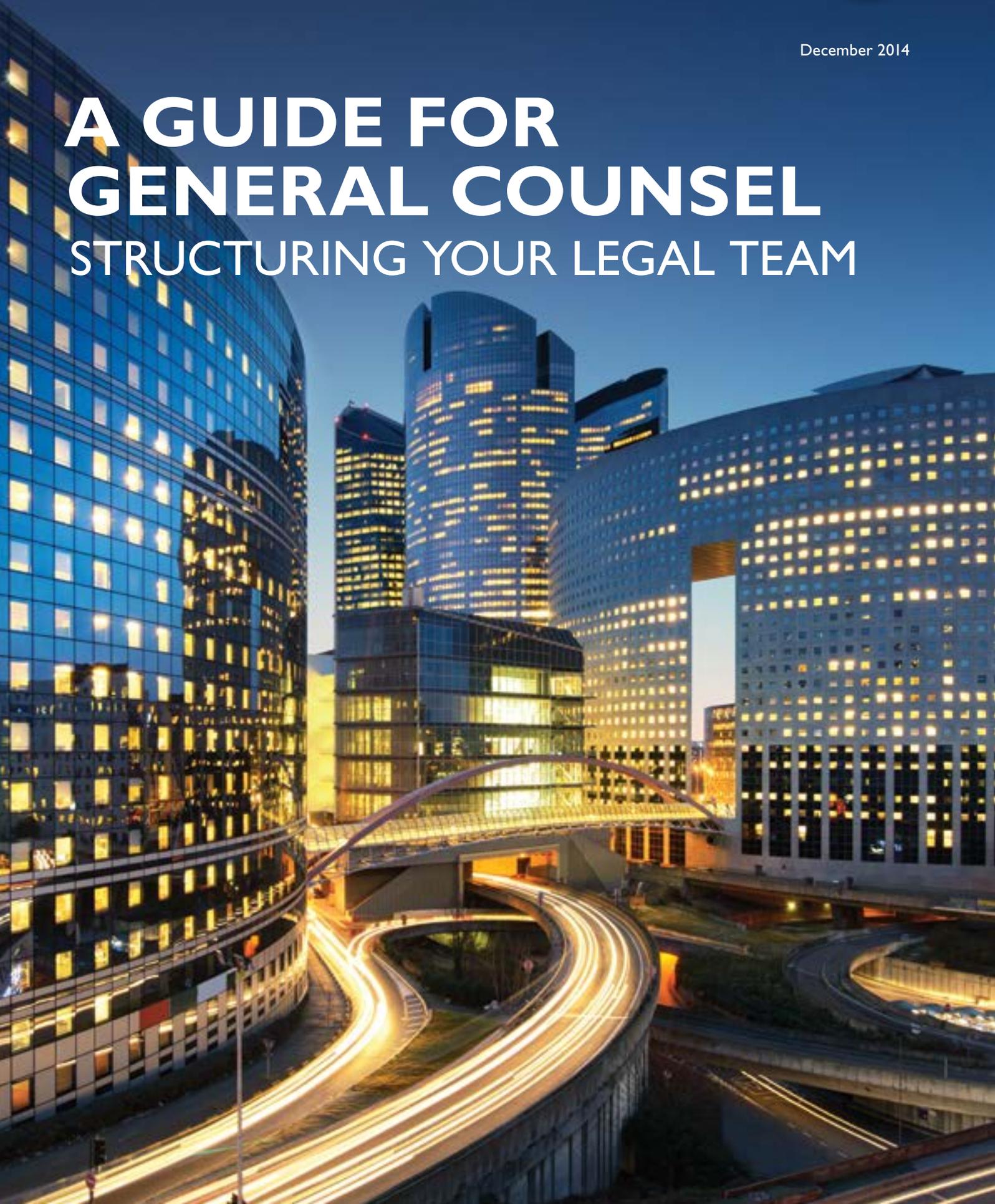




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A GUIDE FOR GENERAL COUNSEL STRUCTURING YOUR LEGAL TEAM



CONTENTS:

THE TEAM	03
THE STRUCTURE	04
RISK AND COMPLIANCE	07
LEVEL AND NATURE OF OUTSOURCING	08
FUNCTIONS	09
SUPPORT SERVICES	10
CONCLUSION	11
CHECK LIST	12

General Counsels and other heads of legal are required to provide an efficient and effective in-house legal department to the wider business. This article is aimed at both new GCs setting up a new in-house legal department and those GCs conducting a comprehensive review of their existing team.

Demands on in-house teams change constantly and therefore the in-house team must continually adapt and develop to ensure that they meet those demands. Over time, in-house teams have evolved from basic legal departments to an essential function of a business that provides a wide variety of legal and commercial advice.

