Legal operations

How to do it and why it matters

juro

Juro on legal operations

Juro is an end-to-end contract management platform, designed for the modern business. We help legal teams make contracts faster, more collaborative and more human.

We regularly publish actionable insights for legal teams on our blog, which you can find at blog.juro.com.

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Dense legal disclaimers aren't part of who we are. But we should note that all of the views expressed in this book are the authors' own and not those of Juro nor those of CLOC.

Any questions? Please contact hello@juro.com.

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Foreword

BJARNE TELLMANN

General Counsel and Chief Legal Officer, Pearson

Legal operations might represent the culmination of a huge mindset shift across in-house legal - particularly since the global financial crisis - but it only reflects the broader landscape of wholesale disruption across almost every industry and sector. Automotive manufacturers are reimagining their production lines for electric and autonomous vehicles; financial institutions are rebuilding process for the age of cryptocurrencies; even at my company, Pearson, the transition from print to digital publishing has required profound change at every level of the business. Against this backdrop, legal operations is the logical conclusion of our desire and our mandate as in-house lawyers to be more efficient, more cost-effective, and above all to deliver the best level of service to our internal clients.

A military analogy might be useful for legal. During the Cold War, armies arranged their lower-skilled regiments and tank divisions into large, orderly hierarchies; this works really well when the world doesn't change. But as the nature of warfare changed, armies transitioned to a highly professionalised model, focused on special operations. Now, the focus is on small, agile teams of top-level individuals, all capable of doing each other's jobs. This pattern reflects the model we're shifting to for legal; highly-skilled lawyers and legal professionals with strong EQ, who are inquisitive, learn quickly, collaborate easily, disregard convention and have an entrepreneurial mindset. They can work autonomously, not just with each other, but also with other business professionals in a matrix environment.

> *The excuses for work sitting in a silo, or with the wrong person, or in a queue, are no longer good enough*

These are the kind of lawyers and professionals who will make legal operations a success. Our ability to track data means the excuses for work sitting in a silo, or with the wrong person, or in

a queue, are no longer good enough; but conversely, data means it's easier than it's ever been for us to prove wins and demonstrate the value we've added to the business.

To achieve change and prove success in-house, first, focus on the 'hardware': the measurable, identifiable core risks you need to address, and the specialists you need to cover them. Then address the 'software'; the elements that are harder to measure, like culture, leadership skills and generational differences. Finally, formulate and roll out your strategy: establish a clear framework that explains the legal department's purpose and points to where it is headed and how it will manage the change process to get there.

> *More than a dozen tried and tested legal innovators reflect on their experiences making the various competencies of legal operations work for their legal team, and for their business as a whole*

Through the course of this eBook, more than a dozen tried and tested legal innovators reflect on their experiences making the various competencies of legal operations work for their legal team, and for their business as a whole. These have sometimes involved hardware, sometimes software, sometimes strategy, and often all three; but what they have in common is a willingness to try something new, in order to redefine business expectations of legal.

This isn't something that's only available to GCs looking after huge teams in superbly-resourced companies with deep benches of lawyers. The process improvements that legal operations can bring are available to any in-house team - whether the team has one lawyer or one hundred - as long as they're willing to thinking strategically and learn quickly. Those are two skills that every lawyer has in spades. All we need to do is start.

Bjarne Tellmann is General Counsel and Chief Legal Officer of Pearson.

Introduction

RICHARD MABEY

Co-founder and CEO, Juro

For years, in-house lawyers have sought a seat at the table as a true strategic partner to the business. Now that seat is available. But to earn it, lawyers can't be mysterious gatekeepers to arcane knowledge - they have to run legal like a modern business, and that means a lot more than just going on a training course and buying software. This is the era of legal operations.

The Corporate Legal Operations Consortium (CLOC), which has helped to define the function of legal operations, has created a helpful framework, laying out 12 competencies that are key to making a success of legal operations. This publication collects reflections from a diverse and authoritative group of experts on their experiences grouped under these competencies, as well as their practical advice as to how you can get started with legal operations in your own legal department today.

You'll hear from a Silicon Valley veteran about how to make data a key part of your decision-making process; how to align legal with other business functions when there's $1bn in legal spend on the line; and what happens when legal at a fintech mirrors the software engineers growing the product at lightning speed. You'll hear from people on the front lines when Lehman Brothers' bankruptcy changed the power dynamic in legal overnight - and how smart planning and strategy helped them to thrive. You'll learn about internal client satisfaction surveys for legal; how to map resources to the point of need in globalised teams; and what best practice actually looks like when managing vendors.

> *You'll hear from leaders who've seen it, done it, and have the war stories to prove it*

Above all you'll hear from leaders who've seen it, done it, and have the war stories to prove it. I'm delighted to introduce such an esteemed set of contributors, with backgrounds that range from software giants, industrial titans and retail behemoths to fintech unicorns, ALSPs and cutting-edge consultancies. I'm grateful Bjarne for his foreword and to each of our contributors for sharing their insights with the Juro community, and I hope you'll enjoy reading this publication as much as we have enjoyed making it.

Richard Mabey, Co-founder and CEO, Juro.

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Financial management
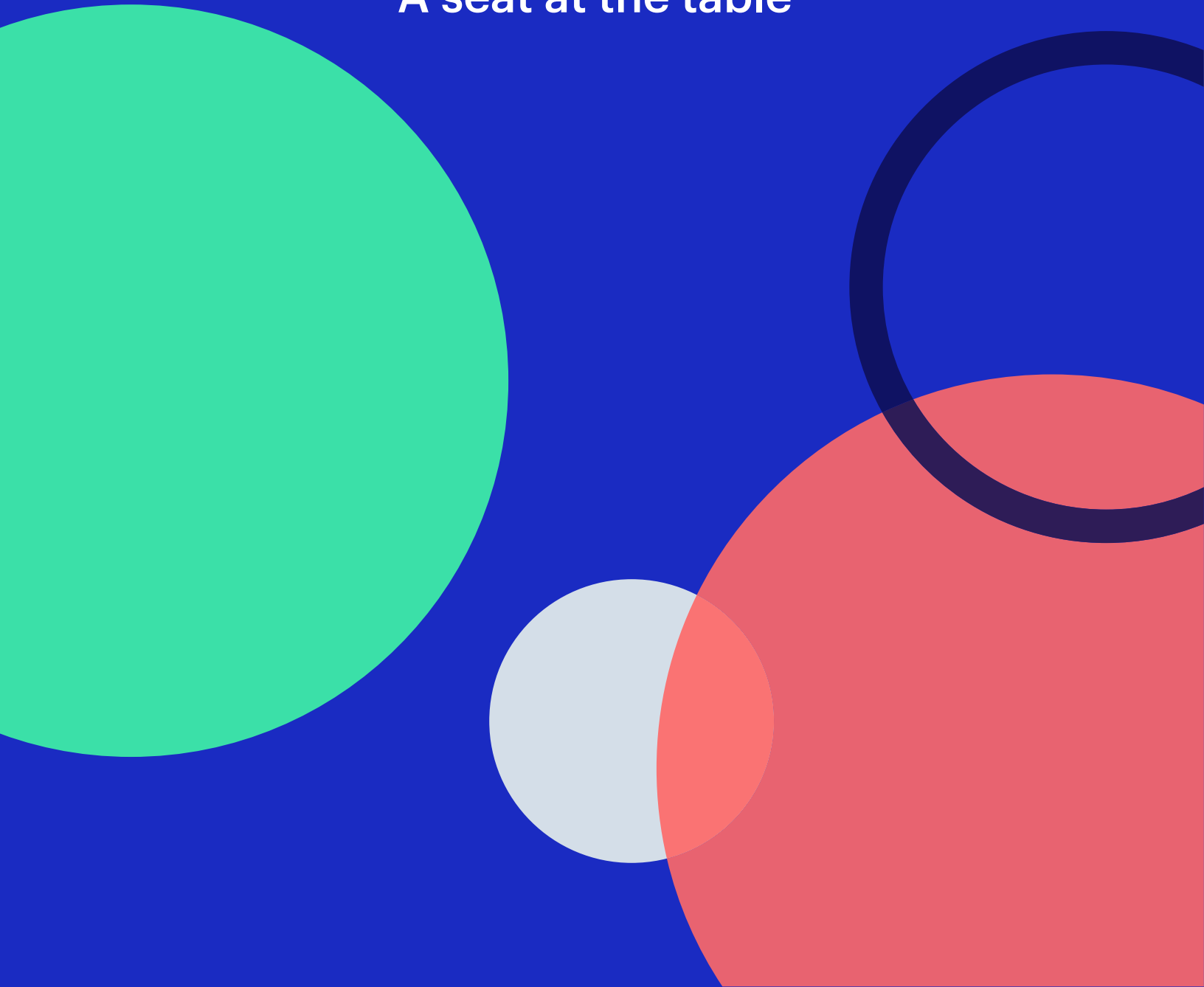
A seat at the table

Financial management
A seat at the table

JAMESON MONTEIRO

Head of Legal Operations, Assurant

2008 was, by any measure, an interesting year to start working in legal operations. The global financial crisis drove legal operations to the forefront of our minds; without it, this book might never have happened. As the member of the legal department with a financial background, I started reporting to the CLO, with a mandate to analyse and manage the most important financial indicators for legal - and make sure the CLO had them too. 10 years later, as head of legal operations, I form part of a legal and compliance group with a headcount of 300-400, including 65 attorneys, more than 40 cost centres, and a budget of more than $100m. It's safe to say that the influence of financial pressures on legal has caused profound changes in what we do, and how we do it.

The first change to note was that the instruction from finance to make budget savings was now a concern that applied to every team. The prevailing wisdom had seen legal as the tail wagging the dog: a passive participant in its own budget conversation, usually told to reduce expenses regardless of what it needed. The development of legal operations as a discipline has allowed us to challenge that assumption, and emerge as a genuine business partner, due to the value we can bring to the table. The cost pressures remain, but we have a voice: where before we were told what to do, now we're asked.

You need friends

This all means that the legal operations function is empowered to take control of legal's budgeting and financial management. In my case, my internal customers are all the direct reports of the GC: the head of litigation, the head of government relations, the deputy GC, the head of corporate legal. I take budgeting and spreadsheets off the plate of these lawyers and let them

focus on what they're really here to do. Lawyers neither need nor want to analyse every line of a complex budget - therefore it's our job in legal operations to understand that detail at the ground level, and know which details need to be reported up to the key decision-makers at the top.

To do this successfully, you need friends. It's vital to network with the right people around the business: senior financial leadership under the CFO, and the financial stakeholders for each business unit. Understanding the financial operations of each business unit, at a granular level, will help you align with them - do they budget quarterly, or to an annual timeframe? To the calendar year, or the fiscal year? Is their business unit (and the company as a whole) in a growth phase, or non-growth? Is it preparing for a sale, or an acquisition? As well as aligning on these issues, you need to align your systems - do they manage budget with enterprise software? Do they use SaaS providers? Can you get a login to their dashboards? Access to the right people and the right systems will help you collect the data you need to make informed decisions, and report on those decisions at the right level - but you need stakeholders around the business to trust and buy into the process before you can do this.

Making the weather

Accurate forecasting is a great way to prove the value that financial management of legal can bring to a business. The number one external spend for legal departments is always outside counsel, and colleagues in the business often struggle to understand how those costs break down. Using an e-billing / matter management solution is a great way to cultivate a historical dataset, against which you can forecast future matters, whether that's a lawsuit or a response to a new regulatory issue. Once an external law firm is attached to a legal issue, we can analyse their previous costs and project several billing scenarios - usually high-end, middle and low-end - and present those back to the business. With historical data to refer to, we can show them how each scenario would likely affect various financial and operational metrics in the business, and they can choose their preferred approach.

Not only does this bring predictability, but it gives business units ownership of legal matters - they can prioritise the various legal investments they're prepared to make, based on their risk

For a legal function to try and declare with any great certainty which will be the big-ticket legal costs several years from now is probably futile

appetite and the consequences they're prepared to accept. However, it's important not to try and forecast too far ahead; it makes sense for the business to work to three- and five-year plans, but for a legal function to try and declare with any great certainty which will be the big-ticket legal costs several years from now is probably futile. The current calendar year, plus the year that follows, is a sufficient time horizon to bring valuable insight, and stop short of analysis paralysis. Spending six months building a five-year legal budget plan, only to see the company sold a few months later, would be a frustrating outcome for any professional.

Like so many other areas of legal operations, communicating the right way is key to building trust and getting buy-in when it comes to financial management. Delivering accurate numbers to key stakeholders should be a no-brainer. If you pull data for a report and provide numbers to your CLO, who then presents to the CFO, only to find that his or her numbers don't match, there are few ways to burn legal's reputation faster. Getting that reconciliation right, on an ongoing basis, is crucial to being seen as a trusted business partner who adds value. Similarly, always communicate fully the risk profiles of legal budget decisions. As forecasters we can predict storms, but not always whether they'll be category 1 or category 4; if stakeholders opt for a low investment against a legal issue, they need to know in detail the range of consequences that could follow. And if the picture changes, make sure they know as soon as you do - trust that was hard won can quickly be lost if not.

Suppress your inner lawyer

Of course, not every in-house department has the headcount to devote fully to financial management. Inevitably, lawyers without finance backgrounds will sometimes own and deliver this process. Making a success of this requires lawyers to understand how they differ from finance professionals. Lawyers operate for the most part in a world set in stone - the law is the law, and can be known and defined. Finance can't - its stakeholders operated in a world where they must make decisions on 60-70% of all the information they need, and forecast the rest.

> *Making decisions without the full picture is hard to swallow for many lawyers, but it's inevitable in financial management at scale*

Making decisions without the full picture is hard to swallow for many lawyers, but it's inevitable in financial management at scale. The more business-minded lawyers know that occasionally they need to suppress that legal mindset, and not sweat over every detail. Even 60% of the relevant information will quickly start to tell a story and point us in the right direction, if we

know where to look. As time goes on, and financial management improves, the wins it brings start to be self-reinforcing; investing in it now is a smart way to future-proof legal's value to the business. Embedding sensible financial management like this is the foundation upon which much of your legal operations success will be built.

