

LexisNexis In-house Advisory Board

How to recruit and retain talent

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On 2 July 2015, the LexisNexis In-house Advisory Board met to discuss the topic of recruiting and retaining talent. The discussion focused on strategies for General Counsel to help lawyers develop and realise their potential and the importance of the team's culture both for retaining lawyers and attracting new recruits. The session was planned by Paul Gilbert, Chief Executive of LBC Wise Counsel and facilitated by Ian White, Consultant with LBC Wise Counsel.

Key topics discussed and covered in this paper:

- Personal development and career potential.
- Secondments.
- The importance of honesty.
- How to create a culture that encourages retention and recruitment.
- How to appeal to and hire great talent.
- Building a learning and development framework.
- How much of a motivation is pay?
- Conclusions.

Introduction

There is not one right way to recruit and retain talented people. Every role is unique according to time and circumstances. Businesses have to adapt their strategies to thrive and the same applies to the in-house legal team when it comes to recruitment and retention. Successfully finding and keeping the right people isn't just about HR policies and process; it is essential to have a clear purpose for the legal team and a vision of the roles and behaviours needed in the team to deliver value to the business.

In-house vacancies are being filled increasingly quickly. To recruit the right person for the job in this competitive market it is important to have a clear idea of what is needed from the candidate and be able to sell the team, the business and brand to them.

Personal development and career potential

The Board opened with a discussion on whether the key issue is getting and keeping the right people or if it is about managing people to move on elsewhere. It was agreed that it is possible to keep people but in order for them to grow and develop they need to be kept moving. The real issue is therefore how to help people achieve their best.

Development has to be active and it has to be planned. The role of General Counsel is not to take charge of the development of

“Having a clear purpose for the legal team is key”

each individual in their team; instead, it is their job to provide opportunities and encourage people to participate in their own development.

The discussion flagged how lawyers in private practice tend to be competitive, work alone and are driven by fees and achievement. When they move to an in-house role it can be hard for them to adapt to an environment where team effort is all-important. Similarly, it can be hard for ex-private practice lawyers (as well as younger, more inexperienced members of the team) to appreciate that in-house are business people and not just lawyers. It is important that development goals are set in place to reflect a lawyer's expected contribution to the business and the team.

“Development has to be active and it has to be planned”

Having a conversation with direct reports about how they see their careers progressing is an important part of encouraging their development. The Board highlighted a number of ways to engage in this conversation and provide support:

- Don't wait for the discussion to arise in passing: make time to explicitly discuss career development.
- Annual reviews. Employees shouldn't be leaving because they have become stale or aren't contributing effectively. Ensure annual reviews include an opportunity to discuss plans for improvement and moving on. Annual reviews shouldn't contain any surprises though – don't save up issues that ought to be addressed when they arise.
- Use praise. This is the easy part of supporting direct reports.
- One-to-one meetings: fortnightly or monthly. Make it an ongoing situation, always checking on objectives and development. Don't just focus on workload – also use this time to get to know each other.
- Manage expectations through performance reviews. Remind lawyers that if they're not performing it will affect whether they get a pay increase or bonus, etc. Ensure they know that there is no direct career route
- Not everyone wants to move on. If they're performing well, then acknowledge this and discuss ways in which they can stay where they are and still contribute effectively to a changing business.
- Don't neglect those with low ambition but high potential in favour of those with high ambition. They perform well but may see the interesting, more challenging work go elsewhere. To provide them with extra attention, suggest a two-part performance review to discuss career development.

The Board agreed that one of the areas that lawyers moving into business struggle with is benchmarking themselves. Unlike in private practice, PQE years isn't a benchmark for in-house. This is one of the reasons why discussions around progression and development are integral to motivating and retaining people. However, sometimes a discussion may not fulfill some people and they may need to move on and do something different.

“Secondments are two-way ... the legal team may get double the person back”

Secondments

The Board went on to explore secondments as a way of assisting lawyers to develop their careers. Secondments provide an opportunity to move to a different area within

the business (or within sub teams of the legal function) and develop new skills. They can be particularly useful if someone is becoming stale in their current role but there is no opportunity to move up or within the legal team.

The Board agreed that experiencing another part of the business can make for a better lawyer. It provides an understanding of the commercial side of the business: a key part of the in-house role is delivering value back. Secondments also give an appreciation of the business as a whole so that lawyers work collaboratively with other departments rather than in a silo. (Of course, it also works the other way and experience in the legal team can be a solid grounding for moving into a pure business role).