In order to improve the effectiveness of an in-house legal team, a GC must examine the full range of features of their team. Each GC should consider how they meet the needs of their lawyers and internal clients. They can use private practice as a model or checklist to cover all the angles. Of course, in-house lawyers perform different roles to lawyers within a law firm; however, their needs and demands are similar. The checklist on page 12 gives a quick summary but a deeper discussion is below.

This resource considers the factors that influence the effectiveness of an in-house legal team and notes the key points a GC should consider for each. Ultimately, the GC must ensure they are providing value to the business.



THE TEAM

SENIORITY

The first consideration is the seniority of in-house lawyers that make up the legal team. At the top of the structure will usually be the General Counsel, Head of Legal or Director of Legal. They will often also be the Company Secretary and report to the Chief Executive Officer. Sometimes they will report to the Chief Financial or Chief Operating Officer. This may influence the shape of the team.

Teams will be made up of a mixture of experienced and junior qualified lawyers, as well as non-qualified paralegals or legal assistants. Larger in-house teams might make use of trainee lawyers and offer them the opportunity to qualify with the business, though this often requires additional professional regulatory compliance.

The exact mixture of seniority of the team will depend on the nature of the work undertaken. For example, junior lawyers or unqualified assistants can do much of the routine, repetitive work, whereas more senior lawyers will assist with key decision-making and strategy. For efficiency, work should be pushed down to the lowest level that fits the risk profile.

SPECIALIST OR GENERALIST

Another factor to consider is the mixture of specialist and generalist lawyers in the team. For smaller in-house departments, in-house lawyers will need to have knowledge of many areas of the law or local jurisdictions and be confident in advising the business across the board. Some countries' professional rules limit who may advise on their local law. As the in-house team grows, it tends to allow people to specialise more in one area of the law in particular.

SCOPE

Scope is also an important consideration. For example, will the in-house team be purely legal or will it also encompass teams such as procurement, compliance and risk? These teams often need access to legal and regulatory information and can be firmly within the central legal team, or can be sub- or separate teams. The answer will depend on the demand for these types of services internally, the amount of regulation affecting your sector, as well as the business structure.

DEVELOPMENT

Finally, the opportunity for the in-house team to develop skills and abilities is also an important consideration. It is essential to offer lawyers the opportunity to develop their career and talents as well as attracting the best people. Supervision and mentoring can be rewarding for both senior and junior lawyers.

All lawyers and legal professionals need to continue to develop and hone their particular specialist skillset. This often covers technical legal skills and knowledge but also more general skills such as communication, presentation or influencing skills. In-house teams should be given the opportunity to improve their skills in these areas through targeted training programmes. These can be provided internally as part of the HR programme or brought in from outside the business. Law firms may offer suitable programmes, for example.

The unique mix of legal team members at any particular business will depend on the nature of the team's work, its size and the expectations and demands the wider business places on the team. The balance of internal and external resource must meet the needs of the business as they change and so regular review may be needed.



THE STRUCTURE

The next consideration is the structure of the in-house team. The governance model should promote collaboration with other teams throughout the business.

CENTRALISATION AND HIERARCHY

Firstly, will the group be centralised as a named legal team? The team could be physically located together or could be split across multiple sites. Alternatively, the team could be decentralised and embedded within the wider departments of the business.

For example, an employment lawyer could be part of the central legal department or could sit within the HR function. Equally, a procurement lawyer could sit within the central in-house team or within a dedicated procurement team. Similarly, they might be broken up on a global scale – there could be a local legal officer for that country or office, with a central legal function overseeing the whole team. The degree of centralisation can affect the quality, or perception of quality, of the legal team's output and is driven by business needs. There have been trends both ways and there is no right answer. Both options offer their own benefits and challenges.