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Vendor management

What makes a sophisticated buyer?
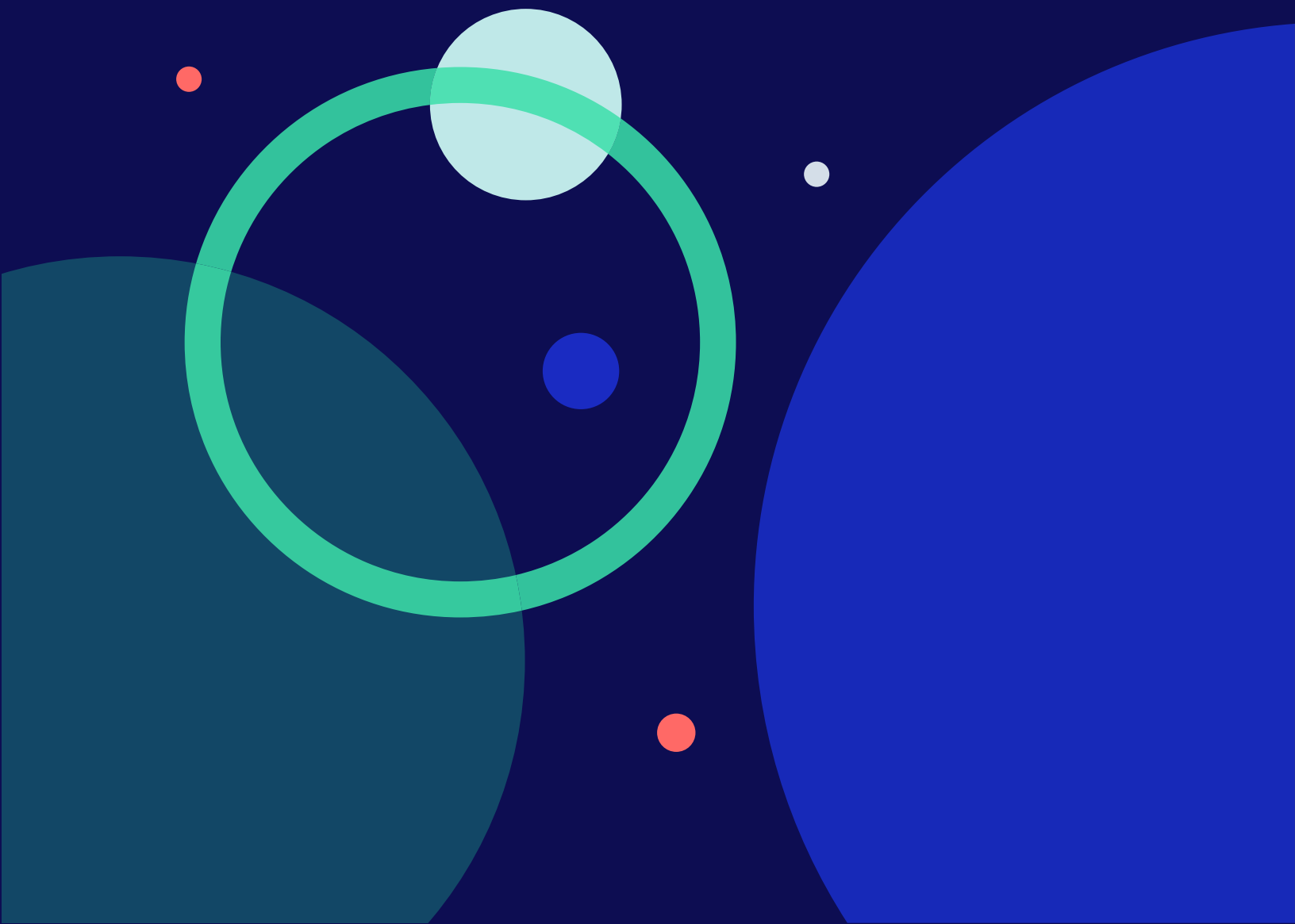
Vendor management
What makes a sophisticated buyer?

DENISE NURSE

CEO and co-founder, Halebury

'You get what you pay for'. This is a truism for consumers across many industries, but it hasn't always been the case for legal, where for the most part, until recently, the industry operated pretty much the same way it did fifty years ago. Legacy brands could still charge extortionately by the hour for an indeterminate service, without really committing to how long it would take or how much it would cost. In-house legal teams were expected to suck it up.

The global shift of power in-house has changed all that, along with the arrival of disruptive models - NewLaw, Alternative Legal Service Providers, Legal Process Outsourcing, and so many others - that look to high-growth tech businesses for inspiration, rather than hardback-toting, inflexible law firms. With that in mind, in-house lawyers should aim to be sophisticated buyers of legal services, ensuring quality counsel support the business at the right times, on the right matters - and for the right price.

Be a sophisticated buyer

The first step is to find the right vendors. Prestige brands, old boys' networks and the like still carry disproportionate weight in legal. Exuberant networking is key to overcoming that inertia. We've never had more opportunities as lawyers to meet innovative providers at events, or through online groups and networks; beyond that, it's easy to leverage your network's network. Talk to your peers and find out if any innovative vendors impressed them lately. Cast the net wide - if you ask the same friends for recommendations, you'll invariably get the same answers.

Once this gives you an expanded list, narrow your criteria by being clear on what your business actually needs from a law firm. Legal skill and acumen should be a given - nobody doesn't need that, and nobody would market themselves as not having it - so what else is vital to the success of this brief? It might be aligning to cultural fit; understanding specific business objectives; project management skills; technological integration; these criteria can be used to narrow the range from which you choose, to make sure you find a partner with the quality to deliver. Perhaps the names you come out with matches the referrals from that old boys' network - but perhaps not.

How should you pay?

> *As often as we've written its obituary, the billable hour lives on. This is partly because clients choose to perpetuate it*

The next step is to make sure the price is right for you. As often as we've written its obituary, the billable hour lives on. This is partly because clients choose to perpetuate it: RFPs still regularly ask for a list of hourly rates by role. To break this vicious cycle we all need to realise that businesses work to budgets, not to success. A private practice law firm deploys as much resource as it needs to 'win' a matter, but companies don't run on infinite resources; 'no surprises' is much more the mantra in-house. Buyers of legal services have every right to demand transparency, and to expect fixed fees, because even if a project ends elsewhere than where it started, it still involved a level of expertise that was scoped and communicated. Smart vendors will still offer flexibility within fixed fee arrangements. That being the case, you have to ask yourself: why should your business expect anything less?

How should you monitor?

Tracking the billing and performance of your vendors, once appointed, is mercifully easier than it's ever been, thanks to matter management and e-billing software. Large organisations can get visibility of spend, as well as the extent to which vendors stick to fee estimates, over time. But not every in-house legal department has the legal ops person to manage this strategically, nor the budget to procure software. Even so, business-minded lawyers can still set up spreadsheets to track the basics - who is being instructed, how, why, and for how long. Working with in-house clients, it's always a surprise the extent to which some lawyers aren't even taking these baby steps towards accountability and transparency. More encouraging is the

ongoing dialogue that we see between legal, procurement and finance: savvy lawyers know to take advantage of the expertise these teams offer, rather than seeing them as a limiter or even adversary in the process. Specialist conferences for legal and procurement are a new development. For some in-house lawyers this is a natural collaboration from the necessary teamwork on, for example, transactional work; for others, it's a GC-mandated obligation to force lawyers to be mindful of cost. Either way, it's a sensible alignment of skillsets that can only benefit the business.

Let innovation in

Pressure on budgets, together with a business-minded, procurement-influenced approach, will naturally influence in-house buyers to consider innovative providers in a way they might not have 15 years ago. ALSPs in particular are set up to deliver against the factors that vendors are looking for: business-focused, data-driven, transparent, tech-enabled, budget-minded - run like a business, not a law firm. Emotional intelligence is also a factor companies can pay for when considering an outside resource, and there's a much greater awareness that huge legal projects are often actually about change management as much as they are about legal process - finding people who can deliver that change sensitivity is extremely valuable. Finally, flexible lawyering has also forced its way into a profession that hasn't always been keen to adopt new practices; this was ALSP-led, but its success can be measured by the fact that a whole host of top-20 law firms now offer their own on-demand services.

The obvious consequence of such fierce commercial scrutiny of the value chain is unbundling, or 'disaggregation' if you prefer, which must be a key component of vendor management for

> *Each new, disruptive provider makes it harder and harder to explain why you aren't taking advantage of technology to address low-value high-volume tasks at a sensible price*

the modern in-house lawyer. Each new, disruptive provider makes it harder and harder to explain why you aren't taking advantage of technology, or ALSP resources, or both, to address low-value high-volume tasks at a sensible price, rather than throwing the same instructions to the same firms for a price that only ever increases. We can do better than this.

Be a sophisticated user

The next step in vendor management is becoming a sophisticated user of the vendors you select. This plays out in how you set objectives, how you monitor your vendor, and how you communicate.

It's hard to overstate the importance of clear objective-setting, and the outcome for the project. Don't assume your provider - however sophisticated - knows exactly what you want. Success in a project involving outside counsel or resources is rarely as simple as a binary achieved/not achieved metric. Be clear on what you want, why you want it, when, and how. Define what good looks like: if this goes well, where will we be? Are the key indicators to do simply with time taken or cost incurred, or is it in fact about delivering a different kind of relationship, or a new process? Then at a more granular level, the question of how you'll work together needs to be defined. Does your vendor need to provide data at a certain cadence, to align with your need to report to the CFO? Should external counsel be attending team meetings, and if so, how often? Have you established weekly check-ins? Agreeing all these objectives and ways of working helps to mitigate problems from arising down the road. Clear expectations as to the service level to be provided help both sides to judge the success of the project as it proceeds.

When it comes to what should actually be monitored, as a vendor, we focus on five simple questions that help keep the project on track. Are we doing what we said we'd do? Are we responsive enough? Are we delivering added value (as defined in the scope at the outset)? Would you hire us again, based on our work so far? And finally, would you recommend us? There are myriad KPIs and data points that can be monitored beyond these, but if a vendor can't answer these questions satisfactorily, it's a red flag that the relationship is not driving success. Simple questions like these can be powerful in surfacing problems: for example, if responsiveness is not where it should be, is this due to vendor inertia, or might it be because they don't have access to the documents they need on the other side? At the base level, in-house lawyers should always be monitoring things like spend, time, and instruction volume, but by answering these success-focused questions, you can make sure the vendor is delivering real value - not just ticking the boxes.

Throughout all these processes, communication is key. Dialogue must be constant. Check-ins must be diarised and those appointments must be kept. We even make them contractual - the perceived time-cost is nothing compared to the headaches they can help to avoid. Similarly a lack of communication is often the main driver behind a relationship turning sour, and trust breaking down - dialogue is a cheap solution to an expensive problem.

A collaborative future

Although these techniques aren't, as yet, universal, there is a great deal more that in-house lawyers and their vendors can do to work together, and this is only set to increase as technology enables closer collaboration. Sharing data is a big step forward that has immediate benefits: providing your external counsel with logins for the systems you use, and insisting on the same from them, provides genuine transparency, particularly around cost. If your vendor implements technology, are they delivering dashboards to your desktop so you can monitor its success in real time? These kind of trust-building steps should become commonplace, but in our experience, even if they have access, many lawyers don't even log in and take a look. Although vendor management can and will become more closely collaborative, it will depend on lawyers - on both sides - developing both the skillset and the mindset to truly collaborate to the extent that technology allows.

Denise Nurse is the CEO and co-founder of Halebury, a NewLaw pioneer based in London.

3

Cross-functional alignment
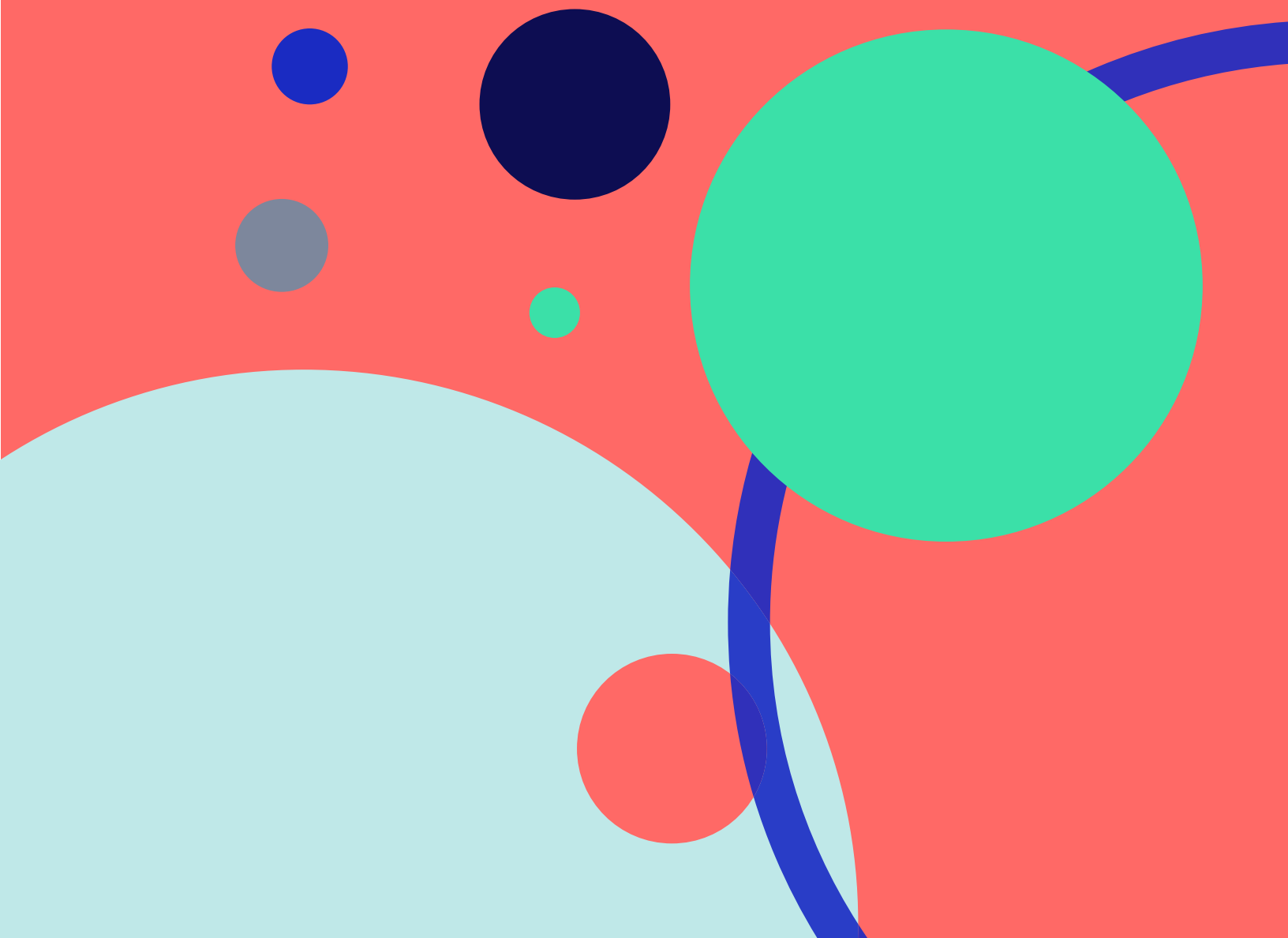
How to make friends

Cross-functional alignment
How to make friends

MIKE RUSSELL

Lean Leader, Legal Operations, Ingersoll-Rand

Cross-functional alignment is one of the legal operations competencies that would seem most mysterious to a lawyer from 50 years ago. Legal, as a function, didn't need to be aligned; it was there to give clarity to other functions on what they could and couldn't do, as prescribed by law and interpreted by attorneys. But the modern business environment made it impossible for that attitude to persist. Earlier in my career, I was part of a team challenged to streamline a corporate legal department of nearly 2,000 professionals in more than 70 locations with up to $1bn in managed legal spend handled by more than 1,200 law firms. If legal is to exist in-house at that scale, and escape its historical reputation as a cost centre and a blocker, then failing to align across the business' functions is not an option.

