LexisNexis In-house Advisory Board

Discussion paper: Measuring the in-house legal team

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On 19 January 2012, the LexisNexis In-house Advisory Board met to share practical experiences of using metrics to demonstrate the value of the in-house legal team.

The following are the main points that arose during the discussion, which focused on the reasons for building metrics, what to measure, how to measure it, and practical lessons learned.

Why measure?

Self-diagnosis	Identifying trends and the current state of play, for example: • Workload • Spend • Staffing
Implementing strategic improvements	Gathering the information you need to build business-wide support for your management strategies, for example: • Maintaining headcount • Pushing work to the business • Outsourcing or insourcing • De-skilling or skilling up • Technology or further investment
Focus on reducing costs	A true focus on savings means keeping on top of data on costs or income, for example: • Monitoring volume of external spend, discounts and rebates under alternative fee arrangements • Building a platform from which to work closely with finance and procurement functions to achieve further savings
Increasing the influence of your legal function	Helping your legal team to become a key influencer of the business, for example through: • Demonstrating the value to the business of the legal team and its advisors • Showing that the legal function is working efficiently, and is fully in control • Using language that the business understands to show that legal is aligned with the business' goals
Developing and motivating your team	Measuring your legal team's output can develop and motivate individuals through: • Focusing members of the legal team on where they deliver the most value • Shifting culture towards pragmatic advice rather than private-practice style "copper-bottoming" • Emphasising the value of legal work to the wider business

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What to measure

Producing metrics can be extremely time-consuming. It is important to be clear on what you intend to do with your data once you have collected it, and how this relates to your legal team's wider objectives.

Common objectives	The ability to demonstrate: • Cost effectiveness • Productivity • Process efficiency • Cycle time • Quality and business satisfaction
Metrics that can support these objectives	*Staffing, for example:* • Ratio of lawyers to overall employees • Ratio of lawyers to revenue • Ratio of non-lawyers to lawyers within the legal team *Utilisation, for example:* • By which departments • Volume • Turnaround Time • Value to business (transaction size) *Income (if any) ,for example:* • Licensing • Litigation • Intellectual property *Costs, for example:* • Spend (internal and external) • Training • Know-how • Software *Compliance, for example:* • Percentage of managers who have attended relevant training • Percentage of contracts that include certain clauses • Percentage of people surveyed who know about compliance initiatives *Client satisfaction, for example:* • Employee engagement • Employee enablement • General satisfaction

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How to measure

The In-house Advisory Board focused its discussion on four crucial, but practically challenging metrics: staffing, spend, income, and client satisfaction.

Staffing and time-recording

Many legal teams are internalising work as a cost-saving strategy. Measuring the work performed by lawyers, and comparing these metrics to sector-based benchmarks (for example Rees Morrison's General Counsel Metrics survey) can help build a powerful business case for greater investment in the legal team where there is a company-wide freeze on recruitment, for example.

Crude time recording, coupled where possible with case management software, can generate metrics that are sufficiently detailed to support these aims.

Process-mapping

Lean process-mapping was originally developed to create greater efficiency in the manufacturing sector, but is now commonly adopted in other contexts.

One Advisory Board member had used this technique to refocus the legal team on its core purpose and to demonstrate that savings achievable through reducing headcount amounted to only one third of the consequent cost of greater reliance on external advisers. At a high-level, this project involved the following steps:

Break down the typical work process into broad categories	For example: • Take instructions • Undertake initial research • Apply findings to situation • Deliver advice
Gather high-level data from the team on how much time is allocated to each category	This can be as high-level as asking "How do you spend your day?" (The experience of answering this question can in itself encourage individuals to take responsibility for their own efficiency; they may never have looked at their workload in this light before.)
Determine how each category should be resourced	For example, you may wish to consider: • The number of FTEs dedicated to each category. • The level of experience necessary to perform each category.
Use the data to reshape the team	The data can lead to helpful conclusions on how the team should be shaped. It will also help persuade and reassure the CFO/FD of your strategy. The process can be revisited on a regular basis.

In this example a management consultancy was instructed to help the legal team work through this process. Crucially, the consultancy was also asked to train members of the legal team in lean process-mapping; enabling them to regularly review and maintain this efficiency drive without outside help.

Overcoming a cultural resistance to time-recording

The cultural resistance to time recording among in-house lawyers can be a serious obstacle to gathering data; even though the measurement is likely to be much less granular than may have been experienced in private practice. There can be a frosty reception to establishing metrics over individuals' work processes.

The In-house Advisory Board discussion revealed two approaches to overcoming this:

Avoid private practice terminology	Avoid terminology redolent of private practice management, and describe the process as "achievement recording" instead. This has proven effective, especially when coupled with an incentive program that rewards those who exceed targets in terms of response times.
Sell the benefits	Alongside this, it is important to continually sell the benefits of the process to members of the team. Depending on what you are trying to achieve, these benefits might include refocusing individuals on higher-value work, better communication of the value of the legal team to the business, or exposure of areas where greater support or training is needed; all of which can lead to greater job satisfaction. One advisory board member found it useful to keep repeating these "what's in it for me?" messages, particularly if the team initially remains sceptical.

Solely focusing on the speed at which work is performed can improve response times at the expense of the quality of advice. Therefore it can be important to gather metrics around compliance and client satisfaction as well as time recording (see below).

