



BY RICHARD STOCK

Focus the Workflows

Analyses of legal departments over 10 years shows that in-house counsel could better delegate mundane tasks

WORK EXPANDS to fill the time available for inside counsel. Over the past 10 years I have conducted workflow and workload analyses for more than 25 law departments. This consists of asking each lawyer and paralegal to provide the average length of their work week, the number, duration and complexity of files handled in a year, an estimate of the backlog on their desks, and the number of individual clients that they serve.

The findings have stayed fairly consistent over the years, even though the law departments have represented the full spectrum of size across business and government.

The average workweek in law departments is about 45 hours. Yet, a quarter of inside counsel report in excess of 50 hours, and, most lawyers underreport their levels of activity. Law departments with one to three lawyers typically experience longer work weeks than the average. Since most law departments do not require timekeeping, counsel find it difficult to estimate the number of files and to categorize them by complexity or duration. Files are seldom opened for advisory work of short duration, and surveys reveal that as much as 35 per cent of inside counsel time consists of quick calls, advice, email and, of course, correcting the English in most of the documents crossing their desks. An open-door policy for the law department guarantees that this proportion of their workload will steadily increase along with the length of the work week.

Surveys tell us that anyone can call the law department for almost any purpose, and that both lawyers and clients like it that way. Yet in early 2016, the Conference Executive Board's legal roundtable reported that this was the recipe for the

“unsustainable law department.” Inside counsel default to a relationship-based pattern of managing the intake of legal work into their practices, just like a law firm.

The experience levels of inside counsel are more senior than they were 10 years ago, with an average of 15 years of call. For this reason, it is rare to find law departments with ratios of senior and junior counsel and paralegals that align with the relative complexity of the work and advice handled by the department. Yet experienced counsel delegate very little work and, in effect,

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function as solo practitioners, working 90 per cent of the hours on any file regardless of how complex or simple that work is.


Why change anything if there are no real backlogs and both the clients and the lawyers seem satisfied? The reason is simple: because the current state of workflows in law departments represents a poor return on investment for the company. Few organizations would remain in business if one third of their workforce was focussed on low value work. Lawyers are as busy as they want to be, but stamina is not a substitute for strategy, and inside counsel lack the influence and impact that they could have. Yet as soon as one accepts that experienced counsel can lead and manage complex business and regulatory activity, it makes no sense to use any of their time with mundane work. It is not only the company's

general counsel who must be more directly involved in achieving the company's strategic goals and annual business priorities.

Legal leadership must first identify enough special projects, strategic activity and complex work to replace at least 600 hours per year of practice per lawyer. Second, they must free up capacity with a combination of explicit protocols articulating who can call Legal and for what purposes. (Some analyses reveal that 65 per cent of those who call Legal are occasional users, and while they may only consume 15 per cent of counsel's time, they put a significant dent on their productivity.)

The responsibility to improve the value of the law department rests with Legal leadership. It is also its responsibility to get the rest of the organization to sign on to the new priorities and operating protocols for the law department. What gets measured gets

done. There is not enough connection between the priorities and projects on the one hand and the annual performance objectives for each lawyer. Individual lawyers are their own worst enemies when it comes to work intake.

Smart people get bored. It is easier to keep lawyers engaged with special projects, strategically important activity and complex legal work. Clients will gravitate to where they find support regardless of the appropriateness and timing of their requests. Legal leadership must change the footprint and expectations of the law department if it is to add value to the company. Focus the workflows, and see an improvement in your return on investment. 

Richard G. Stock, M.A., FCIS, CMC is a partner with Catalyst Consulting. For law department management advice that works, Richard can be contacted at (416) 367-4447 or at rstock@catalystlegal.com.