You don't know until you land in a company how aligned and optimised its various functions are. The impact of a poorly aligned contracts function is visible immediately, but something like product liability is hard to troubleshoot until problems occur. It's important for an in-house lawyer to get a sense of this as soon as possible, and identify the most valuable areas for legal to align across the business.

The IT crowd

The encroachment of technology into in-house legal has taken longer than it should have, but there's no doubt that it's transformed what we do, and how we do it. The wholly digital nature of providing legal services in-house means that the first function with which you need to become aligned is IT. It's fair to say that many of the best things we do as in-house legal, in terms of efficiency and process improvement, are driven by technology. This means that knowing and appreciating your colleagues in IT is crucial, to foster a mutually beneficial relationship.

You need friends in IT who know what you need and why, and why it matters to the business that your project takes precedence

Some legal departments are fortunate and will have dedicated IT resources, but many companies operate a shared services model; in such an environment, IT dedicating time to legal necessarily means another department taking a back seat. You need friends in IT who know what you need any why, and why it matters to the business that your project takes precedence - for example, the business impact of a faster contract closing cycle, or the risk mitigation that an IP management system would bring. Without alignment between legal and IT, you risk being an item on a to-do list that's never addressed.

Done right, the relationship works both ways. When it comes time for CIOs and GCs to report on objectives to their C-suite peers, there's always a focus on customer-facing business enablers and security compliance. Having a lawyer with a seat at the table, who can explain in detail why IT and legal have agreed on a particular solution, and the real ROI and time savings that come from tools like matter management and e-billing software, is a huge help. If in-house lawyers are aiming to add value, few things are more useful than helping to explain that value at the C-suite level.

Finance is the next obvious function with which legal needs to achieve alignment. It's no longer good enough for lawyers to be unaware of who their budget controller is, nor to maintain ignorance of what legal spend actually means. I make it my business to sit down with my in-house lawyers and ensure they understand what a dollar of legal spend really accomplishes, where it actually sits in company books and budget lines, and the consequences of that spend. Particularly for a public company, legal spend and its impact on top-line costs can have a significant impact on shareholder value - making this real for in-house lawyers will make cross-functional alignment, and efficient service delivery, much more likely.

Be the fence, not the ambulance

The need to be aligned isn't driven only by making procurement easier, and budget conversations less painful. Establishing legal as a value-add rather than a cost centre is a driver for us all, as we look to give back in areas like IP enforcement, business recovery, and so on. But this value can also be expressed in terms of the types of advice we're empowered to focus on. I like my legal department to be the fence at the top of the cliff, rather than the ambulance

at the bottom; legal is often far too reactive, cleaning up avoidable messes, rather than preventing them happening in the first place. A non-aligned legal function is much more likely to be blindsided by unforeseen risks and end up driving the ambulance - all the way to the courtroom, in the worst-case scenario. By aligning properly with other business teams it's easier to horizon-scan, spot risks and focus on preventative law, where legal as a value-add really comes into its own.

> *The best legal leaders are constantly reaching out and partnering at their level, and making sure their direct and indirect reports do the same, all the way down the reporting chain*

A culture where cross-functional alignment can become a reality doesn't happen on its own. It starts, like so many key initiatives in the corporate environment, with tone at the top. Leadership that understands the value of cross-functional alignment is a must, but beyond that, you need leaders who walk the talk. The best legal leaders are constantly reaching out and partnering at their level, and making sure their direct and indirect reports do the same, all the way down the reporting chain. They insist that their lawyers are embedded in processes across the business; sitting in on HR's contract reviews, or IT's data security audit. Making legal staff available in this way - proactively, rather than as a reactive helpdesk - is a great way to build trust across the company.

Aim small, miss small

The helpdesk mindset is not acceptable as a modern way to work: in-house lawyers must be nimble, responsive and concerned with client satisfaction in order to drive success in the company and spot opportunities to gain a seat at the table. But earning and maintaining the trust needed to keep that seat requires a track record of success, and in my experience it's useful to start small with cross-functional projects. We probably all have experience of a transformational change project involving new systems or processes that ended up in constant firefighting mode, with changes coming too thick and fast, and stakeholder management at scale too unwieldy to ever reach the final target state. While it's great to secure funding and buy-in for a cross-functional project of that size, scope creep and moving targets can quickly come back to haunt you - and squander that trust you worked so hard to build with other teams.

Instead, it's easy to establish and benefit from cross-functional alignment on smaller, more agile, sprint-oriented work. We've seen success with finding a discrete part of a legal process, common to several functions but carried out by multiple law firms, and pulling it out to be addressed by an ALSP or a new technology solution. Similarly, moving to self-serve on a small number of specific, lower value documents, like NDAs, sales contracts and end-user licences, is a great way to free up lawyer time, whilst delivering a benefit to various functions at the same time. Once this is in place, your role can refocus to gathering and analysing data, and perfecting the service that legal provides.

Above all, don't forget the soft skills that help cross-functional alignment to succeed. Centralising work, disaggregating processes, redistributing work between functions - for many people within those functions, this creates a fear that they're being optimised out of a job. Any change to process that has a resource impact means walking a fine line. The key here is to communicate often, clearly and transparently, and to radiate a positive mindset in those communications: this change isn't to eliminate you, it's to liberate you to focus on the high-value work that we hired you to do. But the better legal becomes aligned with other functions, the clearer it should be where lawyers actually add the most value. True cross-functional alignment is a win for both sides - and ultimately for the company itself.

Mike Russell currently leads operational excellence for the Ingersoll Rand Global Legal Department. He previously spent 15 years as a strategic legal technology director with Liberty Mutual Insurance.

Technology and process support

The rise of the lawyer-engineers

4

Technology and process support
The rise of the lawyer-engineers

DEAN NASH

General Counsel, Monzo

Successful, mature, established, large corporations often handle their legal technology and process support a certain way. They know that legal is often seen as a cost base, so they set out to block that narrative. Hire a legal operations manager (or an external consultancy); map out all your existing processes, end-users and silos; spot pain points, bottlenecks and inefficiencies and see if you can disaggregate the work. Buy or build technology solutions that capture as many stakeholder requirements as possible to turbo-charge your efficiency gains, and for the discrete processes you want to get rid of, push them out to an alternative legal services provider (or indeed build and hire a lower-cost service hub internally).

This is a tried and tested approach to technology and legal operations that succeeds at corporate legal departments all around the world. It can involve tough decisions, change management and long-term thinking on how legal and the business will align three years, or even five years, from now.

Here's why we don't do that.

> **White-hot growth is the only driver that matters, and it's our job to move any legal issue that might distract from that growth out of its way**

Monzo grew to more than 350 employees and 850,000 customers in less than three years, gaining a full UK banking licence along the way. The early stages of hyper-growth at a startup bring fierce challenges, where the legal function's focus cannot stray from growth and existential survival. We aren't trying to build the legal team of the future; as the first lawyer,

hiring the second lawyer took 30-40% of my time, and that's an inefficient way to keep up with business demand. The time costs are just too great.

But that doesn't mean we can get away with a legal function that isn't optimised. White-hot growth is the only driver that matters, and it's our job to move any legal issue that might distract from that growth out of its way. This is the same driver that fuels our product's growth - and so it makes sense to align our way of working with the product engineers behind our success. They work in small teams, conducting small-scale tests, iterating, prototyping, picking winners and quickly discarding what doesn't work. Development cycles of one to two months are the norm. To support, enable and react to what they create, we need to work in the same way. Here are two practical examples of how we use technology to do it.

Optimised contract management

It's probably a fact of life that any company, at some point, has some duplicated or underperforming contracts. But going out to procure a contract lifecycle management solution isn't something we have the bandwidth to do - more importantly, it might not be what we need right now, and what we need right now might not be what we need six months from now. Just like product, first we need a minimal viable proposition (MVP), to drive at least some value and help people to understand what the solution should do. Even a contracts spreadsheet would be better than nothing. So that's exactly what we did at first; we used a google sheet to collect our documents, which let us see where our duplication points were. Just from that starting point, we reduced a significant chunk of unnecessary spend. The next step was to build in our service level agreements and review dates, iterating and testing to build on that MVP. We continue in that vein until we reach the edge of our internal capability; but by taking this approach we explicitly mark out our requirements for if we decide to procure a solution further down the line.

Build your own triage

Our outsourcing policy is simple and clear enough from a legal point of view. But the natural meaning of outsourcing is distinct from its regulatory meaning, which can be hard for non-legal colleagues to understand - creating the potential for confusion when they need help with procurement contracts. Instead of diving into documents, we do what our product engineering colleagues would do: start from the UX perspective, and build something. An employee has a problem, and they need help. So we built a visual resource in our internal

knowledge hub, using natural language questions to lead the user: who are you partnering with? Is it a company? Is it a consultant? This leads them through a flow diagram that holds their attention, and narrows their request until it's specific enough to be acted upon. We pin the weblink to that resource in our #contracts Slack channel, and run through an all-hands to show them the process. Within the channel they can request bespoke contracts or flag relevant queries, and we have sight of the whole process - without committing to a solution that might be superseded by our needs six months from now.

Legal design in action

> *Too much of the legacy software that powers huge chunks of the legal industry still falls down when it comes to being user-friendly*

This way of working doesn't come easily to everyone, and it doesn't fit neatly with the change management approach that's often needed at mature companies. Legal design is a concept that's become more mainstream, thanks to pioneering work at places like Google and at Stanford University, but it's still the exception rather than the rule. In all honesty, I haven't seen very many well-designed legal products - too much of the legacy software that powers huge chunks of the industry still falls down when it comes to being user-friendly.

To work this way at Monzo, we need lawyers who are comfortable with technology, can handle agile working, and are user-friendly - meaning, as with so many things, hiring fantastic people is a big part of the battle. As time goes on, lawyers joining the workforce will be even less tolerant of bad UX, impenetrable resources and clunky systems. But hiring lawyers who can work like engineers helps us to do what our company expects us to do: keep our projects discrete, remove the distractions, and if anything impedes growth, find the best way to move it out of the way - fast. Through this approach to technology and process support, we can deliver a legal UX that's as friendly as the product the company aims to deliver.

Dean Nash is General Counsel at Monzo. He was previously Lead Legal Counsel for Client and Customer Experience at Barclays.

5

Service delivery and alternative support models

How satisfied is your internal client?
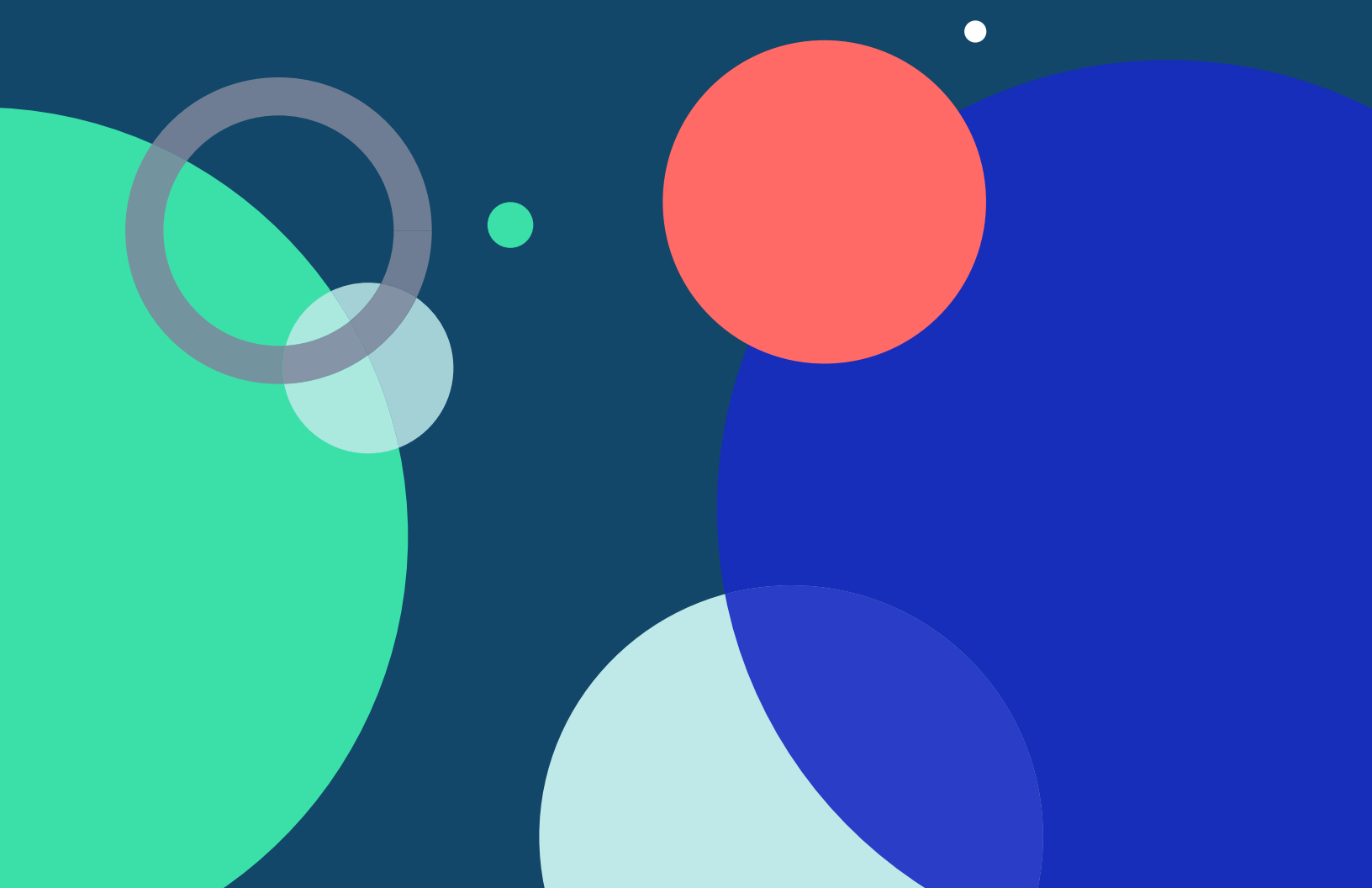
Service delivery and alternative support models
How satisfied is your internal client?