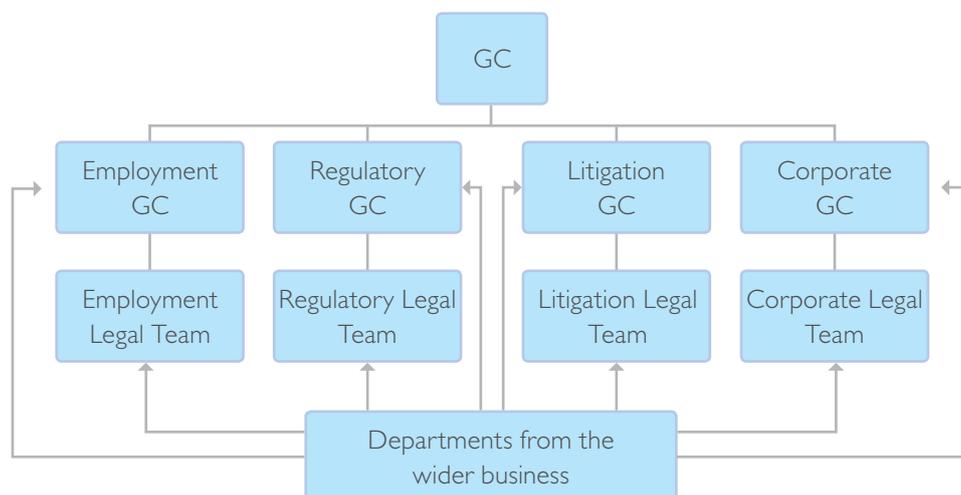
There are many different ways to approach this factor, ranging from completely centralised to completely decentralised. In practice, there will likely be a happy middle ground that evolves to accommodate competing interests. A mixture of structures may be the result of necessary evolution of different types of work.

A flat hierarchy might be more effective in a smaller or less formal environment, whereas a structured and layered hierarchy is often more suitable in a larger and more formal environment. Hierarchy will also depend on the number of levels of seniority and specialisms in the legal team.

Three models and their benefits and weaknesses are assessed below. Department names are used as examples to provide context.

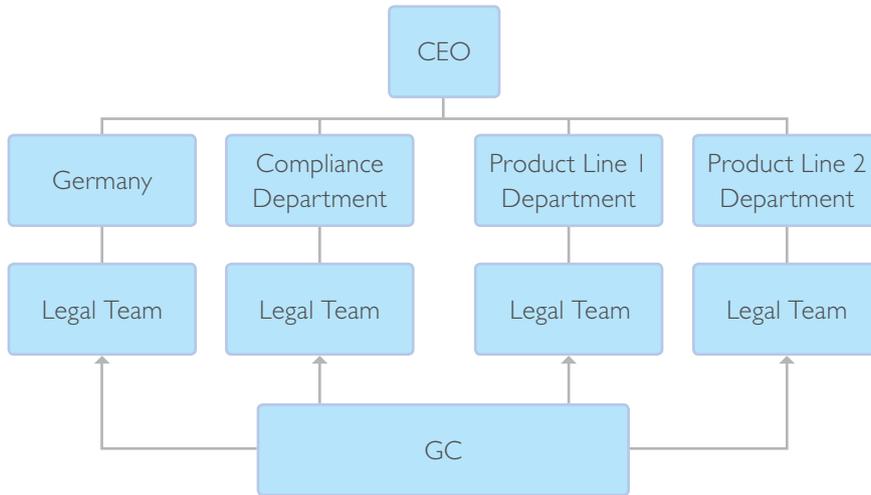
MODEL I: A CENTRALISED LEGAL FUNCTION

The main benefit of this model is the enhanced and deep subject specialism. By allowing the legal teams to specialise, it enables members to build their expert knowledge in their chosen area. The main drawback however is the reduced commercial visibility.



