Measure Your Impact: 8 KPIs for In-house Teams

Law Department Management

Lawyers live in a world where performance is paramount. Clients and business colleagues demand quality advice delivered in a commercial and timely manner. Law firms market themselves on the range of expertise at their disposal and in-house lawyers pride themselves on their ability to use the

law as a device to help move their businesses forward. We see in-house teams win industry awards, hear of individuals referred to as "great lawyers," and listen at conferences to GCs sharing their expertise of how best to run an in-house function.

But these determinations of what is "good" or "great" are usually subjective. While there is nothing wrong with subjectivity, it seems strange that one rarely hears much about any objective measurement of what constitutes "good lawyering." Objective measurements of quality can serve to reinforce, complement, or even challenge subjective views, which cannot be a bad thing.

The legal profession is awash with talk of artificial intelligence (AI), workflow technology, data analytics, project management, and automation. The focus of these discussions is usually about how legal work can be carried out more efficiently. However, we also see opportunities for in-house legal teams to use these resources to develop Key Performance Indicators (KPIs) for the objective measurement of performance.

We released a report that explored a range of metrics that in-house teams may wish to consider using as a performance measurement and improvement tool. Here we summarise these KPIs, which can provide in-house lawyers with a helping hand in getting used to talking about performance in numerical, or at least data-driven and measurable terms.

KPI #1: Cost

Like it or not, the disadvantage for in-house lawyers compared to their private practice counterparts is that they are seen as a cost centre. That's why it's important to have a sense of whether your budget is appropriate for your team, so you can not only justify that cost but also demonstrate the return on investment that arises from it. You might want to measure:

- Your internal spend compared to your external spend;
- The extent to which your internal spend is fixed or variable;
- The size of your external spend against industry averages; and,
- The size of your in-house team against industry averages.

KPI #2: Risk problem

Risk management can often get tricky when the in-house legal team is left to determine their company's liability position under a particular contract. This is an area often left to the subjective judgment of the in-house lawyer, which can lead to an inconsistent approach across hundreds or even thousands of contracts. A more consistent and objective approach could include:

- Agreeing a corporate risk profile with your board to encompass a range of standard and fall back positions on liability (caps, exclusions etc.) across a range of contracts your organisation typically enters into;
- A process for both the business and in-house legal team to follow ensuring issues are appropriately escalated and approved if it is necessary to go outside of these parameters;
- Setting a target risk profile for each type of contract; and,
- Auditing a sample of executed contracts every three to six months.

KPI #3: Enable self-help

The days of in-house legal trying to do everything themselves are gone. Businesses are too complex, too dispersed, and too fast for every piece of paper with legal implications to pass over the in-house lawyer's desk. Although lawyers prefer to maintain control, there is now recognition that the all-controlling approach is neither pragmatic nor feasible. However, the rest of the business cannot be expected to be legal experts, which is where in-house legal teams enabling their business colleagues to "self-help" comes in. We suggest:

- Designing simple self-help tools and processes for the business to use and follow (e.g., templates, playbooks, automated contracts, standard disclaimers);
- Monitoring the use of these tools by the business (i.e., if you provide the marketing department with a competition T&Cs template, measure how frequently it is used, or not, for competitions and promotions);
- Measuring the amount of in-house time freed-up as result of self-help; and,
- Measuring the impact on your business. Does it speed up the businesses' ability to — using the above example — run competitions and promos due to lack of need to wait for legal resource?

KPI #4: Turnaround times

Speed of performance alone is not an effective measure of good performance; in fact it is a dangerous one if used without context and likely to increase a company's risk profile. However, in today's sophisticated in-house legal team, it no longer seems appropriate to allow each lawyer within a team to respond within what they subjectively might consider is a reasonable timeframe. What often frustrates internal clients of the in-house legal team is not so much the time it takes for a substantive response, but the disappearance of their work request into a legal black hole due to the lack of a response or acknowledgement. It's frustrating. In-house lawyers wouldn't tolerate that from their external providers and should hold themselves similarly accountable to notify their internal clients of when they can expect a substantive response. Appropriate measurements may include:

- A pre-agreed time period for acknowledging new instructions;
- A "target time" for a substantive response;
- Measuring performance to SLA standards across the in-house legal team; and,
- Identifying reasons for an inability to meet SLA times and, where possible, address factors which result in inefficiency (e.g., poor instructions resulting in additional in-house time required to get proper instructions).