MAX HÜBNER

General Counsel and Executive Director, Legal Operations & Management, DPA Professionals

How do you model service delivery for in-house legal? It's a foundational question for all of us, but as a starting point, it's entirely the wrong question. Before you model anything, you need to find out what you need to deliver. If you don't know where you're going, it's almost certain that you'll end up some place else. You need a legal services map.

Creating a legal services map for your department means first conducting a risk assessment, to understand where and how the company is exposed to legal risk, and as a GC, how you need to respond to it. But that's just the groundwork. You then must exhaustively identify the legal services needed by the business, and the stakeholders that need them. Depending on the size of your company, this can be a sprawling exercise - there might be five or six key programs, across areas like IP, litigation, tax, regulatory, litigation, and so on. But without it, you'll be flying blind and throwing money out of the plane while you do it. Only once you've identified the specific areas of need, and the resources available to meet them, can you evaluate if you have the right level of support for those areas, to deliver the right quality, and at a fair cost to the business.

Many GCs jump past this step entirely and start with the assumption that new technology is what they need. They read something on LinkedIn, they saw something at a conference, they spotted something at their external counsel's office - and they want it. But following the legal technology explosion to a software solution that promises efficiency and effectiveness, without taking a hard look at where your legal service map should take you, is amongst the worst mistakes a GC can make. Software alone won't help you - not without a strategy and a roadmap to guide you.

The customer is always right

Once you know what you need to deliver, the next question has to be: how does your internal client want that service to be delivered? Far too few in-house legal departments ever take enough time to put that question directly to their business stakeholders. That's exactly what I chose to do during my time as Director of Corporate Legal and Tax at PGGM, as part of a programme of transformational change that was nominated for an award from the Financial Times. Together with Stephan van Gelder, Chief Executive at Integron, I co-created a customer satisfaction questionnaire, designed specifically to help lawyers understand their responsibilities to internal customers - and increase our value-add to the business.

The first step was to ask stakeholders what the most important factors were when it came to evaluating the performance of legal. The answer was surprising but, in hindsight, obvious: the overwhelming message was that the quality of our legal expertise was a given, almost meaningless. Internal clients know, as far as it's possible for them to know, that you're good lawyers. They assume this to be the case, and besides, as non-lawyers, how could they evaluate the quality of your expertise anyway? Much more important to our internal clients were factors like turnaround time; usability, meaning the way lawyers relate to business colleagues; accessibility, meaning how understandable and jargon-free the advice is; and the extent to which legal helps the business to be efficient and effective.

These insights helped me to create our first customer satisfaction questionnaire for legal, which involved 20 questions upon which legal should be graded. I also asked how important each issue was to the respondent. I first asked my in-house legal team to complete the questionnaire, and provide the names of stakeholders within the business with whom they worked. That provided a list of about 500 internal clients to survey, and when the responses came back, I could see not only those areas of most importance to internal clients, but whether they matched the legal team's expectations.

> *I know what service I'll deliver, when, how, and how much it will cost - giving legal and the business the predictability they need*

Needless to say, they didn't. But we had established the baseline, which was an average mark of 7.2 out of 10. My focus then became overturning that deficit to move towards a 10, and where we could improve. As a team, we chose 4 KPIs - none of which were legal quality - and I asked each individual legal counsel to take 3 other KPIs they wanted personally to improve.

Over the next three years we moved the needle from 7.2 to 8.2. On legal quality, we remained the same; but on non-legal indicators, we improved every year.

The final piece of the puzzle was to link these KPIs to our bonus pool. Legal's bonus, more often than not, is dictated by the performance and profits of the company; but is it clear that we all affect that? Can we say the upside in profits that came from acquisitive growth, or winning new contracts, is anything to do with us? Or indeed the downside from our sales colleagues having a bad year? Instead, I wanted the team to feel that their fate, in terms of reward, was in their own hands - if they achieved positive change in terms of legal service delivery, they'd be rewarded for it. This is a difficult cultural change to make, but we've ultimately seen improvements to service, after aligning bonus and service this way.

Brave New World

With this kind of holistic, research-driven approach to service delivery, it's much easier to shape the model that will deliver it - and the incentives your team have to make sure it works. I can use this knowledge to design my model from the inside outwards. I now know the capabilities of our in-house team and where they're deployed. I can deploy technology or software services to handle the appropriate tasks in-house. For volume tasks, particularly involving low-value work, I can bring in the right alternative legal service providers. For litigation and similar issues that are limited to this jurisdiction, I can turn to preferred mid-sized local firms; and finally for global issues, I can escalate to the big international law firms. Having mapped our resource map internally, it's wise to take the same approach with external counsel - I ask for rates for each and every type of lawyer, from trainee to senior partner, so I can map them against matters and generate predictive pricing. I know what service I'll deliver, when, how, and how much it will cost - giving legal and the business the predictability they need to establish trust, and work together as genuine partners.

> *Expensive shelfware is one of the fastest ways to ruin your credibility with the business*

This approach has proved successful for me, but every organisation is different. The biggest mistake a GC could make in service delivery is just to follow what's out there in the legal market and expect it to instantly deliver effectiveness and efficiency. That can lead to expensive shelfware - one of the fastest ways to ruin your credibility with the business. To truly become the business' partner, they need to trust you - but you need to trust their commercial judgement too. If you can't win their approval as a partner through how you deliver legal services, then no technology can save you.

Max Hübner is GC and Executive Director, Legal Operations & Management, at DPA Professionals. His work on service model design was nominated for an FT Innovative Lawyers Award in 2013.

6

Organizational design, support and management

Creating an empowered legal team
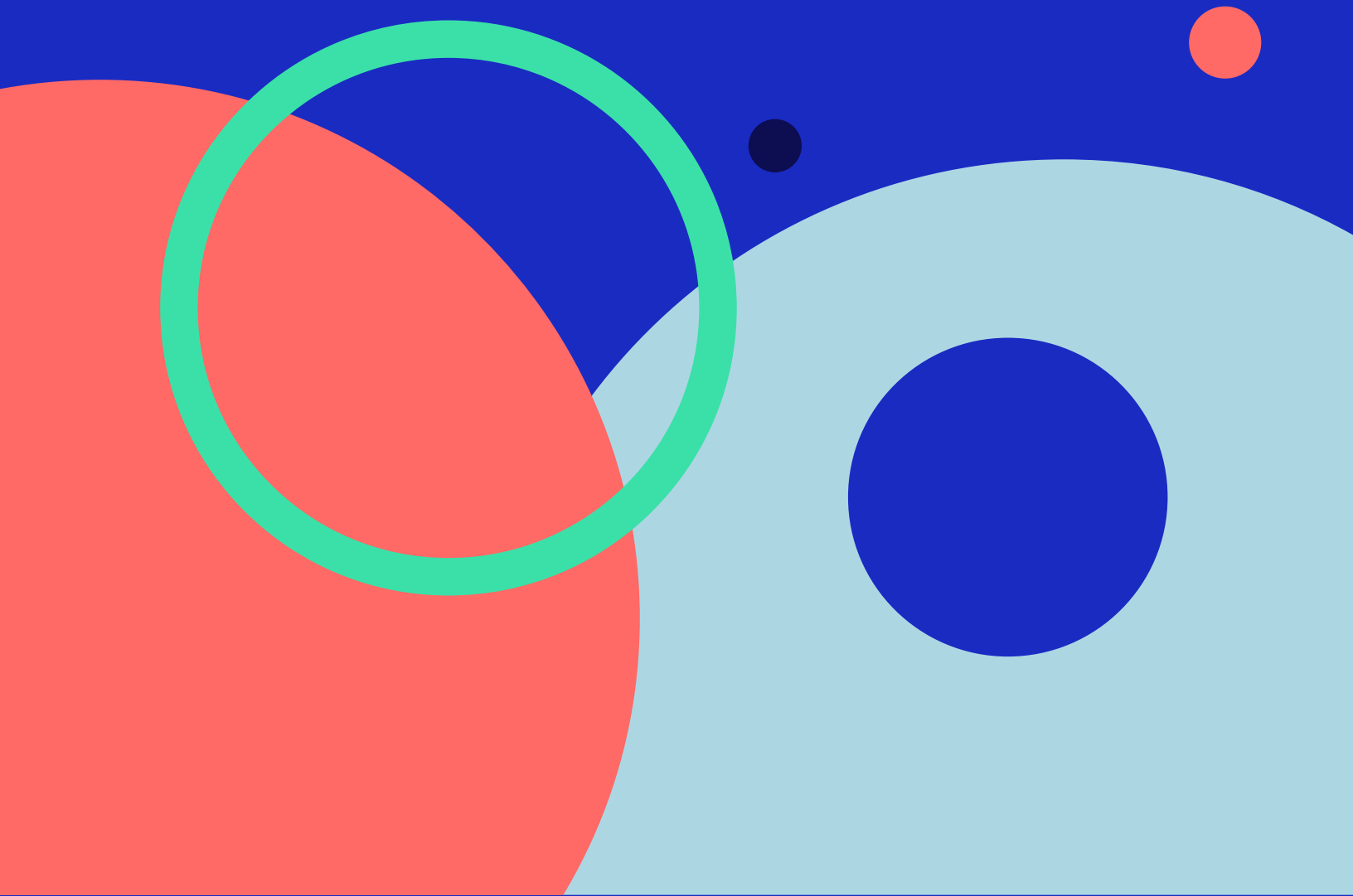
Organizational design, support and management
Creating an empowered legal team

NATALIE SALUNKE

VP & Head of Legal Europe, FLEETCOR

The scope and variety of in-house roles has never been greater than it is today, bringing with it a huge challenge in terms of designing and managing our legal functions. Globalised, distributed teams are increasingly the norm, collaborating through tech platforms that may or may not speak to each other, with acquisitions adding layers of complexity to the picture. It's our role as in-house lawyers not just to advise on matters of black letter law, but to look holistically at the way the business experiences legal - not as a blocker, but as a service that solves problems.

This won't happen by accident, and through my career I've found that I needed to take deliberate steps to make sure legal was fit for purpose, and empowered to add real value. Here are 8 practical steps to get started with organisational design, support and management.

Take stock

Take stock of what you've got, rather than trying to replicate what worked at your last company

The first step in organisational design is to take stock of what you've got, rather than trying to replicate what was there before, or what worked at your last company. I've worked at SaaS startups, FCA-regulated businesses and S&P100 constituents, and all businesses are different, with different cultures. I've arrived at companies to find they'd never had a lawyer before, or

their only lawyer was on a different continent. It's crucial to understand what has been working well, and not just those things you want to change, in order to genuinely understand the business' needs - and get buy-in for any changes you want to make.

Matchmake for the short term

Rather than jumping to hiring new talent, work out where and how you can fit in with what's already there. Understanding the skillsets and personalities you currently have, and how to map them against the business' needs, is always going to be faster and less painful in the short-term. In doing so, you'll identify gaps that you can fill in the medium and long term with new resources. Legal teams need detail-minded people and sales-minded people to deliver a rounded service - marrying those skills in your team, and showing the business that their lawyers can and will listen to them, is a quick win that can go a long way in terms of how legal is perceived.

Face-time for real

My job would be impossible without technology, but never underestimate the value of actual face-time

For a company like Fleetcor, on several continents and with operational businesses all over the world, my job would be impossible without technology, but never underestimate the value of actual face-time. To run a function that really collaborates, you must make the effort to physically get the team together - whether that's monthly, quarterly or annually - and foster that real-world connection with your colleagues. Agile working is a step forward for a profession that's often been too desk-based, but remote ways of working can lead to isolation and disconnection. Even moving to video from voice calls can make a big difference. Those moments of human contact create goodwill that ripples out through your work.

Adapt to internal clients' way of working

Similarly with your internal clients, site visits are priceless if you want to know how your colleagues actually work and interact with each other. This lets you adapt your culture and ways of working to theirs, rather than trying to impose an artificial uniformity that's always doomed to fail. It's a common criticism, for example, that US parent companies don't understand their European subsidiaries; similarly, a French or Italian office might feel disconnected if it receives high-handed, impersonal legal advice from its London office. Ask yourself if you've honestly made the effort to go and experience the culture and ways of working around the business first-hand; if not, can you really expect to add value where it counts?

Make your metrics support theirs

Once your ways of working are aligned, do the same for your objectives. Aligning legal's goals with the company's growth targets is always a challenge, but it's important to focus on measurable, transparent metrics. The business wants growth, but how it defines that growth will change your areas of focus as a lawyer. For example, if it's through higher revenues, then are your sales contract processes as robust and frictionless as they need to be? If it's through adding new markets and geographies, should regulatory issues be your focus? If it's through acquisition, are you set up for due diligence? By identifying the right metrics to focus on together, you can speak the same language and show the business how you can help to drive that growth.

Be more human

For better or for worse, lawyers often have a perception problem: we're smart and haughty, distant and stern, high-handed and didactic. These stereotypes are often unfair, but sometimes they're not - and it's up to us to change that. Getting into the habit of providing and asking for feedback is really effective in making the legal function come across as accessible and collaborative. Many people don't deal with legal often, and don't really understand what you do - being more conversational, and opening up about the challenges you face in your role, can improve both the interactions and the outcomes when you work with colleagues around the business.

Accountability is key

A robust framework for accountability can be a massive help, particularly for a legal function serving multiple jurisdictions and business units. I capture several data points to help me to be accountable to the business. I record my time; I record the kind of requests coming in; I record the business units they come from, and the volumes driven by each team. Legal is often perceived as a blocker because this information is hidden. Stakeholders might think a request is unanswered because we're slow, or we've prioritised poorly; but what if it's because another team is flooding legal with NDAs, or the kind of low-value document assembly that could easily be outsourced? Sharing this with the business empowers them to rank your priorities, and see where your time and resources are too stretched, or deployed against matters that aren't commercially important. True accountability means you can bust all the old myths about legal - and direct your team to the big-ticket items where you're most needed.

Invest in development

All your good work in organisational design will be wasted if your team isn't stable. A revolving door of departures and onboarding has a huge time cost. While exits are inevitable, they can at least be reduced and predicted, with careful people management. To do this, employee development can't be a footnote in performance reviews. It's only by regularly asking where team members want to go with their career, and what they'd like to do, that you can spot flight risks early enough to mitigate them. Not every employee wants to progress to managing a team; conversely, for some, it's a key milestone in their career that may drive them to look elsewhere. If there isn't a natural progression to lead them to their goal, how else can you move their career forward? Could they manage the vacation scheme students, or a project team? Unless you have honest, open, regular conversations, they'll make career decisions without you.

