranked through a balanced score card and regular online evaluations.

Reinventing the in-house function

IBM reinvented itself as a global function over a three year period. It created global centres of expertise which enhance integration and provide junior lawyers with leadership opportunities in virtual teams.

A major account programme builds direct relationships between lawyers and IBM's biggest customers. Graduates are recruited straight from law school and trained through IBM's own facilities.

Alignment of legal targets with the business

Anheuser Busch inBev lawyers share sales and reputation targets with the business in a way that aligns the two.

Mutually profitable law firm relationships

FMC Technologies introduced the Alliance Counsel Engagement system, designed to build service relationships based on partnering and shared risks and rewards.

The goal was to enable firms to make more money per hour but also to reduce the number of hours that were bought. This was achieved through a performance based report card and pay model which rewards success and efficiency. For example, the model includes an initial 20% hold back which is used as an incentive bonus, and can be tripled if other performance measures are achieved (for example, billing under budget, not using the litigation reserve, or early resolution of cases).

In a period that saw the business experience 50% growth over 10 years, external costs remained flat, case cycle times were reduced, disputes were resolved below expected values, law firm performance scores increased, and customer service improved.

Captive outsourcing

A number of large law firms (including Allen & Overy, Baker & McKenzie, Herbert Smith, Eversheds and Addleshaw Goddard) have now deployed captive Legal Process Outsourcing Centres to reduce costs for clients (typically in certain transactional work, litigation due diligence, bulk litigation, employment and real estate work).




This approach equips those firms with a distinctive conversation with their clients about their business needs, and systematically uncovers what business colleagues see as most valuable in helping in-house lawyers achieve their strategy and objectives.





Convergence

Colt Technology Services recently appointed a single firm, Greenberg Truarig Maher to take care of its employment law needs across its 12 European offices after a contested RFP process for an initial period of 3 years.

Vodafone have recently completed a panel review reducing the number of firms from 70 to fewer than 10.

The LexisNexis In-house Advisory Board

<p>Clive Davies Senior Counsel, Fujitsu Services</p> 	<p>Clive is a senior counsel with Fujitsu Services advising on major service contracts with customers especially in the public sector.</p> <p>Prior to joining Fujitsu in 2007 Clive was the lead IT and outsourcing partner at D J Freeman for 13 years and Olswang for 4 years. He qualified in 1977 and worked as an in-house lawyer for the Alexander Howden Group in the insurance industry, Esso in the petroleum business and ICL in the IT sector before joining D J Freeman in 1990.</p> <p>Clive specialises in advising on major project contracts for IT outsourcing having represented customers and suppliers in-house and in private practice for many years. He also advises on electronic commerce and data protection.</p> <p>Clive has been recognised as a leading IT lawyer in the legal directories for some years and lectures and writes regularly on IT related legal subjects. He is chair of the Society for Computers and the Law, the treasurer of the International Federation of Computer Law Associations (IFCLA), an editor of Communications Law and a member of the Intellectual contracting best practice working group.</p>
<p>Isabelle Deschamps Head of Legal & Company Secretary Nestlé in the UK and Ireland</p> 	<p>After having worked in a law firm in Montreal, Canada for a few years, Isabelle joined the legal department of Nestlé at their head office in Switzerland in 1996. From there she led numerous international acquisitions, disposals and joint ventures in Asia, Latin America, North America and Europe in the food and beverage, nutritional cosmetics and petfood sectors, spending most of her time abroad.</p> <p>In 2003 Isabelle joined the Executive Committee of Nestlé in the UK and Ireland - one of Nestlé's main regions as Head of Legal and Company Secretary. She manages a team of in-house lawyers advising on all aspects of the UK and Ireland Group's legal compliance and project work such as mergers and acquisitions, disposals, property, intellectual property, commercial, competition, corporate, health and safety, employment, dispute and litigation and food safety. In addition to her role Isabelle heads up the UK & Ireland Compliance Committee which deals with ethical and compliance issues, and is a member of the crisis cell team. She has dealt with a number of key projects such as manufacturing restructuring, outsourcing and pension fund review. Isabelle is also a trustee director of the Nestlé UK pension.</p> <p>Isabelle is qualified to act as a solicitor in Canada (Quebec) and England and is fluent in English, French and Spanish.</p>
<p>Jean Hughes General Counsel, North & South West Europe Atos IT Solutions and Services</p> 	<p>Jean Hughes joined Siemens (now Atos) IT Solutions and Services in November 2010 as Head of General Counsel Legal. She is responsible for the legal, contract management and compliance organisation throughout North and South West Europe</p> <p>Prior to joining Siemens, Jean was at eBay where she was UK Director of Legal and Public Affairs. She also took the role of European Commercial Director where she built a pan-European contract organisation. Before that, Jean held a number of senior positions within Fujitsu Services, including heading the legal function for the Public Sector and the Financial Services, Retail and Travel business units.</p> <p>Before moving to work in-house in the technology sector, Jean was in private practice in the City. After qualifying as a solicitor at Baker & McKenzie, she worked at Allen & Overly, Freshfields and Denton Wilde Sapte. While at Freshfields she built and led the knowledge management function for the IP/IT department. During her time in private practice Jean worked in Hong Kong, Singapore and Paris.</p> <p>Jean has a law degree from Cambridge University and has also studied Chinese at Taipei University, Taiwan. She speaks Mandarin, Cantonese and French.</p>

