



## **The Ultimate Business Partner: 10 Strategies for In-house Counsel Success**

**Law Department Management**

**Skills and Professional Development**



When in-house legal departments get it right, they are valued as trusted advisors and business colleagues. Although legal plays a critical control function, it is also an enabling function and the organization must appreciate both roles. Corporate lawyers cannot be seen as inveterate “nay-sayers” or “the sales prevention department.” While they have subject matter expertise, in-house counsel must be seen as being true business colleagues who collaborate with others to drive the business forward and deliver results.

## **1. Enable the rest of the organization.**

Legal departments can’t and don’t exist in isolation; they must always serve as an enabling function to the main business. They don’t drive the business and they cannot set the agenda for the larger organization. So, as a starting point, lawyers must learn the business. Then, lawyers must be consummate teammates. They cannot think of themselves as being different than or separate from the company.

## **2. Act as a “partner to the business.”**

Lawyers must be experts, but they will not thrive simply by giving legal advice or providing legal services. An organization should hire lawyers to help drive its business forward and deliver business results.

To borrow a phrase from [Ben Heineman](#), the longtime GC at GE, in-house lawyers should be a “partner to the business.” They must be at the table, working shoulder to shoulder with their management colleagues, helping to craft strategy, develop plans, manage projects, and refine tactics. They must hone and use their business judgment. They must collaborate enthusiastically and

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find ways to solve — or, better, avoid — problems that might impede the business's progress.

### **3. Serve as a “guardian of the organization.”**

There is, however, a second role for lawyers to be what Heineman calls a “guardian of the organization” and that can sometimes conflict with being a partner to the business — Integrity is crucial. Lawyers must take a longer-term view and sometimes rise above the fray to identify risks to the organization's reputation.

Wearing this hat, lawyers must serve as stewards for the organization, including its owners and stakeholders, and the lawyers must protect the organization's most important assets, lest it fall into ethical quagmires like the ones that overcame Enron, Lehman Brothers, Livestrong, Tyco, Volkswagen, or WorldCom.

In practice, this means being prepared to be the sole voice to speak up on a matter. It can be an uncomfortable but necessary role.

### **4. Balance being partner and guardian.**

The roles of partner and guardian are conceptually distinct but overlap in the day-to-day life of every senior leader in an organization. It is inevitable that these functions will sometimes come into conflict. To reconcile those competing interests, the legal department — and, by extension the entire organization — should focus on what Heineman suggests should be the fundamental mission of any entity, to achieve the “fusion of high performance with high integrity and sound risk management.”

Armed with this mantra, both lawyers and their business colleagues should be able to pursue business goals vigorously and enthusiastically in a culture of high performance, while recognizing the absolute necessity of always maintaining the highest standards of integrity.

One of the keys to this balancing act is to stay focused on sound risk management, which should help identify material risks and allow the business to choose when to avoid, eliminate, mitigate, insure, or accept those risks as it pursues its agenda. Lawyers are uniquely qualified to bring valuable insights and judgment to those risk management conversations.

### **5. Be truly great partners, in all respects.**

Lawyers should approach their work in a spirit of true partnership, and that spirit should extend to their legal teammates, their business colleagues, and to external service providers.

Members of a legal department need to see themselves as members of a single cohesive team, committed to the same goals, and all seeking the best way to help deliver results. That spirit of teamwork needs to be reflected in a culture of mutual support and service to each other, where lawyers don't work in silos and aren't afraid to step out of their specialized area to help their colleagues.

Lawyers need to understand that their work is fundamentally intertwined with the overall mission of their organization. Lawyers need to find opportunities to get to know their colleagues and to learn about problems early. Then they must find answers, get to the point quickly, and share their colleagues' focus on obtaining the best possible business outcome.

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The same spirit of partnership should also be extended to external law firms and other service providers. The organization and its external partners need to trust one another, confident that they are pursuing common goals, with mutually acceptable outcomes for both sides. There needs to be a fair and transparent allocation of risks and rewards, with processes, procedures, and platforms designed to deliver the results that matter to the organization at a price that reflects fair value for the work done.

## 6. Focus on what matters.

Legal departments should enhance their efficiency by selectively reducing the amount of legal work they actually perform. Not all issues are of equal importance; some problems can be left unexamined. Lawyers need to look for ways to “skinny the file,” to eliminate unnecessary pieces.

Lawyers need to remain curious and to continuously learn about how the law and their organization’s business interact. The goal of business-savvy lawyers should be to deliver practical assistance rather than fancy memoranda — that is, to quote Jo Rogers of NaviStar Legal, “affordable legal [wisdom](#),” rather than “expensive legal advice.”

Not all legal solutions need to be elegant; in many cases, simple and effective will suffice. Lawyers must also keep a focus on the business as a whole: there is no such thing as “a good legal outcome” if it has a bad financial or publicity result. There can only ever be “business outcomes” where all aspects of a decision are assessed together.