I believe that by taking these practical steps, the legal function can grow closer even as it globalizes: closer to each other, and closer to the business. Through an open culture that encourages dialogue, learning and curiosity, we can create an atmosphere of continual improvement, that keeps lawyers at the centre of business growth - where we belong.

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7

Communications

Thinking outside the inbox

7

Communications
Thinking outside the inbox

JASON MACARTHUR

Senior Consultant, Legal Operations and Transformation

In-house legal departments are making a shift happen globally. Fueled by a belief in a 'better way' of working, and awake to the value of procurement, the corporate buyer of legal services is on a mission. Gone are the days of in-house legal departments operating in self-serving silos, dictating the pace of business, and being largely unaccountable. At the heart of the shift is a shared vision - legal service delivery should be organised to deliver value to the organisation's business units and the consumers of its products and services. While big companies like GSK and DuPont have been transforming legal buying since 2008, the rise of legal operations globally is a recent phenomenon. Unprecedented collaboration and sharing of ideas and learnings between motivated GCs, change agents, academics and thought-leaders has spawned a global movement that's delivering a platform, culture and business case for change.

In this fast-growing community, peers and newcomers often ask me: "What's the single most critical factor in legal operations?" "Procurement or resource management?" "Process or project management?" "Alternative suppliers or pricing?" "Cloud platforms or bespoke solutions?"

All these things are important considerations, but none is core. In my experience in legal consulting, LegalTech, BigLaw and NewLaw, the single most critical factor is communications. Communications are driving the global networks and movement I describe above, while internal communications are driving a change in the culture of the legal department and its value proposition to the business.

The purpose of legal operations is to optimise performance, risk and cost. It's a journey, with short and long-term objectives, and multiple initiatives along the way. Whether 'innovation' or not, it boils down to doing new and different things to optimise legal service delivery. It can involve anything from basic process improvement to outsourcing the entire legal function to

a managed services supplier. The benefits to the business, and its customers, are what really matters. Communicating those benefits at the outset, and managing stakeholder expectations, is non-negotiable for change managers.

How hard and how fast?

The capacity of the corporate legal department to innovate, and the rate of transformation, really depends on two key factors. Firstly, maturity - understanding options and impact, and the ability to assess risk and reward. Secondly, agility - organisational systems, process, capabilities and culture that reduce viable options and inform priorities and timing. Legal operations managers are asking the same questions with regard to their organisational maturity and agility. What can and should we do, in what order, and how hard and fast should we go? To answer those questions takes thorough investigation, multiple conversations with stakeholders and, perhaps most importantly, very good listening.

The late Peter Drucker once said that 'culture eats strategy for breakfast', and legal innovators should take heed. The culture of traditional law runs deep and strong. Resistance to new technology, process mindset, project management and fixed pricing is still common amongst senior lawyers, and the 'old way' of working is fiercely defended. The key role of legal operations is change agent, and communicating the value of new approaches is critical. Getting the internal team engaged and on-board early is vital. If push-back comes from external law firms, and relationships are tested, in-house lawyers need to know and support the change process and be able to tell the innovation story. If the internal team isn't on board, you can bet your external providers won't be.

Legal operations leaders need to sell the vision internally and externally, and have a simple, compelling story. This is often unfamiliar and difficult territory for CLOs and GCs

Communications and influence are vital to shaping the culture that legal operations needs to execute the chosen strategy. Legal operations leaders need to sell the vision internally and externally, and have a simple, compelling story. This is often unfamiliar and difficult territory for CLOs and GCs, and may require input from marketing, corporate affairs and other departments. Without co-ordinated, multi-layer communications to sell the vision and ensure buy-in and adoption, most initiatives of legal operations are destined to fail.

There are many communications platforms that legal departments can employ both for everyday operations and transformation initiatives. Lawyers, researchers and process experts need electronic access to information that's simple and quick. At the heart of efficient legal departments are processes and related know-how-guides, precedents, templates, forms and training materials - which are readily accessible and regularly updated, usually via an intranet. This is the legal department's 'bible' - the one source of the truth. It's the place new employees go to find out how things get done and by whom, without having to ask.

In communicating with the rest of the business, lawyers have long relied on email and in-person conversations. Some in-house teams publish newsletters on the company intranet to get their message to a wider audience. The best in-house departments are going much further to break down barriers, build trust, and ultimately foster better working relationships.

The great email escape

With lawyers' inboxes rarely pretty, and email volumes creating a daily challenge for business managers, it's worth considering new ways of communicating for different kinds of messages

To do this, it's worth widening the scope of platforms beyond email and the intranet. With lawyers' inboxes rarely pretty, and email volumes creating a daily challenge for business managers, it's worth considering new ways of communicating for different kinds of messages. Some legal departments use project collaboration platforms and in-app messaging for all project work, capturing project communications and related documents in a central and accessible way. Similarly, for change communications, particularly around initiatives such as process mapping, technology pilots and training, it's well worth experimenting with social media and messaging tools such as Slack and Yammer, which allow tailored communications to select groups. Not only can you take the pressure off everyone's inboxes, you can engage with the business in a more conversational, two-way or multi-party conversation, which helps demystify and break down the legal silo. What's more, these platforms tend to provide a bit of fun for the lawyers and their stakeholders, which goes a long way to getting everyone's attention and leading to genuine adoption.

It's also important to be flexible in how you communicate legal information and processes to the business. Managing legal processes at scale isn't necessarily about defining 'one way', or prescribing every single task over which you have jurisdiction. Getting the balance right

between autonomy and systemisation will help to keep stakeholders engaged and motivated - and more likely to comply with advice from legal.

Communicating with large groups of stakeholders is still a perennial problem for lawyers. Many lawyers baulk at using VC apps such as Zoom and Google Hangouts, preferring the relative anonymity of the teleconference. Just getting lawyers to switch on their laptop cameras in meetings can be an uphill struggle. This can be a real problem in a world of distributed teams, flexible working and globalised workforces, where the key to productivity is genuine trust, kinship and engagement. Many legal team meetings still take place the way they did 30 years ago. The rise of tech-enabled legal services companies and the advent of global delivery systems and a generation of tech-savvy workers make the old approach no longer acceptable. Lawyers have to find time to learn to use the apps and devices that will make them more efficient. Being too busy is no longer a badge of honour.

Just getting lawyers to switch on their laptop cameras in meetings can be an uphill struggle. This can be a serious problem in a world of distributed teams

Changing this mindset can mean making painful decisions about the legacy systems that stand between old and new ways of communication. It's quite simple for a new fintech company to grow a small legal function that lives on Slack and Trello, but much harder for a century-old manufacturing corporation to do the same. Whatever the pain tolerance, the 'more for less' environment based on process transparency, predictability and business acumen will leave poor communicators in in-house legal teams dangerously exposed.

The momentum for making this happen, particularly in larger, more mature organisations, has to come from the top. Having strong leaders, willing to put themselves out there, try new things and challenge the status quo, is crucial to making change happen and communicating it properly. The importance of culture in legal, in particular in-house teams, is often underappreciated - but its impact can be huge. Legal leaders who excel in communicating, particularly to dispersed and culturally diverse teams, will succeed where others fail.

Bearing bad news

Your status as a collaborative business partner will occasionally be threatened by one of the burdens that all in-house lawyers must carry - being the bearer of bad news. At some point, every employed lawyer will have to stand up and say what their CEO, board or business unit manager doesn't want to hear. It could be surfacing the bear trap in a merger target's due diligence, or spotting a looming class action that would seriously undermine brand and reputation. That's a question of integrity, and fulfilling a duty to both the employer and the profession. Communicating the message effectively and persuasively is one of the most valuable soft skills a lawyer can have. Imparting bad news poorly is a shortcut to destroying relationships, losing trust and undermining business confidence in the legal department and its leadership. The key here is to make sure you share pertinent information as early as possible, and as clearly as possible, focusing on facts and their implications. While legal operations is helping lawyers to add value in so many new ways, it's important not to lose sight of one of the oldest roles a lawyer can play - being the bad cop.

Mastering communications in the modern environment, with new providers, 'more for less' and technology all adding challenges and opportunities, won't be easy for many lawyers to do. Change management is always difficult and can lead to lawyers becoming disillusioned. As we gain a more mature understanding of the role of communications in legal operations, it would be useful to build communications training into legal education. Teaching lawyers how to use modern solutions, as well as the soft skills they need to deploy them with the right messages and at the right time, would be an addition to legal training with the potential to pay dividends.

GCs and business leaders contemplating the legal operations function, required capabilities and maturity can find immediate help online. CLOC's 12 core competencies (including communications) and ACC's maturity model (including change management) are both excellent guides. What they describe isn't the role of a single person; rather, its the application of ordinary business principles to legal service delivery. For legal operations leaders, embedding a new mindset and vision, and embarking on change with inherently risk-averse stakeholders, requires leadership, empathy and resilience. For in-house teams to create and deliver value, they must learn to describe it. Only the best communicators and storytellers will thrive.

Jason Macarthur is a senior consultant in the field of legal operations and transformation, and was previously the Head of Legal Operations at MinterEllison.

8

Data analytics

The foundation of a successful legal department
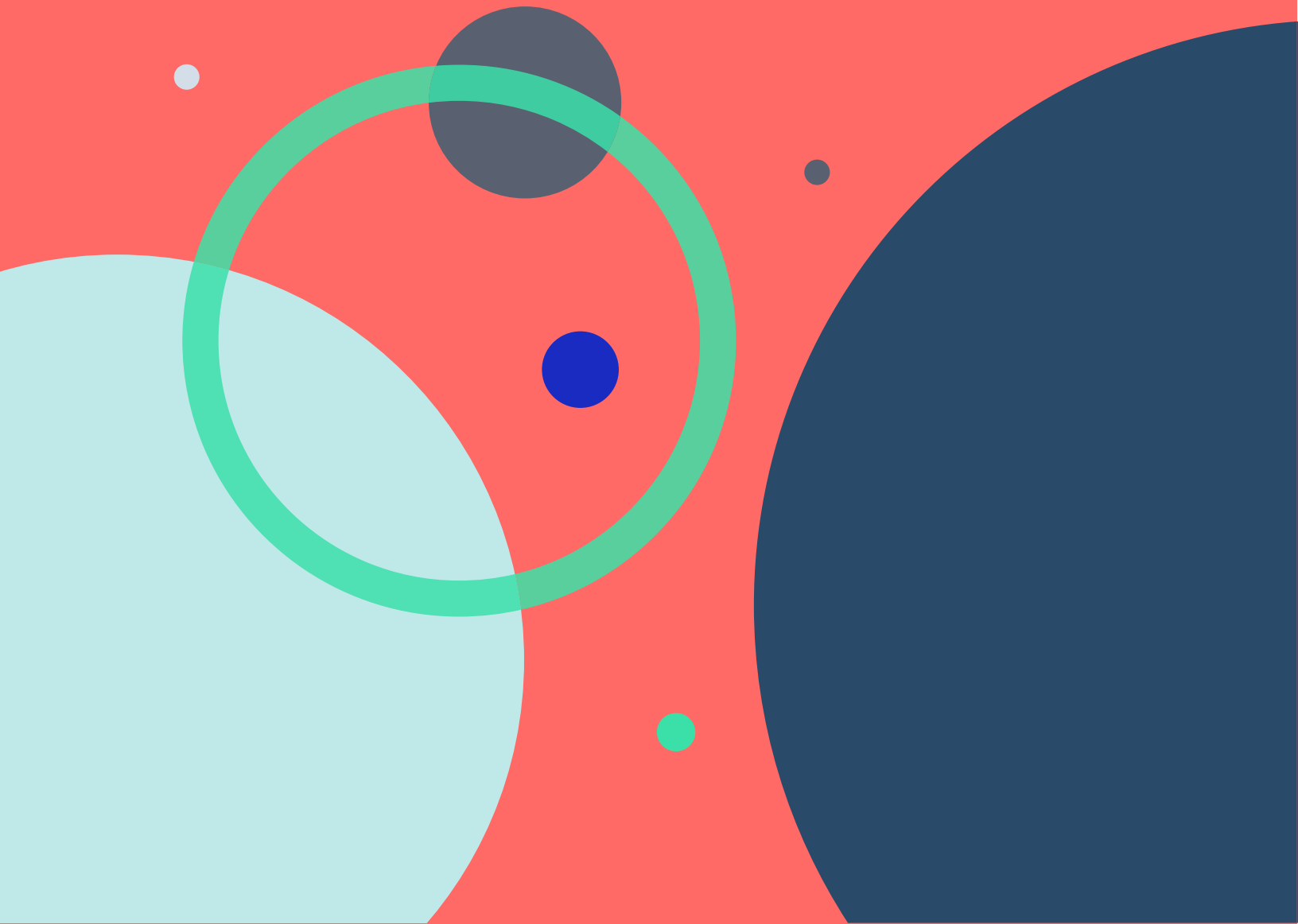
Data analytics
The foundation of a successful legal department

LUCY ENDEL BASSLI

Founder, InnoLegal Services

Imagine if the world that we're working towards with legal operations comes to pass. A piece of legal work presents itself in-house. It's then allocated immediately and automatically to the most cost-effective and efficient resource - whether that's a legal assistant, a junior lawyer, the GC, a software platform, an ALSP, outside counsel, or even self-serve. That engagement progresses at the optimum rate, and afterwards, reporting on its progress and success is delivered to key stakeholders. This information makes the right-sourcing of work even more targeted next time. The business gets maximum bang for its legal buck; the legal department as a whole is freed from the low-value flood of work that clouds its effectiveness every day; business and legal are free to partner on high-value strategic work that takes the company to the next level.

> *All the mind-blowing benefits we've been promised with AI won't get off the ground without good data as the foundation*

This scenario isn't even remotely possible without good data analytics. Similarly, all the mind-blowing benefits we've been promised that will arrive with AI, and with blockchain, and any number of other hype-heavy game-changing tools, won't get off the ground without good data as the foundation. Without proper analytics you can't prove you need those tools, you certainly can't prove they work, and you can't identify areas where you'd use them.

Gathering and deploying data is what every other sensible business function does. If legal wants to be a business partner, then the time when we could get by without data is gone. At the basic level, every outside counsel you employ should be providing you with data: on their costs, their timelines, the level of resources they're providing to you, the volume and response times of communications; you should expect these as standard. Make clear to your partner law firms that from now on, you expect a defined set of data points, delivered promptly and regularly. If they struggle, this is a great way to stoke competition between vendors - because why should you pay for an inferior service to the level that their competitors provide? Particularly with the arrival of business-savvy ALSPs, there's no excuse for a modern legal services provider to be data-illiterate.

