

Charting a New Course: Assessing Your Legal Department

Four of BarkerGilmore's Senior Advisors, renowned former General Counsel, speak about their experiences leading legal department assessments, the value of assessments, and the challenges they encountered.



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Navigating the changing tides of the legal profession calls for frequent course correction. The rise of the business-minded General Counsel represents a new wave of leadership within organizations, reflecting the value and increased responsibilities of in-house counsel. General Counsel at the helm need to keep apprised of new challenges on the horizon and build a legal team that is ready to assume a position of greater scope and influence within the business.

As the expectations for in-house counsel rise, and actual roles and duties change, the legal department itself faces a paradigm shift: goals, culture, and management racing to keep up with the needs of the business and the dynamic pace of the legal profession. Roya Behnia, former GC of the Pall Corporation, is familiar with coming up against a revolving door of priorities. "Our profession has changed dramatically, especially with the rise of technology and growing use of analytics to demonstrate proof of value," Roya says. While contending with these changes, General Counsel must prepare their legal teams to adapt to evolving company strategy and the needs of the customer base.

Staying ahead of direct competition and new professional standards requires the competitive advantage of an expert, resourced team. It is a well-documented trend that organizations are transitioning to more frequent performance reviews in order to document the development and aptitude of employees. Whether your organization chooses to take on more frequent performance reviews, the bigger picture is having updated information about how your team is operating: where they are excelling, and where they are struggling. The best way to understand the intricacies of department function is not through composite reviews, but through a holistic legal department assessment.

Within three months of joining Boehringer Ingelheim as the GC, Marla Persky began making personnel and strategy changes on the strength of her assessment. Marla used her assessment plan to determine what changes were needed to improve efficiency and performance, and to become intimately acquainted with a new department in a short span of time. Proactively undertaking assessments and resolving inefficiencies in workflow or role responsibilities "helps to establish your leadership as strategic and business oriented," Marla Persky says.

In a similar vein, while General Counsel at The J.M. Smucker Company, Ann Harlan used assessments to plan the legal integration of newly acquired businesses. A law department assessment proved to be the perfect way to understand and document the needs of newly acquired companies, and the ability of legal departments to accommodate changes in workload and requisite expertise.

Building a culture of continuous improvement

One of the biggest challenges that faced Michelle Banks, former GC of Gap Inc., when conducting a legal department assessment, was convincing others in her business that an assessment would be valuable. Michelle recalls that they said, “You know, the legal department is not broken.” So why was she trying to fix it?

The idea is to create “a culture of continuous improvement... not merely a reaction to a problem,” Ann Harlan advises. If a law department assessment is only held at the directive of the CEO, there could be resentment and pushback from the law department, and the value imparted by an assessment lost. An assessment held at regular intervals may identify gaps in service, but just as importantly provides an opportunity to recognize and reward star performers.

Legal operations leadership is an expanding function within organizations that continually monitors and drives efficiency standards throughout the law department. Managing the impact of advancements in technology, business growth, and industry regulations on the law department, legal operations teams collect the kind of information that assessments can deliver. The value of a periodic assessment includes getting ahead of potential problems, identifying key value-adding initiatives (what “works”), aligning department goals with changing business goals, and addressing any issues perceived within the department. Regular assessments offer opportunities to review office culture and work ethic, legal needs, performance goals, and productivity. At its core, the assessment is a tool to strengthen the legal department.

“It helps ensure that the department is doing the most valuable work as defined by business needs,” says Marla Persky. Regular law department assessments are a kind of “wellness check-up” for a healthy law department. Even if a problem isn’t immediately apparent, a check-up verifies that things are running smoothly, and gives your law department a clean bill of health, or conversely allows you to diagnose any problems. With repetition, the assessment process will run smoothly, maximizing the efficiency and efficacy of the process. As in any regular performance review, the expectation of the assessment provides an opportunity for the department, and the GC, to self-evaluate: Are we working toward our department goals? Are our department goals supportive of business goals and strategies? Is there anything I would change about the performance of the department?

Separately from an individual performance review, the law department assessment focuses on the performance of the team as a cohesive unit: that talent is being utilized effectively, that all legal needs are being met, that services are within the realm of costs, and that the legal department is providing and creating value for the business as a whole.

Reviewing department culture will allow you to articulate management strategies to develop and strengthen the department. Taking the time to understand and consider factors such as communication and responsiveness will help you to answer questions on your department's core competencies.

Communicating the value of the law department

During her first year as GC, Michelle Banks was tasked with cutting costs by 20%. The cost reduction directive was issued across the company, and posed a tall order for any legal department. Conducting a legal department assessment gave her the information she needed to create a cost reduction strategy, without compromising legal services. Using the cost-reduction initiative as a springboard, Michelle introduced semi-annual stakeholder interviews, annual spending reviews, and periodically benchmarked the department against "deep dive" assessments.

"A best practice company does this all the time," Michelle advises. Spending evaluation does not need to stem from the CEO or GC questioning if they are being as efficient as they could be; it should be an integral component of regular departmental reviews. Consistent data collection from an assessment will reinforce whether a cost reduction strategy is viable or even necessary, given the efficient performance of the law department.