Spend and the value of external lawyers

Measuring the value of external spend

The following are examples of KPIs for panel firms:

- Actual cost versus work estimate
- Accuracy of case plan/efficiency/transparency of cost info and cost-consciousness
- Added value (no of hours) v net spend with each firm
- Understanding our needs (rated 1-5)
- Cost of outsourcing versus insourcing
- Inclusion and diversity statistics
- The cost of secondments
- Knowledge management (such as the provision of extranets)

Law firms are usually able to self-report in these areas. Once a template is established, the process can be managed by secretaries.

The way in which financial data is stored and reported can make a difference to its practical usefulness. One Advisory Board member stores this information in Sharepoint; but it is also visible through a dashboard on the legal team's intranet. Crucially, this allows real time visibility of spend on each firm, alongside rebate thresholds (allowing the legal function to spend with one firm rather than another if a greater rebate is available).

Using procurement to help achieve granular metrics

How an organisation responds to cost can vary greatly depending on how the cost is categorised. For example, it can be relatively easy to find £200K to spend in the context of an already large project; but at the same time impossible to get approval to hire a single lawyer.

In order to pull together meaningful information on internal and external spend, and to show how it relates to business value, financial data must be subjected to detailed coding. Otherwise spend can become "invisible" and hard to justify.

One approach is to make sure that all invoices are properly coded within spreadsheets. It can also be useful to engage the procurement function to help gather granular information from external advisers. This can also preserve the relationship between the legal team and the law firm; you can avoid asking nasty questions. For example, a procurement officer might typically present the lowest and highest rates charged to the company, indicate where the law firm is and ask how this will be improved. This achieves another level of saving and sets rebate thresholds at a better level.

However it is crucial that the legal team retains the final veto over which firms are engaged. This will help ensure that there is a focus on the quality of external advice as well as costs.

Savings and income

One approach to demonstrating value is to measure any financial gains that the in-house team may have generated, for example through avoided litigation costs, increased savings, or actual income generated.

A degree of creativity can be required. One approach is to calculate the cost of litigation compared to the cost of not proceeding (software models can help generate these figures).

As a way to encourage a cost-saving culture, one Advisory Board member records all savings (however small – including decreased printing costs for example) in a "savings log"; and the team is rewarded for contributing to this.

Another Advisory Board member realised that various business units (some of which were no longer part of the corporate entity) were storing documents within a facility that fell within the legal team's remit. Instead of attempting to increase efficiency by outsourcing record management, the legal team managed to generate around £50K a year by charging for the storage space.

Client satisfaction

Employee surveys are a crucial way to demonstrate the value delivered by the legal team.

One Advisory Board member uses free survey software to gather feedback on both internal and external legal advice. The survey focuses on the following areas, which are measured and reported on a quarterly basis:

- Engagement
- Enablement (ie do you have the right tools to be independent where appropriate)
- Measures around culture (such as training, recruitment and retention)
- General satisfaction (a 1-5 rating in terms of quality, timeliness and ease of understanding and applying advice)

Practical lessons learned

The Advisory Board distilled five core considerations for an in-house lawyer embarking on a metrics project:

Don't be afraid	Discard any preconceptions that lawyers are just "word" people. You can build powerful metrics that influence the rest of the business.
Be conscious of the time commitment	Try to get as sound a starting point as possible – for example, law firms, procurement or finance can often quickly provide basic information.
Be very clear on your objectives	Don't create metrics for the sake of it. Focus your efforts on the data that really matters to you. One Advisory Board member quoted Einstein: "Everything that can be counted does not necessarily count; everything that counts cannot necessarily be counted."
Beware of unintended consequences	Keep an open mind and be prepared to challenge your own assumptions about the best route to efficiency.
Use industry benchmarks	Benchmarks help you answer the question "Am I normal?" and play a significant role in business cases.

Useful links

Rees Morrison - General Counsel Metrics benchmarking; and Law Department Management blog

HBR Consulting Law Department Survey

Lean Six Sigma (Wikipedia)

Business process-mapping (Wikipedia)

Nabarro case studies

The LexisNexis In-house Advisory Board

Clive Davies **Senior Counsel, Fujitsu Services** 	Clive is a senior counsel with Fujitsu Services advising on major service contracts with customers especially in the public sector. 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. 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. 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 Intellect contracting best practice working group.
Isabelle Deschamps **Head of Legal & Company Secretary** **Nestlé in the UK and Ireland** 	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. 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. Isabelle is qualified to act as a solicitor in Canada (Quebec) and England and is fluent in English, French and Spanish.
Jean Hughes **General Counsel, North & South West Europe** **Atos IT Solutions and Services** 	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 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. 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 & Overy, 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. Jean has a law degree from Cambridge University and has also studied Chinese at Taipei University, Taiwan. She speaks Mandarin, Cantonese and French.

Iain Larkins **Mercedes-Benz** 	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. 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.
Ian Leedham **Senior Counsel (Disputes & Commercial)** **National Grid PLC** 	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. 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.
Hank Udow **Chief Legal Officer and Company Secretary** **Reed Elsevier** 	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. 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.
Steve Cowden, **Former General Counsel and Company Secretary, Reed Elsevier Group plc** 	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. 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. 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. He graduated Bachelor of Laws with Honours from the University of Edinburgh in 1974 and is a Scottish solicitor, having been admitted in 1976.

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