Get your house in order

When it comes to your own in-house department, measuring outside legal spend is the very first thing you need to do. It sounds logical and simple, and something that every experienced lawyer should have the basic skills to do - particularly with the advent of matter management and e-billing software - but the reality is different. In the corporate setting, where numbers of service providers are high, it's easy for spend tracking to get out of control. Losing control might not mean a catastrophic collapse in operational capability, but the volume and complexity of spend can quickly get to a place where you can't analyse, forecast or budget properly - meaning that planning goes out of the window and the department becomes reactive. Not good.

Basic spend is black and white, and should be easy to measure, so start there. Once that basic data is gathered, you can start to add more metrics - historical trends, payment cycles, vendor numbers - and these will unearth insights that can help you. For example, if your payment cycles are fast, can you negotiate better rates for prompt payments? If your vendor number has crept up, but without an increase in spend, can you consolidate work with fewer vendors to make billing easier? Basic insights can quite quickly become powerful when it comes to basic resource allocation.

The next must-have dataset concerns how you engage with internal business clients. The only question that the business really cares about, more often than not, is how long a matter will take. The quality, and indeed any other aspect, of the advice is almost irrelevant to them. They assume the quality is high and that legal issues are covered by the legal professionals. So, all that matters to them is timeliness. They want predictability and certainty so they can plan for a matter, engage legal on it, resolve it satisfactorily, and then move on. This means that tracking the time from a matter being requested to its outputs being provided is the very least that business partners should expect - but again, far too few legal teams do it. While this data has

a profound impact on customer satisfaction, it helps legal to resource properly too. Is work going to the wrong person? Is it all going to a person the business likes to work with, inadvertently making them too busy? Is the time spent on uncomplicated matters really the best use of legal's resources? Tracking data properly is the only way to answer these questions, and to provide the level of service that the business has the right to expect.

Legal data 2.0

Legal departments shouldn't run before they can walk, and properly tracking the cost and allocation of work should really be considered walking. Even between those two critical data sets, spend management is really more of a crawl. That is really the first place to start. But legal teams that are ready to do more have begun to track contracts data in ways that add real value for the business. Every company deals with contracts - they're the foundation of business - and an increase in the volume and complexity of contracts is often the decisive factor that compels a growing business to hire its first lawyer.

Capturing contracts volume is black and white at the start - there are a finite, knowable number. Ask your sales team how many deals they have and they'll know immediately how many sales they've made. Similarly, HR will know straight away how many people they've hired. But ask legal how many contracts they've produced in a given quarter and you might be disappointed. Rectify this first of all to avoid embarrassment and make sure nobody knows more about contracts than legal does. Whether employment contracts, sales agreements other type of contracts, the business is likely more in tune with volumes than the legal department which is supporting all those contracts.

> *Arm your GC with hard stats for the tough conversations she or he has to have at their level - the CFO is likely grilling them for information, and historically legal hasn't always been able to provide it*

But smart in-house teams will move beyond this headline figure to capture turnaround time, type of contract, involvement of outside counsel, monetary cost, most and least negotiated clauses, and so on. These might seem like softer metrics but the lessons they bring will allow

you to deliver actionable insight to the business - helping them close, procure or onboard faster has a direct impact on the bottom line, and works wonders to boost the reputation of legal internally.

Armed with data, it's time to make sure the right people see it - and use it to make strategic decisions. There have never been more options when it comes to data visualisation, and even the most basic pie chart is a step up from a list of numbers. It's also guaranteed to land well with business-minded audiences - nothing animates budget controllers more than pointing to a huge slice on a pie chart and advising that all their money is going to one or two firms, for example. I advise communicating spend monthly, as financial data always has a keen audience. Workload and workflow-related data is better suited to a quarterly strategic meeting, where it can be presented to the relevant senior leadership. Key indicators like contract volume, headcount touched by legal matters, turnaround times - these are headline figures your GC needs to know. It's important to arm your GC with hard stats for the tough conversations she or he has to have at their level - it's likely the CFO is grilling them for information, and historically legal hasn't always been able to provide it. Again, the era where this was acceptable looks to be over.

Bridging the skills gap

To become data-driven, and data-enabled, in-house lawyers will have to overcome inertia and a skills gap in the profession. While some progressive law schools are catching up, and the number of law schools teaching skills like forecasting and data manipulation is growing, there is still much progress to be made. More worrying is the huge cohort of mid-career lawyers who were never taught any data skills as part of their training, and now face another 20 years of practice without them. To stay competitive in the job market, it's crucial for lawyers to try and address this, and in a way that holds their interest. For example, a transactional lawyer might find a financial management class interesting; a more process-driven lawyer might prefer to learn Six Sigma. However you choose to address it, make sure you're keeping up with the kind of role that 'in-house lawyer' is becoming - not just now, but five or ten years from now.

To underline a theme echoed elsewhere in this eBook, change management is driven by leadership. Tone at the top needs to be right, with a mindful and proactive GC who creates and maintains the kind of operational rigour where data tracking is natural. That might mean setting annual numerical targets, instituting customer engagement metrics, or even enforcing a monthly reporting requirement. The mix of carrot and stick required to make good data a reality will be different for each department, but the key thing is to get started. So many businesses are undergoing digital transformation across the board - whether that's publishing

moving online, marketing being automated, or even cars becoming autonomous. Legal must be part of the movement, as a point of pride: collect and exploit data to enable a more efficient, digital future - or risk being left behind.

Lucy Endel Bassli is the Founder of InnoLegal Services and the Chief Legal Strategist at LawGeex. Previously she was Assistant General Counsel, Legal Operations and Contracting at Microsoft.

9

Litigation support

Digital tools solving digital problems
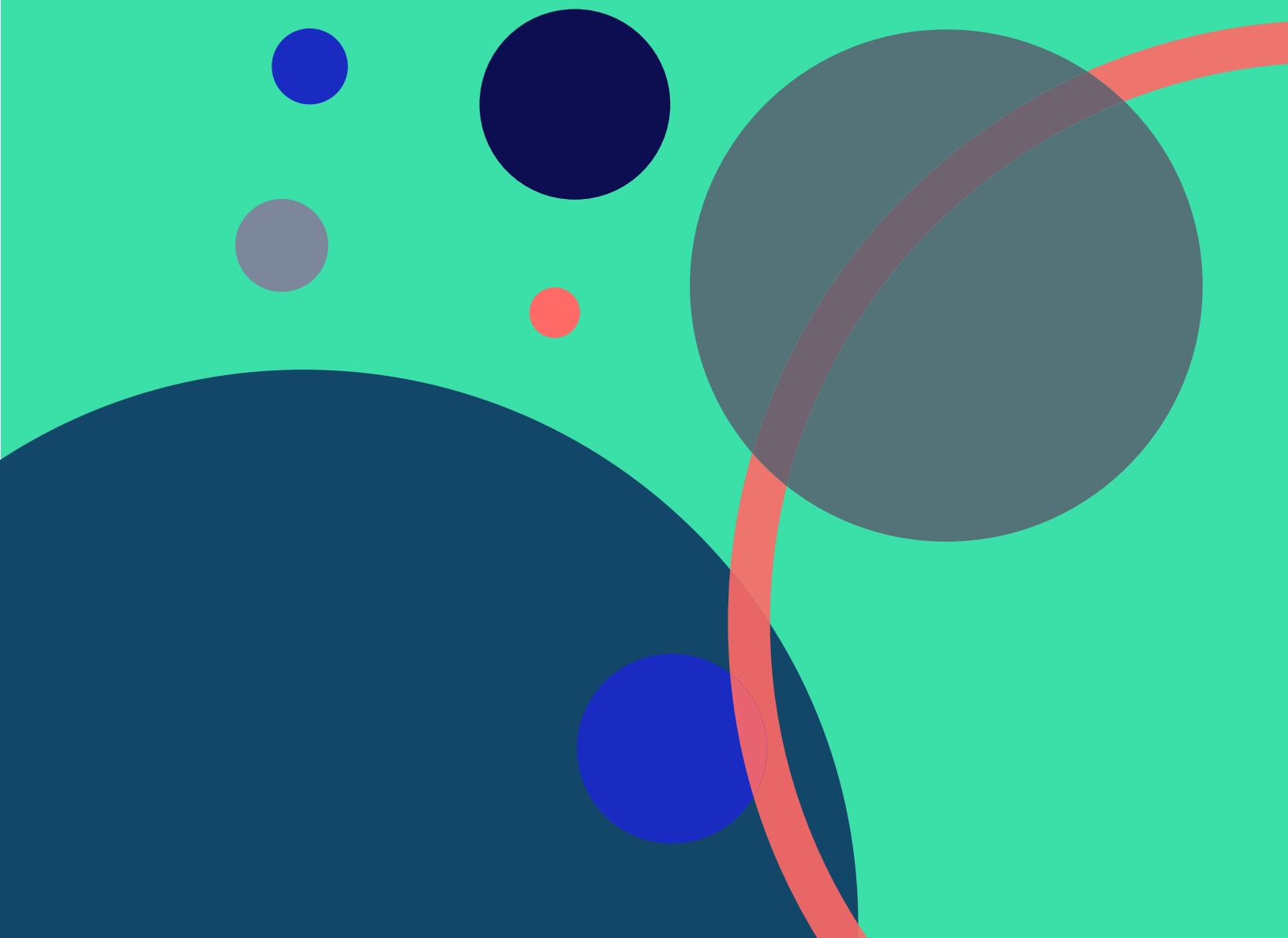
Litigation support
Digital tools solving digital problems

GLENN O'BRIEN

Former Director of Electronic Discovery, Liberty Mutual

"Where's the email?" This was the defining question and often the sum total of what e-discovery meant ten years ago. I spent more than a decade as director of electronic discovery at a Fortune 100 insurance giant, and during that time the business of supporting litigation has come a long way. Computers started out as a head-scratching problem to be solved - discovery for litigation was paper-based, and by and large people were happy for it to stay that way. It was often possible only to scratch the surface of an enterprise's documents: sifting through hard copies was the norm, searching emails was about as far as most projects went, and if you had a shared drive to peruse, you could count yourself very lucky.

As soon as an employee left the company, one of two outcomes was likely - both bad. Either their information and their knowledge of an audit trail would walk out the door with them; or that information would stay forever, in its unwieldy entirety, because nobody understood what it was or how to dispose of it. Either you couldn't find anything you needed, or new and current employees ended up sitting on a stack of emails from ten years ago sent by or to a person they've never heard of.

If this sounds unsustainable, that's because it was. The sheer volume of litigation that was arising, particularly in a sector like insurance, forced the practice of litigation support to change. An intimidating process like the one described above was too much for most in-house teams to handle, meaning that outside counsel were needed for extra firepower - bringing with them a cost that was potentially limitless. Private practice lawyers are trained to be forensic and diligent, exploring every rabbit hole and chasing down every document, at a relentless hourly rate that could quickly spiral out of control.

Beyond the email

The advent of e-discovery software brought a sea change to a process that had been horribly labour-intensive for IT. Before applications like Encase eDiscovery came along, we had to ask IT to manually export a mailbox and get the last backup of the computer from the backup file-share. Aside from being insufficiently forensic, this process used precious IT resources, which cost money, and had a big opportunity cost as it diverted them from other useful tasks. The introduction of e-discovery software meant, for the first time, that I could place an agent on a desktop, get a forensic disk image, and collect data from the email exchange without needing to engage IT. It was expensive - but as an investment in our long-term business, it was transformative.

> *Deploying e-discovery software properly means the reaction time to a litigation risk will be unrecognisable, compared to the heavily manual process we used to rely on*

Best practice has since moved on, thanks to both software capabilities, and our knowledge of them, improving dramatically in tandem. Organisations with the right litigation profile - such as insurance companies with high litigation volumes - can invest in software that offers more than just powerful e-discovery. Beyond pure collection tools, software can now help with privacy and regulatory events like GDPR. It can set flags when certain events or triggers occur. It integrates with data loss, and improves security too. All this combines to help you improve what really matters to the company: the bottom line. More internal firepower means you'll need to spend less, on fewer external counsel; and deploying e-discovery software properly means the reaction time to a litigation risk will be unrecognisable, compared to the heavily manual process we used to rely on. Using external counsel might mean choosing a vendor, getting a statement of work, and embarking on a drawn-out back and forth; whereas an internal resource is just a phone call away.

2D tools in a 3D world

All this progress is undoubtedly a good thing, but the volume of data we collect now, and more importantly, the different types of data, mean that we need to take a giant step forward once again. When I first started with e-discovery, it was all about the email, and finding a way

It's no longer good enough to take 21st Century technology, like smart review and data clustering, and dumb it down to give us a paper output to pass around

to distill all the evidence and information available to us into a .tiff or a PDF. But the nature of the data with which we're concerned has moved on, and it's no longer good enough to take 21st Century technology, like smart review and data clustering, and dumb it down to give us a paper output to pass around. To take a specific example, 20 years ago, the training manual that told you how to do your job might be delivered as a hard-copy book. Move forward ten years and it might be a PDF on a shared drive. Fast forward to now, and it lives on the intranet as a web page, and it contains tools, tips, sections that expand when you hover or click, even video - how do we capture whether a user saw each element? How do we express their interactions on the page in a 2D, saveable format that can be searched like a document? If they reacted to a resource posted in Slack, how do we codify the sentiment based on the emojis they used?

These questions represent the world we are already partially living in, and although data abstraction and our ability to wrangle huge datasets are improving constantly, we do not yet have the satisfactory answers that will power e-discovery through the foreseeable future of litigation. Companies that create products to solve these riddles, and the customers that adopt them, will define success in e-discovery over the decades to come.

In the meantime, companies setting out to create and scale a robust e-discovery capability need to start by integrating it into their planning cycles. Procurement processes for records and information management need to integrate e-discovery into their decision-making and sign-off, to make sure that litigation support has been taken into account. Like so many areas of legal operations, having a good plan at the outset is the key to avoiding costly change management down the road. We're a long way past "where's the email?" - make sure you're ready for the new world.

Glenn O'Brien spent 10 years as Director of Electronic Discovery at Liberty Mutual Insurance in Boston.

IP management

Protecting what matters most

IP management
Protecting what matters most

FAYE MORAN

Senior Legal Operations Manager, Marks & Spencer

Few practice areas have been more profoundly changed by the digital economy than intellectual property. When I first joined Pearson, drafting and managing IP contracts was a painfully manual process, regardless of the volumes; both the business and in-house legal relied heavily on outside counsel to protect IP, we'd seek advice and process support from our external lawyers, and at some point we'd get a hefty bill. Virtually no data was captured, and institutional memory would sit in silos with a handful of individuals. IP is the basis of so many modern businesses, whether it's an algorithm, a fabric design or a TV programme, but for too long the process around IP management has been perceived as a blocker - not an enabler.