Secondments are two-way. It is important to remember that knowledge isn't lost when someone is seconded; they're still in the company and the legal team may get double the person back. The Board acknowledged that secondments sometimes happen because the GC wants to placate an employee and give them a sense of movement. However, secondments can also bring the GC kudos for positioning staff in certain roles. Whatever the incentive, the Board agreed that GCs have to be engaged in the secondment process in order to manage the absence and minimise any impact on the team.

“A culture of honesty is essential for managing expectations about career opportunities”

The importance of honesty

The Board discussed the condition of the in-house market and the impact it has on career opportunities. The in-house lawyer role can be good for progressing along the career path more quickly, particularly compared to private practice. When alongside the management team, in-house lawyers are often the youngest in the room with a senior position. However, it was agreed that the current market is tough.

Lawyers approaching retirement are reluctant to look for alternative roles and leave companies in a post-recession environment. A junior lawyer who can't get promoted because their GC is content in their position and doesn't want to leave is another common scenario. How can the business retain talent in such an environment?

It was agreed that a culture of honesty is essential for managing expectations about career opportunities. GCs need to be transparent that there is no clear, guaranteed route through the team structure. If a GC has a real star in their team it is difficult to think about losing them; however, the GC should still be honest if they have no intention of making space by moving on. This honesty should be present in all conversations, especially in performance reviews, and come from both the GC and their report.

Honesty is about acknowledging where opportunities don't exist and then seeking out where they do. The Board felt that GCs have a responsibility to help employees develop and progress. It should be expected even if the opportunities available are recognised as limited. Formal and informal development should be institutionalised and transparent. This is central to retaining talent in the team.

“Create a distinctive culture as this can help when hiring future staff.”

How to create a culture that encourages retention and recruitment

The Board considered whether a culture can be created that enhances and supports retention and the recruitment of the right candidates. The culture of the legal team can be different to that of the wider business but there needs to be some shared vision. Points to consider when creating and implementing a culture include:

- What can you create, with what you've got, to attract talent?
- Create a distinctive culture as this can help when hiring future staff.
- In terms of what appeals, much depends on the role that is being filled. For example, junior lawyers could be more interested in a role due to the hype of the brand or the style of the offices rather than the role itself.
- To help legal rise up the value chain, prove yourself to other teams in the business.
- Try to play to your strengths and value your weaknesses.
- Defend your team to the CEO. If someone is held accountable for a mistake, step in and take the flack by stating you're responsible for the team and you'll deal with it. Without this the trust of the team can be eroded.

The Board agreed that it is incumbent on the GC to work out how to implement a culture in the team and, ultimately, to drive it.

“People often come to a business on the strength of the brand and not because of the role”

How to appeal to and hire great talent

The Board explored how brand is core to a recruitment strategy. People often come to a business on the strength of the brand and not because of the role. A Board member gave the example of a GC who had recruited someone on the strength of their offices – they had a reputation for being better than Google's!

To hire talent, GCs need to engage with the type of people they want to hire and sell the quality of the work and the culture of the team. In-house has an advantage in that people are often trying to get away from private practice. The Board suggested a number of tactics for recruiting the right talent to the team:

- Emphasise how the hours are better than private practice – the work can be demanding at times but there is greater flexibility.
- Resist making salary offers just to capture a candidate. Make offers based on what people in the team are already being paid – this makes for a fair system.
- Discuss the grades system and opportunities for progression. Be prepared to answer the question “Where am I going to be in 6 months to 2 years' time?”
- Bring someone senior into the interview to demonstrate how serious the process is.
- Are they going to fit with the culture? They may be able to do the job but that's not enough if they don't fit in with the culture of the team.
- Psychometric testing. This can be startlingly accurate and help identify strengths and weaknesses. The Board had mixed feelings about these tests though; some members argued that they simply confirm what you already know about someone and can't be validated.
- Insights testing is a good way to categorise people, for example to find out whether they are an analyst or a team player. It can highlight how they would fit in the structure and if they would work well with the team.