The value of holding periodic assessments, Ann Harlan agrees, includes identifying the strengths of the legal department. "Part of that analysis involves quantifying the financial impact on the bottom line of initiatives that the legal department is responsible for, or significantly impacts," advises Ann. Documenting the dollar value of legal department activities, including risk mitigation and the avoidance of costly litigation, translated legal prowess into boardroom numbers. Engaging the entire team in periodic assessments revealed the consistent strengths of the law department, and clearly demonstrated the value the department was delivering. When conducting an assessment, Ann's goal was to empower her team, using the assessment as a professional development tool and identifying her department's "rock stars." When an assessment revealed gaps in department function, creating a "professional development roadmap for someone that wants to develop an expertise" in those areas encouraged advancement with existing resources. Utilizing assessments in this way allowed Ann to successfully integrate the legal needs of acquired companies, and provide a broader range of development opportunities for the legal team.

Enhancing communications with the C-suite and board is a clear advantage gained from conducting regular assessments. Conveying the challenges your team has overcome, and what your department needs to succeed, requires bringing concrete details to the table that executive leadership can connect to the work of your department. The results of the assessment will reinforce your decision-making and help articulate the deliverables of your department. “These assessments can provide the basis of a strategic plan for your department and a roadmap for goal-setting in a multi-year period,” says Roya Behnia, “With a defined strategic plan and cascading goals, you and your team would be speaking the language of the C-suite.”

What makes an assessment successful?

Ultimately, the goal of the law department assessment is not to find ways in which the department is “broken” or whether changes need to be made. Recognizing talent, streamlining workflow, and reducing costs come naturally after conducting one or more assessments, reconciling department functions with department perceptions and goals. Building positive benefits into the assessment directly for your employees, as well as the business at large, will make regular assessments a welcome activity.

The keys to successful assessment implementation, as identified by BarkerGilmore’s advisors, include:

- Outside perspective & impartial eye
- Industry leaders & industry expertise
- Consistency – timing, methodology, etc.
- Benchmarking against industry standards
- Tailoring assessment to your specific goals

While simplified here, the tools and methodology described take careful planning for successful implementation. External expertise is the premiere way to ensure a smooth assessment process and gain an impartial eye. The expertise of leading GCs who have successfully completed dozens of assessments will help you to introduce the assessment process and guide you throughout the process. In a changing legal environment, benchmarking against industry standards is increasingly complicated. Engaging industry experts allows for a nimble approach to benchmarking that considers the up-to-the-minute criteria and the details of your departmental standards and services.

Legal departments are in a state of flux. Leadership expectations for GCs are changing to include a wider range of responsibilities and influence; this in turn changes the way that departments are run. The legal profession itself is evolving amidst increased regulation.

Awash in new technology and technological threats, including privacy and cybersecurity concerns, departments can drift and lose focus of business goals. While the legal profession continues to innovate, legal management and culture has not. Of this phenomenon, Roya Behnia observes, “Our colleagues in operations, sales, and marketing have used these kinds of assessment tools for years. Isn’t it about time that the legal department catches up?”

Successful General Counsel agree that to distinguish yourself as a business-minded GC, maximize the value added to your business and strengthen your department with an updated approach.

Fight the current and chart a new course with a legal department assessment that identifies strengths, weaknesses, and clarifies communication throughout your business.

BarkerGilmore Senior Advisor contributors:



Michelle Banks As Executive Vice President, Global General Counsel, Corporate Secretary and Chief Compliance Officer of global apparel retailer Gap Inc. (Gap, Banana Republic, Old Navy, Athleta and Intermix), Michelle Banks was a trusted member of the senior leadership team. She led the company’s global equity, foundation, franchise services, governance, government affairs & public policy, integrity, legal, privacy and sustainability functions. mbanks@barkergilmore.com



Roya Behnia Before joining BarkerGilmore, Roya Behnia was Senior VP, General Counsel and Corporate Secretary of Pall Corporation, a NYSE-traded, Fortune 1000/S&P 500 filtration technology company with operations in over 40 countries. She led the negotiations for the sale of Pall in September 2015 in what was then the largest industrial deal of the prior decade. rbehnia@barkergilmore.com



Ann Harlan Served as Vice President, General Counsel and Corporate Secretary for The J.M. Smucker Company, a leading marketer and manufacturer of fruit spreads and other consumer goods. A member of the leadership team for two major acquisitions, she participated in Smucker’s growth to a \$5 billion company and was responsible for its legal affairs, including the selection of outside counsel. aharlan@barkergilmore.com



Marla Persky While Senior Vice President, General Counsel and Corporate Secretary for pharmaceutical innovator, Boehringer Ingelheim USA, Marla Persky led a department of over 70 individuals and served as a member of the executive management team and as a director of the company. She has also served as Acting General Counsel and Corporate Secretary for the Fortune 500 Company, Baxter International Inc. mpersky@barkergilmore.com

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