KPI #5: Activity measurement

All in-house teams we meet at Lawyers On Demand (LOD) are busy. The challenging, and not

always popular question we suggest they ask themselves is "are you busy with the right work?" We recommend analysing lawyer activity, not to measure busyness, but to measure if time is being spent in the right places and, interestingly, whether different parts of a business use the in-house team in an inefficient way. You might want to think about:

- Defining five to 10 types of lawyer activity (e.g., email, internal meetings, negotiating with third parties, and so on);
- Asking lawyers to record their activity and generate reports displaying individual and aggregate activity;
- Identifying which types of activity are "lawyer-heavy" and which are "lawyer-light;"
- Identifying patterns or inconsistencies with how lawyers spend their time with different business units; and,
- Aim for a consistent approach both by lawyer (or level of experience of lawyer) and type of work.

KPI #6: Assessing quality

The strength or not of a particular lawyer or in-house team may depend on the subjective view of the GC. We think that the academia approach to peer review is of interest here, where the research findings of even esteemed academics are subject to a peer review process prior to publication to check, test, and verify their findings. While we're not advocating peer review prior to release of advice, we question whether in-house teams consider whether it would be worth submitting samples of work for peer review. You could consider:

- Internal peer-to-peer review within the in-house team;
- Using an external supplier;
- Enabling a cross-departmental review by partnering with another in-house team; and,
- Using a scorecard to measure consistency of performance across the team.

KPI #7: Team churn

What does a good in-house legal team look like? The team that stays together for years (close knit or unambitious)? The team that churns like an empty stomach (fresh talent or not staying for a reason)? Something in-between (sounds like a good balance or too simplistic)? The team that sticks together grows more experienced together, although this will mean that it becomes more expensive to do more junior tasks. However, an overly inexperienced team is likely to require a lot of supervision, meaning the more experienced lawyers produce less tangible output. Admittedly a harder measure to accurately put through the objective magnifying glass. Perhaps think about:

- The number of lawyers on the team and your ideal "fantasy legal team" spread of experience/expertise;
- How you measure up against your ideal team year-on-year;
- Measuring churn to see if there are patterns;
- Asking the same questions for lawyers who remain with the team for longer than the average

churn rate; and,

- Identifying if you need to be keeping lawyers for longer or losing lawyers quicker, depending on your target fantasy legal team.

KPI #8: Client scorecard

There's no getting away from it for in-house teams, whilst sometimes the demands placed on them can be intense and their work is usually well regarded by the board and senior management, in-house teams are a cost centre and it does matter what internal clients think of their work.

Don't be fooled into thinking that only the GC's view counts. While the views of in-house clients should be filtered appropriately and recognised as subjective, they should nevertheless be taken into account. As well as buying goodwill by putting themselves out there, in-house teams can learn from the output of a client scorecard. You could:

- Identify appropriate characteristics by which internal clients may assess the in-house team (and don't major on technical legal strengths), such as approachability, friendliness, pragmatism, commerciality, willingness to help, effectiveness at closing, ability to manage stakeholders, speed of delivery, and managing expectations;
- Measure scores by lawyer and by internal client function;
- Measure if there are inconsistencies across client function and assess why. Are they lawyer generated or client generated;
- Consider a simple net promoter "would you recommend [person]?" question; and,
- Measure how the scorecard improves, worsens, or remains constant year on year and identify reasons for this.

Without wishing to over-simplify, if an in-house team can implement some of these KPIs (or any of their own creation) with the effect that: (a) the aggregate volume of legal work being carried out within the business is sped up and/or reduced (either because it no longer needs doing, is done more efficiently, doesn't require legal resource, or is given proper focus); (b) at the same time the organisation's risk profile does not increase and over time becomes more consistent; and (c) legal costs remain at a level appropriate for the business (admittedly not an easy concept to agree on), then that will be a big step in the right direction for many teams.

It's our bet that the data output generated by the adoption of KPIs like these will in most cases support the in-house team's own subjective assessment of how good it really is. That might beg the question, "well what's the point"? Well it's LOD's view, based on the conversations we have with our clients and the pressures they talk to us about, that the GC shouldn't be satisfied with subjective measurements of quality — and, even if the GC is so satisfied, he or she should realise that their CEOs and boards will give far more credence to an annual assessment by numbers rather than simple gut instinct. If that's what it takes to achieve success in the annual budget setting debate, and to take the focus away from in-house legal as a cost centre, then it will be time well spent.

We're in a privileged position at LOD to discuss issues like this with a wide range of our in-house

clients and we've seen many different ways of implementing KPI measurements. If it would be helpful to chat in more detail about some of the ideas discussed here or other examples of in-house best practice that we've come across, do get in touch.

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