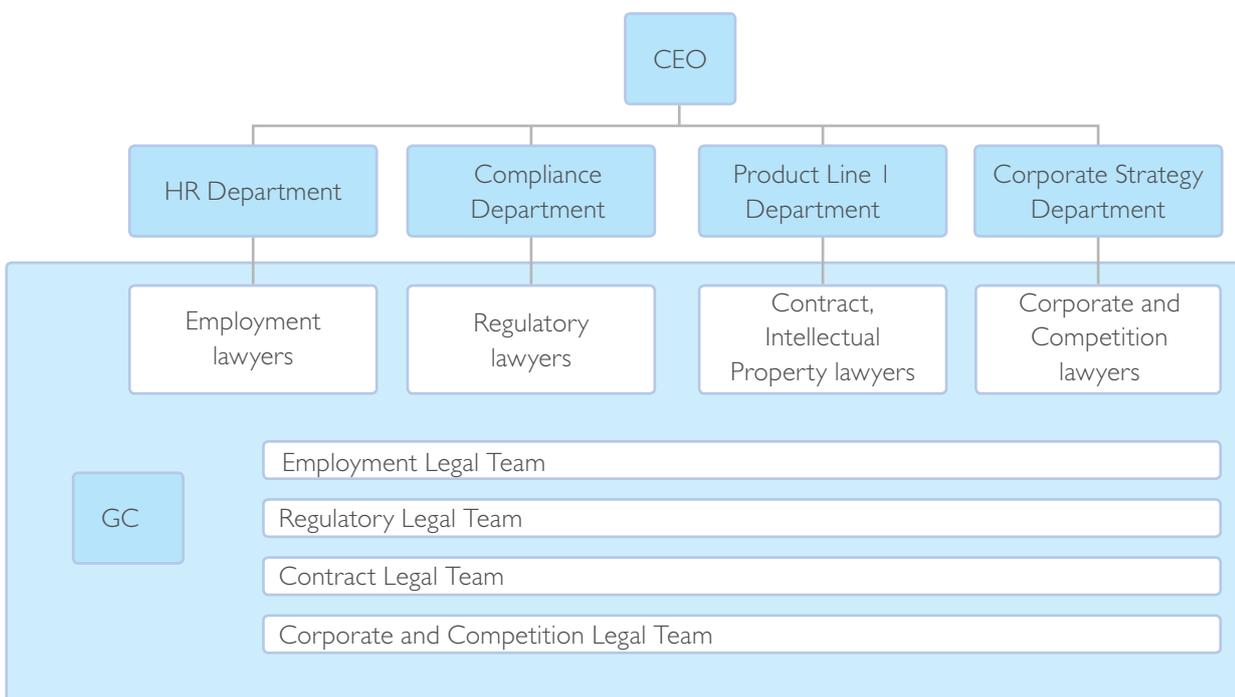
MODEL 2: A DECENTRALISED LEGAL FUNCTION

In a decentralised legal department, the legal teams can develop a deep business understanding of their commercial colleagues' needs and priorities. However, one potential problem is that they become more generalist because they have to deal with a wider range of legal needs. In addition, cross-team collaboration is less likely to happen.



MODEL 3: A MATRIX LEGAL FUNCTION

By having embedded legal teams within business departments, as well as a centralised legal team under the GC's direct control, a matrix legal function allows both deep competence specialism as well as fostering an environment to provide commercially – focused advice.



SIZE

The size of the team will inevitably be constrained by budget considerations but should always be determined by the demands on the in-house team and the nature of the work needed.

The opportunity for outsourcing work to external providers is a key consideration. See Level and Nature of Outsourcing section below for more discussion of the relevant factors.

For example, a business could decide to recruit a team of employment lawyers and paralegals to deal with their employment law issues in-house. Alternatively, they could decide to outsource that work to a law firm working closely with internal HR. Legal Process Outsourcing (LPO) provides further outsourcing options depending on the work type. Law firms can manage the disaggregation process and the LPO on the GC's behalf. Whether they do so will depend on many factors, including quoted costs from law firms, timescale, the

expected volume of work and the amount of control needed. The strategic importance of the legal issue could also be relevant and affect whether to outsource the work or not.

DEMAND

The nature of the demand from the wider business for legal services affects an in-house team's structure. The legal department might be seen in some businesses as a necessary evil, whereas in others it might be seen as a key business advisor. The nature of the business' attitude will influence demand for services from the legal team and this should be considered. It is also possible to re-educate colleagues gradually to accept new involvement by the legal team in commercial decisions. This can positively influence legal outcomes if lawyers are involved earlier in the deal. Things can change if business needs and risks require it but this needs careful management and sustained effort.

The following diagram provides a practical process to match resource to demand.



RISK AND COMPLIANCE

Risk mitigation is often a core function of the legal team. It plays a key role in how to structure an in-house legal team. It is important for the legal team to be aligned to the business in a way that enables the proactive identification and management of legal risks that are key to success or concern the board. The risk control mechanisms should ensure appropriate levels of control to minimise risk whilst not constraining the business.

ATTITUDE

The leadership team's attitude to risk can influence structure heavily. For example, if the leadership team are risk averse and cautious they may want an in-house function that is structured around preventing legal and regulatory risks occurring, with any issues dealt with effectively and quickly. In this situation, the legal team will need to be closely aligned with the leadership and public relations teams and often centrally located. Conversely, in a less formal and structured environment, the leadership might favour a flexible approach where legal support the board as one of many functions. In this situation, the legal team would benefit from being embedded in the business' departments – to be 'on the ground' with the other teams, to help identify and escalate issues.

Similarly, the level and nature of the risk in the business' sector will influence attitudes. In highly regulated industries such as financial services, in-house teams tend to be larger, centralised and more hierarchical. Sectors such as pharmaceuticals and energy may share similar characteristics.

LEVEL AND NATURE OF OUTSOURCING

In businesses, it is common for some legal work to be undertaken in-house and some to be outsourced to law firms. This mix between retaining work in-house and sending some to law firms is a balancing act and is likely to change over time as the business, the in-house team, law firms and their relationships evolve. It is important to constantly monitor and improve the efficiency of internal processes and external supplier engagements.