<p>Iain Larkins Mercedes-Benz</p> 	<p>Iain joined Mercedes-Benz in 1999 and has since held a number of different legal roles in the Mercedes-Benz UK group, before being promoted to the post of UK Group General Counsel and Chief Compliance Officer in January 2006.</p> <p>Iain is recognised as one of the most innovative senior General Counsel and has pioneered different approaches to managing and leading legal functions. In particular, Iain has developed metrics that measure the performance of the Legal department in line with the overall company objectives.</p>
<p>Ian Leedham Senior Counsel (Disputes & Commercial) National Grid PLC</p> 	<p>Ian has been involved in numerous re-organisations, mergers, acquisitions and outsourcing with National Grid and is responsible for a 45 strong team dealing with commercial legal matters, disputes, construction, IP, employment, health & safety, property and Global Records Management and Group IP portfolio. Within the department, Ian has been involved in various legal panel reviews and technology innovation within the Group and assisting other in-house teams.</p> <p>National Grid won the "In-house Legal Department Initiative of the Year" at the Legal Technology Awards 2006 and were recognised in The FT Legal Innovation Awards 2007 and 2008 and the only in-house entry shortlisted in the British Legal Awards Best Use of Technology 2006 and 2008. Ian speaks regularly on innovation and technology in the legal industry which are topics he feels passionately about.</p>
<p>Hank Udow Chief Legal Officer and Company Secretary Reed Elsevier</p> 	<p>Hank joined Reed Elsevier in March 2011 as Chief Legal Officer for Reed Elsevier as well as Company Secretary for Reed Elsevier PLC and Reed Elsevier Group plc.</p> <p>Prior to this appointment Hank was Chief Legal Officer and Company Secretary of Cadbury plc until its takeover by Kraft in 2010. A US citizen who is admitted to the Bar of New York State, he has been resident in London for the past 18 years. Having started his legal career as a securities and M&A lawyer at Shearman & Sterling in New York and London, Hank spent over 20 years at Cadbury where he acquired substantial experience managing global legal and M&A departments, becoming Chief Legal Officer and Company Secretary in 2005. In 2009 the National Law Journal named Hank as one of the 20 most influential general counsel in America.</p>
<p>Steve Cowden, Former General Counsel and Company Secretary, Reed Elsevier Group plc</p> 	<p>Steve Cowden is the former General Counsel and Company Secretary of Reed Elsevier Group plc, a leading business information provider and electronic publisher listed in the FTSE 100.</p> <p>Prior to joining Reed Elsevier in 2001, Steve worked in the pharmaceutical industry for over 20 years, latterly as Group Company Secretary of Glaxo Wellcome plc. He began his career with Beecham Group plc in 1977 and then with SmithKline Beecham plc.</p> <p>Steve is a member of the Law Society of Scotland, the CBI Companies Committee, the International Bar Association, the GC100 and is an alternate member of the Hearings Committee of the Takeover Panel.</p> <p>He graduated Bachelor of Laws with Honours from the University of Edinburgh in 1974 and is a Scottish solicitor, having been admitted in 1976.</p>