Building a learning and development framework

Having a framework in place for learning and development is important both for retaining existing employees and for attracting new ones. The Board shared practical insights for

“Be clear not just about objectives but also the behaviours that are expected”

putting in place a framework that motivates teams and serves the business:

- Be very clear about a role and how it should develop. Be clear not just about objectives but also the behaviours that are expected to be demonstrated.
- Ensure that the objectives of the legal team fit in with the business' overall objectives. What does the business need to deliver and how does legal support that? One effective method is for the CEO to set objectives, followed by the directors, and then have this cascade down. Business-relevant objectives will ensure the team doesn't lose sight of what the business is about.
- Each objective should be assessed by the manager and the employee. Use a simple model for doing this: does the objective help the business?
- Team buy-in is important so make sure they can see how objectives apply to them and their contribution to the wider business.
- Objectives should be agreed early in the year so there is plenty of time to achieve them.
- Set closing dates for objectives with consequences (eg no pay rise or bonus) if they're not submitted by that date. Create discipline around the objective setting process.
- Consider using long-term objectives. This approach, however, needs to come from the top down.
- Break down large objectives (eg that cover a substantial transaction) into several bullet points.
- New employees will take some time to find out how they can prove they're doing a good job. Be prepared to answer direct questions for a few months and take time to have conversations with them.

In most businesses, objective setting tends to be within the framework of generic HR materials. The Board highlighted that it is essential to tailor these materials for lawyers so that they resonate. For lawyers, a strong competency framework (devoid of management speak) can be helpful. It was acknowledged though that what is most important is a plan to develop skills through formal training, mentoring and on-the-job experience.

"In-house budgets are seldom high enough to use pay as a means of solving issues"

How much of a motivation is pay?

Learning and development structures are in place and conversations have been had around career potential, but how much of a motivation is money?

Pay can be a controversial topic. Pay levels will rarely be the sole reason that someone either joins or leaves an organisation. In-house budgets are seldom high enough to use pay as a means of solving issues. Objective-based bonuses are not always motivational and can sometimes skew behaviour in an undesirable way.

All of this emphasises the importance of developing alternative strategies for recruitment and retention. The Board agreed that the best advice is to consider how the whole experience of the role adds value to a lawyer and makes them more valuable in the market – this can be far more significant than money.

Conclusions

Ultimately, the GC is not solely responsible for managing the careers of their team. They are not responsible for the career choices people make or for forcing people to be active in their development. However, the GC does have an important duty to provide opportunities and to motivate and encourage people to participate in their development. The Board's discussion highlighted how recruiting and managing are big responsibilities and that a GC must have stringent plans in place to integrate, mentor and develop their team.

Retention is all about honesty whether in relation to salary, development potential or opportunities for career progression. It is inevitable that lawyers outgrow roles if their roles don't change. If it is time for someone to move on because there is no opportunity to progress then it is important to be open about that. Helping a lawyer take on a role more suited to their talent can be the best thing to do. Whilst losing talent isn't ideal, if a lawyer leaves for a bigger and better role it is a good thing and should be celebrated.

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About Ian White

Ian is an experienced Chief Legal Officer/Company Secretary for both listed & major private companies and he has worked across sectors including financial services, retail and construction. He acts as consultant specialising in corporate governance for boards and in-house legal team management and performance. Ian has a particular interest evaluating board performance. As well as being a lawyer, Ian has an MBA from Ashridge Business School and he has recently trained as a coach completing the Professional Coaching Skills Certificate run by Coaching Development and accredited by the International Coaching Federation. Ian acts as a coach and mentor to a number of individuals.

In addition to undertaking work for LBC Ian has experience as:

- an Associate of Karen Walls Associates, a consultancy specialising in leadership and organisational behaviour;
- a Visiting Lecturer at Ashridge Business School.
- an Associate of Winmark who run the Chief Legal Officer Programme. Ian runs courses on corporate governance and legal risk management for a number of organisations.
- Ian is the author Managing Business and Legal Risk In House Best Practice Guide 2013 for Winmark.

In his spare time, Ian is currently an Interim Chief Legal Officer for a financial services organisation and a Trustee of Fitzroy, a charity for people with learning disabilities.

About Paul Gilbert

Paul leads many of LBC's significant projects and lectures widely at events and conferences in the UK, Europe, North America and South Africa. Themes include legal services strategy, skills development and the changing face of the legal profession.

Paul qualified as a UK solicitor in 1987 and for much of his career he was an in-house lawyer. Paul was the General Counsel in two major UK financial services companies and held positions as chairman and chief executive of the national in-house lawyers Commerce & Industry Group. For six years Paul was a Council Member of the England & Wales Law Society and was elected to the Society's Main Management Board. Until 2014 he was also Vice-Chairman and a Trustee of LawWorks, the UK's national pro bono charity.

Paul is a successful author with six books and over one-hundred published articles in the UK, Europe, North America and South Africa.

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