Considerations include the expertise, size, resources, quality and international coverage of law firms. Less tangible factors also come into play such as reputation and flexibility in offering new methods of resourcing and charging. The additional services provided by law firms can also affect the degree and nature of the outsourcing arrangements. Collaboration between providers is also creating new models, for example legal process outsourcing.

Traditionally, law firms charge an hourly rate that varies according to level of seniority. However, this model is changing and increasingly firms are using alternatives such as fixed or capped fees or a fixed annual legal spend. For example, Tyco, a US industrial conglomerate, agreed a fixed annual legal spend with its legal provider. At the outset of the agreement, Tyco and the law firm agreed a price for the expected legal work over the period. Tyco therefore ensured that their legal spend remained fixed over the course of the contract.

In addition, law firms are increasingly offering a variety of valuable services that go beyond the usual legal advice. For example, events, training, secondments, legal guides and online knowledge and collaboration tools. These services supplement in-house teams' expertise and increase efficiency. The value of these services can rapidly add up and provide services that add real value to the relationship from a business partner that really understands an in-house team's needs. The range of services available is often linked to the level of legal spend with the law firm.

FUNCTIONS

LEGAL AND COMMERCIAL ADVICE

It is also important to consider the functions for which a GC or in-house team is responsible. At its most basic, an in-house team offers legal advice to the wider business. However, GCs, with support from their teams, are increasingly required to support the firm's leadership in managing and mitigating legal, regulatory and commercial risks. This requires the senior members of the in-house team to think differently, with both content and delivery.

PANEL MANAGEMENT

In addition, the GC usually, but not always, has the responsibility of managing the panel of law firms the business uses. This requires a different set of skills and abilities to conducting legal work or advising the leadership team but can bring great benefits. GCs can often call on the assistance of other internal teams such as procurement to aid them with achieving value for money. They often find appointing a relationship manager for each firm (or just key firms) helps relationships develop and brings real benefits.



SUPPORT SERVICES

A business' support services can provide valuable services to an in-house legal team. However, the support teams are often focused around supporting the wider business' workforce than the legal team's specific requirements. A GC needs to be careful to ensure that their team is receiving the correct level and quality of support from the business' support services by communicating their team's requirements clearly.

The Human Resources and Learning and Development teams, for example, might be unaware of the specific requirements of in-house lawyers regarding Continuing Professional Development/Continuing Professional Education skills training until informed.

If your business has one, the knowledge management team will be able to advise on how best to share knowledge and information both internally within the in-house team and more widely with the business as a whole. They may be part of the legal team or have a wider remit.

The team needs to use knowledge management principles and approaches in order to share knowledge effectively. Appointing someone from the legal team to be responsible for sharing knowledge and experience effectively, and giving them the time to act as a knowledge champion, can be a cost effective solution where no dedicated knowledge management team exists.



CONCLUSION

Various considerations should be taken into account when assessing an in-house legal department. We have considered topics including team structure, risk and compliance, outsourcing, support functions and role. Much will depend on the nature of the business and the wider context the business finds itself in.

We hope that this article has provided some prompts to assist you in building or reviewing your in-house legal team. For more information about structuring your in-house team or about services from DLA Piper, please contact Chris Green, Client Support Officer in Knowledge Management, by email at Chris.Green@dlapiper.com. WIN events also focus on management and career challenges for in-house lawyers.



Functions of a law firm which support lawyers and which an in-house team may wish to consider:

- Human Resources
 - Who to recruit? How to manage them?
- Corporate Management
 - How do we need to be structured to work with our colleagues?
- Risk Management
 - How do we work with risk professionals?
 - How do we meet our compliance obligations?
- External Supplier Management/Procurement
 - What expertise are we missing?
 - What can/should we outsource?
- Learning & Development/Training
 - How do we help our people develop?
- Knowledge Management and Research
 - How can we be efficient and share expertise?
 - What resources do we need?
- IT
 - What tools do we need?
- Pro Bono/Corporate Responsibility
 - How can we give something back?
 - What internal and external programmes can we support?



WIN: WHAT IN-HOUSE LAWYERS NEED

Knowledge, support and networking for the in-house lawyer community

WIN is the DLA Piper programme for in-house lawyers – an evolving series of events, tools and forums addressing the technical, commercial and personal aspects of working in house. Understanding what is truly important to you, both as individuals and a community of in-house lawyers, is at the heart of WIN. By listening to our clients and identifying the legal and commercial issues you face on a day-to-day basis, we aim to tailor our services to meet your changing needs and priorities. For more information visit www.dlapiperwin.com or email win@dlapiper.com.

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