External service providers, of all types, need to understand and share this focus on what really matters to the organization. Typically, the drivers of value will be “the 3-E’s”: Effectiveness, Efficiency, and the quality of the Experience.

In most cases, the price paid for the work should be directly correlated with the value of the work. More often than not, billing arrangements should depend on something other than “billable hours” because there may be very little correlation between the hours spent and the value of the ultimate work product. Whenever possible, third party arrangements should be structured to share both risks and rewards, with a true win-win partnership approach.

## 7. Know when to pause and reflect.

Lawyers are frequently engaged in complex, stressful situations. It will often be useful to ask for help, and the importance of stopping to engage in deliberate reflection increases exponentially in the context of difficult choices.

It is critical to recognize when one’s natural instincts and blind spots — what social scientists call “[cognitive biases](#)” — may be leading to an erroneous conclusion. This will be especially important when the abovementioned dual roles of the legal department come into conflict.

In these moments, it can be incredibly valuable for a lawyer to pause, to take a moment to deliberately analyze and discuss a problem with another colleague, or, equally, for a colleague to feel able to challenge a preliminary judgment made by someone else. This atmosphere of give-and-take discussion and a spirit of mutual support should help make difficult decisions easier, lead to better choices, and help manage the stress that in-house lawyers might otherwise suffer if left entirely on their own.

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## **8. Use structure to optimize the role of the in-house lawyer.**

The highest and best use of in-house lawyers is to stay close to their business colleagues to provide higher level, strategic, and structural advice on how to prevent, avoid, and manage legal risk. This role should be given priority over other less valuable uses of time. In order to free up the time of internal lawyers, they need to find ways to get day-to-day legal work done as efficiently and effectively as possible.

To this end, they need to act as “process designers,” figuring out what needs to be done and the fastest way to do it. Where possible, work should be broken down into its component parts and each task assigned to the most efficient platform. Depending on the particular task, this might involve the use of technology, non-lawyers within the company, external service providers, outside lawyers, or the in-house lawyers themselves.

But, more may be required. No matter how diligently lawyers try to focus the use of their time, the management of the legal department — like any department within a larger organization — will always include responsibilities and tasks that go beyond the core legal function. In many cases, it will make sense to free up internal legal resources by developing a “legal operations” function, the purpose of which is to maximize efficiency around the legal department’s activities other than the actual provision of legal advice. Depending on the circumstances, legal ops might take responsibility for:

- Budgets and financial reporting;
- Communications;
- Data and metrics;
- HR matters;
- Knowledge management;
- Learning and development;
- Project management;
- Strategic planning;
- Technology and tools; and
- Other ancillary activities.

## **9. Be a great teammate**

The culture within the legal department should reflect the best elements of a strong team: collaboration, collegiality, empathy, honest and open communication, mutual respect, a good work ethic, a fun environment, and a desire to share knowledge and expertise and help others. In addition, the culture must be open to change and should strive for continuous improvement. Lawyers need to be receptive to change and new approaches and willing to embrace novelty and be tolerant of failure. Lawyers should be constantly assessing, reviewing, and seeking ways to do things faster, better, or cheaper.

## **10. Maximize the impact of a lawyer’s judgment**

Lawyers are specialists with an important legal perspective, but they are most effective when they translate that expertise into the business context and participate as full business colleagues. At more senior levels, a lawyer should act as a sort of “consigliere” or trusted adviser. At their best, lawyers need to deliver “general counsel” in the broadest sense of the term, providing advice, counsel, and perspective that reflects legal considerations.

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They also need to show a thorough understanding of business goals, as well as issues relating to communications, customers, employees, HR, investors, politics, stakeholders, etc. When dealing with their non-lawyer colleagues, lawyers must be problem solvers, and not merely problem spotters. Ideally, lawyers should find ways to prevent or avoid problems entirely. This kind of proactive legal risk management can be the highest value for an in-house lawyer.

## **Conclusion**

The legal department should structure its work to allow lawyers to use their judgment most productively, and not waste time on repetitive or routine tasks that can be accomplished in other ways or by other people. Perhaps the most important role for lawyers is to serve as wise counsellors bringing their strong legal judgment to bear in identifying issues that might compromise the organization's high integrity or its sound risk management.

Trust is what sustains organizations. Where there are concerns that go to reputation and integrity, the lawyers must fulfill their duty to serve as a guardian of the Organization because no project, no contract, and no deal is important enough to sacrifice the business's reputation or the trust imposed in it by its stakeholders. The first question may be "Is it legal?", but the last question should always be "Is it right?"

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Martin T. Guest is a seasoned general counsel, with two decades of in-house experience, most recently at one of Canada's largest financial services companies. Throughout his career, he has approached his work in the spirit of collaboration and partnership.

