

Three Basic Competencies for Corporate Counsel

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This is the nineteenth in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

We are all so busy that enough time is seldom taken to perfect the competencies to manage a legal practice within a law department. For that matter, not enough time is invested by senior corporate counsel to acquire the administrative, professional and management competencies to lead a law department. Not enough preparation, too much improvisation and only on-the-job training.

In the normal course of my consulting practice, I meet many capable 8 – 10-year corporate counsel being put in charge of significant matters and portfolios of legal work for a legal department. Sometimes they serve as primary relationship managers for a number of business units. Sometimes they are the expert for a legal specialization such as regulatory affairs, tax or health law. The big challenge is to stay on top of the work, because business units do not always provide the law department with a lot of advance notice or documentation. The internal “client” is undisciplined. In summary, the relationship is not “managed” as such.

It follows that the law department’s workflows are erratic and that workloads “seem” excessive. I say “seem” because corporate counsel often believe themselves unable to influence the flow of work. Everything is a scramble. Industry surveys suggest that there has been no real increase in the length of the work week in the last 3 years. Yet, the demands for service are insatiable. What can be done?

There are at least three competencies which corporate counsel should master by the time they reach the 10th year of practice. The first is

efficiency. This is where one finds ways to accomplish the most with the available time and resources. There should be evidence of getting things done more quickly with less money and fewer people, regardless of whether the resources are in-house or with preferred law firms. Senior counsel should be able to organize their professional practices to achieve multiple objectives or tasks simultaneously.

We have conducted regular studies to evaluate the backlog of work in individual practices, the number of in-bound and out-bound e-mails and phone calls per day, and generally to gauge all forms of interruptions to daily work. The bottom line is that a minimum of 10 % of available time is lost because of the failure to manage communication traffic on a daily basis. That represents at least 200 hours per year per lawyer. Imagine the chaos at our airports if air traffic controllers took the same approach in the delivery of their services. So, some structure and skill are necessary to achieve and maintain efficiency. There should be no problem sacrificing the accessibility of business units to the law department in order to improve turnaround times.

The second competency for senior counsel is relationship-building. Proficiency here recognizes the importance of positive personal relationships in business. Senior counsel establish mutual trust and credibility with business units and other stakeholders through a track record of reliability and results. Some law departments formally align individual lawyers with specific business units to deepen relationships.

Still, there are many law departments with legal specialization as the primary organization criterion – competition, commercial law, litigation and so forth. I have seen 4-lawyer legal departments made up of 2 commercial lawyers, 1 labour lawyer and 1 litigator with responsibility for up to 16 business units divided among them.

In one company, the business unit is also told who the back-up lawyer is in case of emergency – not unlike how general practitioners manage in the medical community. Relationship lawyers make it their business to anticipate the type, volume and demand of all legal work from their business units, regardless of whether some of this work is then referred to another member of the law department or to external counsel. This type of alignment with business units is essential to proficiency in building and maintaining relationships.

Some companies rotate their lawyers through a wide range of business units over the years so that they can expand their working relationships beyond a handful. They also get to learn the business from operating and strategic points of view.

The third competency calls for formal training in legal project management (LPM). Long practiced by engineers, IT and some clinical professions, project management is now acknowledged as a core skill set for legal services delivery. Law firms have specialists training partners and associates in LPM. They have invested in the software and the research capabilities to ensure consistency and financial viability

of plans and related budget estimates across the full life cycle of individual legal matters. It is good discipline to develop a legal project plan for matters projected to have as few as 50 hours. Good plans will detail phases and tasks for matters. They will detail the planning assumptions for all phases and most tasks, and they will suggest the probability (percentage) of those assumptions or hypotheses being valid. The LPM plan goes on to allocate tasks by lawyer and technical staff and includes a schedule for every element. Law departments should start by getting their professional firms to share LPM techniques and tools. They can ask their preferred law firms to train members of the law department in LPM.

Efficiency, relationship-building, and legal project management skills are three basic and essential competencies for corporate counsel. Proficiency in the early years depends on operating protocols, training, and frequency of opportunity to practice the three competencies. Multi-disciplinary project teams and the volatility and pace of business need corporate counsel to demonstrate this type of knowledge and skill across the board.

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