The good news is that things have changed. With the omnipresent and permanent 'more for less' environment, and the advent of legal operations as a mature discipline, the opportunity is there for in-house IP lawyers and legal operations professionals to demonstrate the value they can unlock for the business. Even the late-adopter teams are waking up to the potential that technology offers to safeguard and drive the exploitation of a company's IP in ways that would have been unimaginable even ten years ago. Make sure you're taking advantage of that progress.

Many hands make light work

For starters, our ability to outsource high-volume, low-value, non-strategic work has grown precipitously - particularly in the UK after the Legal Services Act in 2007, but globally too. The 'NewLaw' providers have a lot to offer in the IP field when it comes to volume work, so much of which is already process-driven and standardised.

Anyone managing company IP at scale is familiar with the repetitive queries and tasks encountered, regardless of the question and the questioner. The expertise of alternative legal service providers will increase hand in hand with their exposure to IP work and the challenges their clients share; this can only drive efficiencies for those in-house departments ready to make use of them.

Beyond this, technology solutions can help us to reduce our reliance on outside counsel, and the burden of the corresponding costs. IP management platforms like Symphony, CPA Global's IP Platform and Yerra Solutions' IP Magic Triangle aim to deliver a one-stop shop that gives a complete picture of the IP portfolio, helping us to be more flexible when choosing outside counsel and other service providers, and enhance institutional memory.

> *IP is one area where legal can directly influence revenue - for example, by protecting IP and facilitating new licensing opportunities*

Workflow functionality means that we encourage colleagues in the business to self-serve, generate their own contracts and documents through templates and guided automation and can disperse and augment IP knowledge. Crucially we can also capture data from our interactions, helping us to build the full picture of where in the world our rights are protected, where there's potential for new registrations, and where all the costs and restrictions come from.

If we were to crystal ball gaze for a moment one can see a future where technology will make significant changes to the way IP is created, registered, protected and exploited. The (much hyped) possibilities of Blockchain, for example, signal a possible future where the IP protection process could be heavily automated and IP exploitation could happen in a way that provides huge amounts of valuable data.

A seat at the table

So what do we do with all that time? More with less is always the goal, but becoming more efficient doesn't have to mean losing headcount. Instead, it should liberate in-house legal and the business to focus on adding real value, through our strategic insight about the company's IP portfolio. Where could we expand? Where are we vulnerable? Which opportunities to exploit

IP might we be missing? IP is one area where legal can directly influence revenue - for example, by protecting IP and facilitating new licensing opportunities. These are the strategic value-adds that could empower lawyers to get a seat at the table, but only if we can find enough efficiency to be able to focus on them.

To achieve this we need to take several practical steps. Scoping and investing in the right technology, as described above, is an important process, but it's by no means a panacea (nor is budget sign-off a given). For many companies, there's a foundational education piece to take care of before business stakeholders are ready to self-serve, and to look at where their IP portfolio might offer opportunities.

Empowering and educating business teams, for example, about the importance of a robust IP framework can pay dividends down the road; improved terms and conditions in supplier agreements can have a direct effect on getting products to market faster. Wins like these help change perceptions of legal, from blockers to real business partners, and empower us to become the business partners we want to be.

> *If IP management isn't optimised to take advantage of the new technologies and providers, and falls back on manual processes and outside counsel, the potential for costs to spiral is huge*

As the demands of an international IP portfolio increase, this approach will no longer be a nice-to-have. If IP management isn't optimised to take advantage of the new technologies and providers, and falls back on manual processes and outside counsel, the potential for costs to spiral is huge - and ultimately unsustainable. If that way of working sounds familiar, don't be afraid of tearing up what you have and starting again. The business of ten years ago isn't the business we have now, and certainly won't be the business we have ten years from now. IP management has to change too - and it's up to all of us to adapt and drive that change.

Faye Moran worked in intellectual property management before joining publishing giant Pearson, first leading a contracts team and then moving in to their legal operations group. She recently joined Marks & Spencer as Senior Legal Operations Manager.

11

Knowledge management

How to make your team smarter
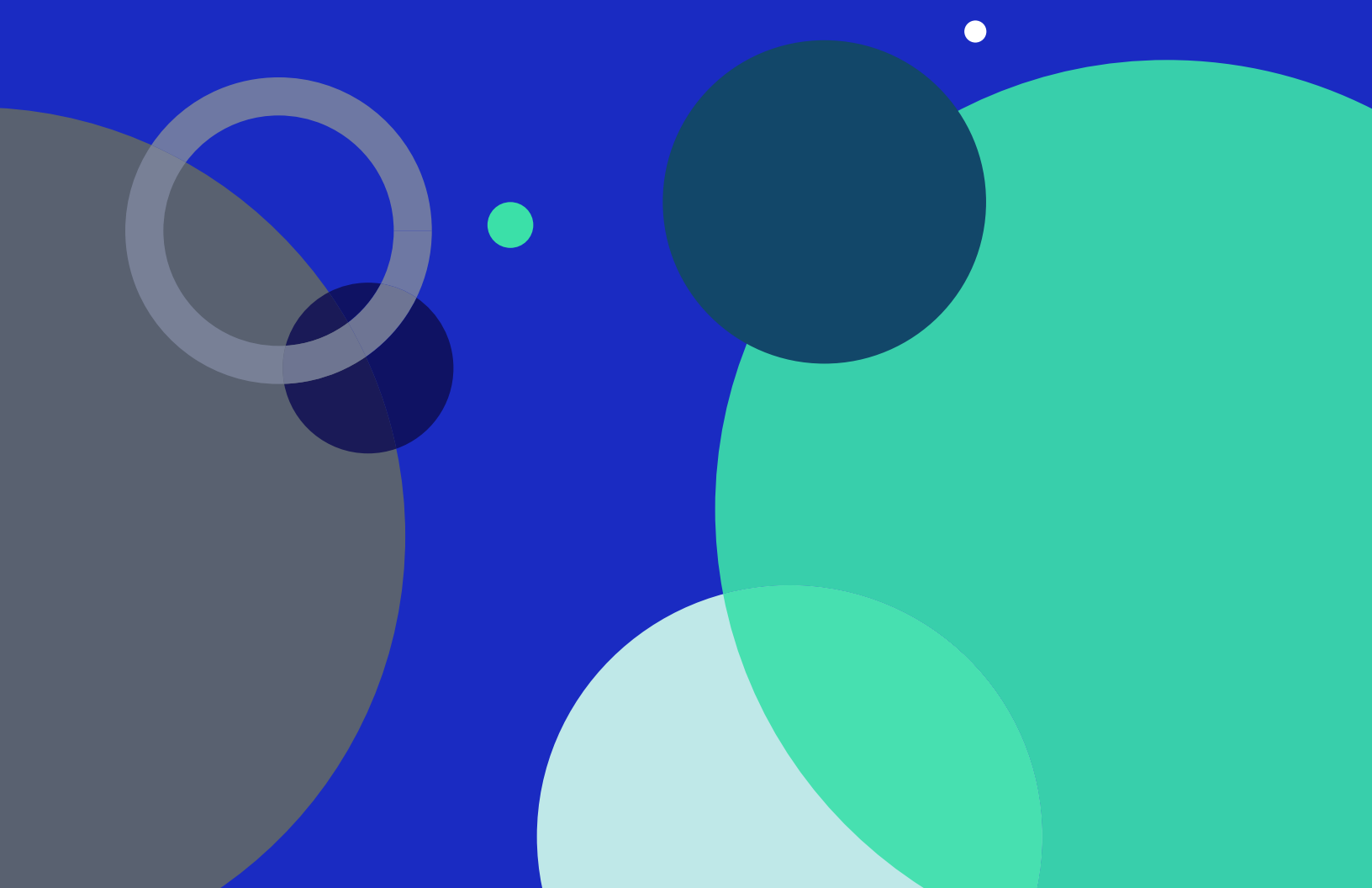
Knowledge management
How to make your team smarter

LEIF FRYKMAN

Founder and Chairman, LegalWorks Nordic

Any large law firm worth its salt has a knowledge management function in 2018. The need to gather, and get a firm grip on, institutional knowledge was proven long ago: law firms need to know that their best practices won't walk out of the door with a lateral hire. They need to collect common templates to speed up delivery times to clients. They need to integrate their knowledge base with document automation and contract management platforms. All this makes sense; but knowledge management (KM) functions inside corporate legal departments are much less common, despite such companies often having scores, if not hundreds, of lawyers.

The reasons for this are obvious and, in some ways, circular: there is often no KM function because there's nobody in charge of setting one up. Law firms will assign this role, but in-house, lawyers don't necessarily see it as a good use of their time - especially when there are usually legal fires to fight that seem much more pressing. While KM brings efficiency, it doesn't deliver immediate results, and is thus likely to be deprioritised in favour of something that does.

The more-for-less environment changes this equation. In the drive for efficiency in-house, GCs no longer have the time or the money to reinvent the wheel with important documents every time. Similarly, knowledge can't sit forever in silos, nor in the brains of employees who might leave any day - the best documents, policies, playbooks and templates need to be accessed and used by everyone who needs them.

The change you need

> *Creating knowledge management in-house is first and foremost an exercise in change management*

So where do you get started? The first thing is to realise that unless your company is brand new, it's unlikely that you're starting with white space and can easily move the relevant pieces into place until you're happy. Even without a KM system, the legal department and its internal customers will have some already existing practices in place, and these ways of doing things need to be identified and challenged. Therefore creating knowledge management in-house is first and foremost an exercise in change management.

Framed this way, the first steps become clearer. Find out what people are doing today and why. Present the benefits of changing those processes and behaviours, both to the individual and the company. Make sure you identify and persuade the stakeholders you need. The GC and the IT team are the obvious ones, but it's also useful to have the management team in legal behind you. Senior champions will fight your corner and help get a system in place - without them, procurement will be a struggle and adoption will be even harder.

When you begin to set up your KM system, it's important to address the structure before rushing into the content. If your department is big enough - and lucky enough - to get a dedicated technical resource, like a web manager, to manage your solution, then you need to think about structure before worrying about content. When I helped to put a KM system in place at a huge Silicon Valley company, we had a web manager in place to build our portal, which took the shape of a 'legal wiki' - but deciding whether to group content by legal area, or by expertise, or by team, or sub-team - these were tough questions to decide with senior stakeholders. Once the structure is agreed, then the focus shifts to content - and to ensuring adoption.

Carrots and sticks

Any in-house KM system is, of course, only as useful as the knowledge that lawyers feed to it. This means it needs to be attractive, easy to use, and above all, a place where lawyers will go looking for information. I integrated live streams and news tickers from the business newspapers into our KM platform, alongside live legislative updates, to give our teams a rolling feed of interesting content, which drove traffic to the platform. The hard part, however, is encouraging

employees to take the time to contribute their specific knowledge to the KM system. Best practice documents, templates, playbooks, how-to guides, sample clauses, project plans, policies - the ability to iterate on previous versions of these, rather than reinventing the wheel each time, is a time saving that's hard to understate. But finding time in-house to do anything new often feels impossible for time-crunched lawyers.

> *We went out of our way to call out and highlight valuable contributions in team meetings - not just to bolster morale, but also to show the team that KM mattered to senior management*

To combat this, the first step was to make colleagues aware that the willingness to step up and take the lead in fostering institutional knowledge was a quality that would reflect well on them professionally. We didn't go as far as tying it to promotions, but we did make it a part of how we evaluated performance. If this is somewhere closer to stick than carrot, we also made sure to offer the carrot too - by offering a prize each month to the employees responsible for the three best publications. The possibility of winning, for example, an iPod means more to some lawyers than you might think, and while not every document submitted to the KM hub was best-in-class, most were thoughtful, useful, and formed part of an ever-growing bank of institutional knowledge. We went out of our way to call out and highlight valuable contributions in team meetings - not just to bolster morale, but also to show the team that KM mattered to senior management, and staff commitment to it would be highly valued.

Start small - and get smarter

In a smaller legal department, it might feel like building a KM system is a nice-to-have - a luxury that you don't need yet. The problem with this position is that by the time you do need it, the task of establishing it will be immeasurably harder. More broadly, the need to manage information efficiently, keep costs down and deliver more is only set to increase - particularly given that in the digital age, the breadth of knowledge that needs to be managed will only increase too. The upside of carefully preserved and shared knowledge is that your team gets smarter all the way around: junior lawyers can take their cues, and their clauses, from the senior lawyers who define best practice. By sharing their knowledge, team members can avoid being pigeonholed as narrowly focused specialists, always relied upon for the same tasks. This makes personal development more likely, and more satisfying.

Without a good KM system - however rudimentary it is at first - departmental knowledge risks stagnation. Good lawyers might remain good, but they won't get better. The same skillsets will sit with the same people, and walk out of the door with them if they leave - making the whole team less competitive, poorly developed, and ill equipped for challenges coming their way in the future. Getting a grip on KM in-house is crucial if legal is to keep its edge - both within the team, and for the business as a whole.

Leif Frykman is Founder and Chairman of the Board of LegalWorks Nordic. He was formerly Vice President at Sun Microsystems and VMware in California.

12

Information governance & records management

Keeping your corporate memory

12

Information governance & records management
Keeping your corporate memory

ROHAN PARAMESH

VP and Head of Legal, Habito

There is no business on earth that hasn't seen its information governance and records management challenge increase dramatically in recent years. The volume of data that companies collect and retain, and the way we manage it, is a critical issue for any business - particularly post-GDPR. For a high growth fintech like Habito, this competency is an intrinsic part of our strategic development - do it well and we have a strong platform for continued growth; but few things could derail us as fast as doing it badly.

The way we think about records splits broadly into two categories: records relating to our customers on the one hand; and everything else on the other. The first group is in some ways the simplest to think about, as our obligations are clearly defined by the regulator (the FCA in our case) as well as the clear and exceptionally high standards we set ourselves. This combination tells us what we need to do, how, where, what our disclosure requirements are, and so on. In the second group, however, we have more scope to mould and develop our approach - and, when done well, its impact on the business can be profound and long-lasting.

Corporate memory

There's a lot of interesting variety within the 'everything else' bucket. From our investor and corporate-related records and everything to do with our funding rounds; to our internal management of commercial projects; to our suite of policies, procedures and guidelines. It's important not to just view these as mere obligations - boring records that lawyers write and keep just because they have to. This information contains the corporate memory of the

business; it helps you, your colleagues, your future colleagues (and your future investors) to understand who you are, what you did, why you did it, and how you thought about and approached it at the time. The management and version control of these records must be seamless if the legal function is to fully align with and add real value to the rest of the business; a frictionless process that retains value, records knowledge, and navigates the tension between relentless growth and first-class governance, not to mention keeping that corporate memory clear, precise and easy to recall at all times.

It's important to define the stakeholders for each group, and make sure everyone is aligned for success. For the internal 'everything else' bucket, the usual podium of legal, risk and compliance are your starting point. Beyond these usual suspects, we find that it really helps to adopt a holistic approach - for example, before a policy goes live, we might invite marketing and communications to contribute so as to better engage with the reader and maintain our desired tone of voice to help the policy land better. Seeking the advice of different internal stakeholders helps us to be consistent, so that a particular policy and approach to it makes sense today, a year from now and beyond. The same is true externally; while external forces such as the FCA, or GDPR, or other 'authorities', direct and dictate the end at which we need to arrive, it's our internal stakeholders that shape the means through which we get there.

The mindset matters

Records management and version control must be seamless if legal is going to fully align with the rest of a high-growth start-up

For us, carrying through the core mindset of how we interact with customers is a huge help when it comes to information governance and records management. As a technology-driven online mortgage broker offering customers a highly innovative, easy, fast and free digital experience, as well as tailored advice from our team of qualified mortgage experts, we're challenging an area of an industry that has traditionally been painful for the customer; reinventing that process - using automation - around the customer is our big advantage. But with that innovation comes a whole new layer of complexity. Our customers' willingness to use live chat to access products and services, not just in simple everyday life, but also for momentous occasions like applying for a mortgage and buying their dream home, is a development that would have seemed fanciful ten years ago. Its success creates a volume of records that we have to manage carefully and successfully - or see our competitive advantage eroded.

Our response must therefore be to start with the customer and work backwards from their needs. For the longest time, mortgages largely involved financial actors working through a complex process that squeezed the actual home-buyer down the pecking order. If our aim is to put the home-buyer first and make the customer central to the mortgage process, then that has to carry through to the way in which we handle their records and information. The regulators have requirements of us that are non-negotiable - but our fundamental commitment to always prioritise the customer isn't up for negotiation either.

Luckily for us, Fintech isn't a completely uncharted space. There are plenty of innovative companies - some of whom contributed to this eBook - that help to define best practice. We don't necessarily aim to break new ground every time we establish a process, but by incrementally making sure our information governance remains best-in-class, then the task of responding both to regulatory changes and to customer needs is one of tweaking here and there, rather than trying to repeatedly reinvent the wheel.

Fear or positivity?

One approach for lawyers to ensure compliance is to draw on fear-based techniques. 'Risk', 'breach', 'fine', 'sanction', 'liability', 'exposure' - these are common motivators. Why? Well, firstly, they work. Secondly, they're real: the doomsday scenario where the regulator knocks on your door and suspends activity is a possibility, however remote, for any business breaking ground with an innovative approach to a highly regulated market. It's unlikely, but it's crucial not to be complacent - for a fast-growing company, any of those scary terms can create reputational risk and undercut the good work of your marketing, comms, and other internal teams.

If people understand why good information governance is crucial to winning in the market, then you don't need a 'bad cop'

The risk is also commercial - legal's information governance processes becoming a hurdle for the commercial team would be a disaster. And hugely important is the internal cultural risk: you want employees to be proud of where they work, and to perceive their colleagues as compliant, conscientious and always striving to behave in an ethically correct way. That fear of risk or failure is one way to drive compliance.

In companies like Habito, we can also choose positivity. The same principle that guides everything else we do can also guide our information governance and records management.

'Will this help us grow, serve our customers and be successful?' is a question to which you always need to be able to say 'yes'. If people understand why good information governance is crucial to winning in the market, then you don't need a 'bad cop'; commercial upside will drive good behaviours and make people self-police and guide their own actions. For example, if we find ourselves running into a funding round, and all our records are immediately accessible, consistent, up-to-date and compliant with internal policy, then a pressing due diligence need can be met with agility and speed. If not, the risk for a startup is obvious - and a small and growing team can't afford to divert crucial time and resource for a month to fix messy records. Get it right and you can close faster and contribute real value to the business' growth. And as the company matures, the same principles apply to audit and other areas of governance.

Ultimately, while information governance and records management probably don't seem like the sexiest functions within a company - whether that company is aiming for hypergrowth, or simply to return profit to shareholders - the impact they can have on the business can be dramatic and very real. Optimise legal operations in this way, and the business will always be thanking legal for helping it win.

Rohan Paramesh is VP and Head of Legal at Habito. After 5 years in Linklaters' Corporate team, Rohan moved in-house to Tata Consultancy Services (London and NYC), then to LOC Group as GC, before joining Habito as VP Head of Legal.

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Strategic planning

Survive and thrive in the new normal
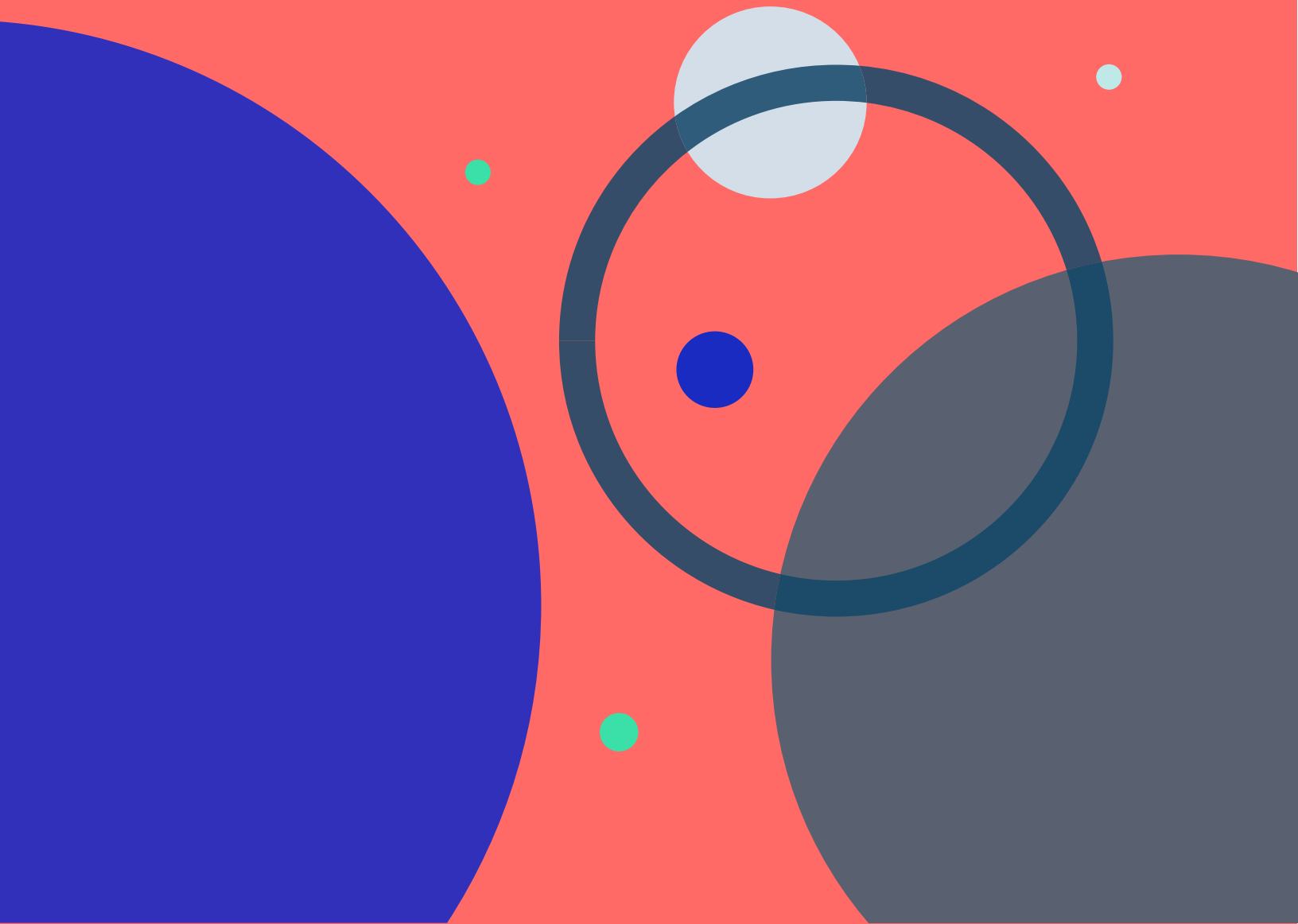
Strategic planning
Survive and thrive in the new normal

MICK SHEEHY

Former GC, Telstra; regional leader, CLOC Australia

Why legal operations exists

The context that gave rise to legal operations is still worth remembering. I imagine many of us remember where we were when we saw the employees of Lehman Brothers start to spill out onto the street with their belongings in cardboard boxes. The 'more with less' environment that followed for in-house lawyers perhaps didn't arrive in such a single, iconic moment, but before long it was a fact of life that we all had to reckon with. As a rule, legal budgets had increased year on year before then; when we were asked to deliver more results with fewer resources, the only two levers we knew how to pull were either to spend less on external advisers, or to cut our internal spend.

After a few years of managing with tighter budgets, hoping that things would go 'back to normal', the realisation that they never would made us focus on internal productivity and innovation in a way we hadn't been forced to do before. As the GC at Telstra leading innovation a key response was putting in place a programmatic workstream specifically to tackle productivity and innovation. Hiring a legal operations senior executive was also a critical instrument of change.

The strategic framework

The pressure on budgets was one of the key drivers for us to embrace strategic planning as a key competency for legal. Having a time horizon that stretches beyond the next annual budget approval wasn't a widespread attitude amongst in-house lawyers. Engaging properly with the 3-year and 5-year timelines of the corporate you support is a good start - but it's limiting. If lawyers are really to plan strategically, and add value to the business, then the edge of our ambition shouldn't be managing to a simple deadline.

With that in mind, we set out a framework for strategic planning to overcome short-term thinking. It starts with two questions:

1. What is the strategy of the company, and how well do we need to manage and align to it?

For the most part, in-house lawyers do this well - we have a solid understanding of where the business wants to go and we endeavour to align to that. Where lawyers have perhaps fallen down is the second question:

2. What is the strategy of the legal department?

This breaks down into three pillars:

i. How will I deliver more with less?

This means increasing productivity through innovation to deliver today's service more effectively and efficiently tomorrow. This might mean process re-engineering, data analytics, automation, or any of the other innovations that can improve legal operations. This is where I spend the bulk of my time.

ii. Where is the company going, and what kind of legal needs will it have in the future?

This is particularly important for a technology company like Telstra, because the technology it uses, develops or sells will evolve, and the law will evolve too to keep pace. We have to make sure we have the skills and the capacity to learn, understand and deliver on those future requirements.

iii. What new value could the in-house department be delivering tomorrow that it isn't today?

For many legal departments, this is the hardest question to answer - but it's also one of the most important. If we are to do more with less, there's a danger that as a consequence the future of our legal departments is only a smaller and less relevant one. Are we empowered and incentivised to find areas of value that could be added to the company in the future? The resultant drive to improve processes might mean legal straying into territory traditionally reserved for other teams - such as sales or procurement - which means a collaborative, strategic approach is key.

Delivering against these pillars requires different types of talent. The first requires up-to-date business acumen; the second one requires forward-thinking lawyers, who can use horizon-scanning to spot future needs; and the third requires commercial-thinking lawyers ready to push legal into traditionally non-legal areas. Working out who can fill these roles in your in-house team is a key challenge in strategic planning.

Results your CEO can't ignore

We set up the Telstra legal innovation forum to explore these issues, and to share the learnings our legal operations function gathered with the wider business. The forum was a series of workshops focused on problem-solving: we enlisted our junior lawyers and used design thinking to address key basic problems we encountered in our working lives as lawyers. These problems might be related to technology, but often they were about achieving cultural change.

In the first year of these workshops, we eliminated 40,000 hours of low-value, non-strategic work.

This was a big win, and a validation for our approach; but what was interesting was that when we tried to attack problems in the same way the following year, the purpose of our innovation forum began to change. What had started as a problem-solving forum had evolved into a workstream that trained our lawyers in how to be more objective about what they did, and to develop an innovative mindset. This meant that when they went back into their areas of the business, they'd make operational changes to their processes, and create incremental change for the business as a whole.

This helped us get to the long-term thinking that is often difficult for legal to achieve. The forum started to deliver an accumulation of small wins, that drove a material impact over the longer term. Being persistent and accumulating results allowed us to make important gains, and even win some awards; but even more precious was our ability to convince our colleagues

that we were one of the company's leading and most innovative departments. The CEO and the board suddenly took notice of what we did and how we did it; they asked for presentations from us, and the rest of the organisation started to follow innovation in legal closely, looking for lessons they could learn from and take back to their teams.

Making it happen - and enjoying the benefits

In a 'more with less' environment it's really easy to focus narrowly on productivity. But there's an obvious question after saving 40,000 hours: what did you do with them? Simply taking them out of the business as headcount reduction would have been a mistake and a terrible disincentive. But instead, by proving our ability to add value, and gaining champions at board level, we had the freedom to take that time and use it wisely: to give a better work/life balance to our team, and to reinvest it in more innovation. Looking beyond the hours/dollars saved metrics, it's also worth tracking more profound metrics, like legal ROI, value created or risk avoided. They're harder to measure but great indicators as to your direction of travel.

Making a success of strategic planning is achievable in any in-house legal department, regardless of its size. A senior executive once told me that if we were serious about change we needed someone who, when they turned up to work, had only one job: to make that change happen. Now that's easy to say, as a GC in a legal department of 230 lawyers, with the ability to hire a full-time legal operations executive. But in a much smaller team, it's still possible to achieve change, if you work out how to make sure the agenda isn't a nice-to-have, or something additional to do alongside your 'real work'.

Some lawyers will be reluctant to embrace it, and look at strategic planning and legal operations as beyond the scope of what they feel they are there to do. You can overcome this resistance in many ways; an 'innovation goal' as part of an individual's personal KPIs, tied to salary and bonus, is one obvious and effective method. But in my experience, never underestimate the importance of celebrating even small wins. Elevating colleagues and creating excitement is one of the cheapest currencies you have - spend it regularly and you can create the momentum to change your approach to strategic planning, and deliver real value to your business. In a permanent 'more for less' environment, that might be too big an opportunity to pass up.

Mick Sheehy is the regional leader of CLOC Australia. A recognised international leader in the field of legal innovation and transformation, Mick has won numerous international legal innovation awards.

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