Evaluating Preferred Law firms

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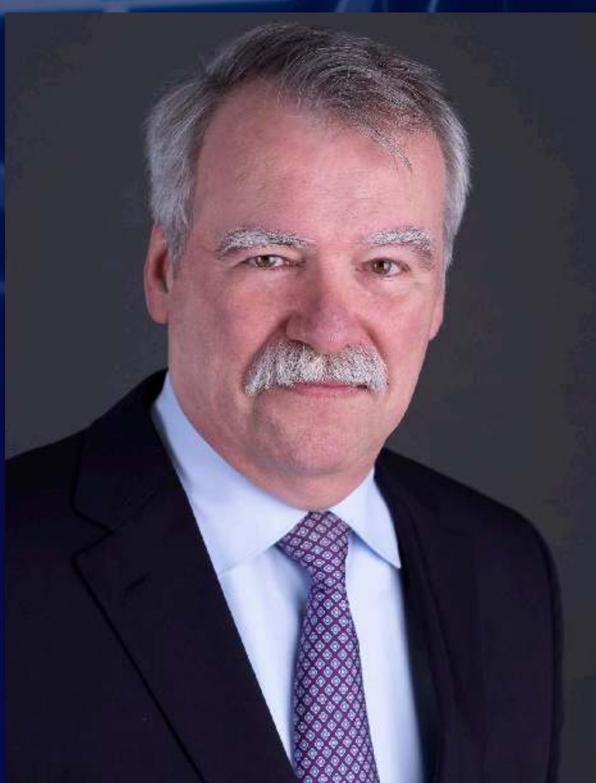
This is the forty-first in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.



Structured conversations about the performance of preferred law firms are needed with both the firms and the law department team when introducing and then maintaining a performance plan. The goal is to ensure consistency and sustainability for this kind of initiative. A performance plan, sometimes taking the form of a scorecard, should always pass the **SMART** test because it should be

- **S**pecific
- **M**easurable
- **A**chievable with the available resources
- **R**esults-oriented, meaning results for each KPI and the related initiatives
- **T**ime-based, respecting a set schedule or intervals

It then makes sense to embed the scorecard and the related metrics and tools like law department operating protocols, legal project management templates, complexity levels, optimal staffing distributions and average rates, etc. in a multi-year partnering agreement.

Key Performance Indicators (KPIs) and Initiatives

Five KPIs when taken together can constitute the metrics, while the initiatives define what specific objectives are to be achieved. The anticipated level of performance is the target. Today, law departments of all sizes introduce multi-faceted partnering agreements with their law firms to take the relationship beyond the requirements of the traditional billing guidelines and operating protocols.

Communications and Responsiveness

For example, the first of two initiatives for this KPI might call on the law firms and the client organization to communicate effectively as the partnering agreements are introduced and then managed over time. An evaluation will focus on how well the firm's responsible lawyer communicates.

A second initiative calls for diligence in respecting the letter and the spirit of the law department's operating protocols. Evaluations should be carried out by all law department team members responsible for files referred to firms. Firms should be met every two months for the first year, and then quarterly to review their progress against the partnering agreements and the agreed operating protocols.

The message to law firms is that communications about the relationship, and not just about specific files, must be effective when firms are regarded as the company's "legal business partners".

Results

Value is a combination of service, results, and price. A proper scorecard covers all three. The weight assigned to the *Results* KPI and its initiative(s) is the greatest at 40 %. Legal project management plans are the principal tool to define and communicate the anticipated outcome for a matter. These LPMs should be accompanied by the planning assumptions for phases and tasks, the degree of certainty for each assumption, and the anticipated results for matters by category and level of complexity.

Efficiency

Companies with significant file volumes should consider introducing a system of categorizing file complexity / severity with three or four levels. This can done after a careful analysis of 100 recently closed files and then categorizing the files against pre-established thresholds. The internal review process also allows calculation of the average number of hours per file, the actual and preferred distribution of hours by fee earner level of experience (staffing profile), and the optimal cycle times (duration) for each file and its complexity level.

Adjustments to the findings from such a review can be made to set challenging standards for the number and distribution of hours, and for cycle times by level of complexity / severity. Success in meeting cycle time standards can constitute the first of two initiatives for an *Efficiency* KPI.

A second initiative for an *Efficiency* KPI is the effective utilization of legal project management methodologies and the related technologies for all new files requiring more than 50 hours. The law department should introduce its own templates for use by all firms. Templates should account for the allocation of resources (hours) by fee earner for each phase and task in a matter. Project plans and budgets are prepared by firms for approval by the law department. The department can then go further by requesting legal project management plans and budgets for all open files when more than 50 hours of legal work remain.

Both initiatives for the *Efficiency* KPI depend on effective communications. Over time, they can be correlated with targets for results and legal spend.

Total Legal Spend

Introduction of a financial KPI depends on success in introducing reliable legal practice management protocols, one of the initiatives for the *Efficiency* KPI. A fee or a narrow fee range is agreed with the law firm for less complex files (under 50 hours). A detailed legal project management budget is agreed for all files exceeding 50 hours. Both approaches to budgeting should respect standards for cycle times. Every six months, the law department evaluates law firm success in meeting or beating the budget on every active file – not only on closed files.

Unit Costs

Blended hourly rate standards can be developed for all but the most complex file types and categories. A customized blended rate can be generated for the most complex matters by a rigorous legal project management process.

The objectives are to encourage teamwork and the appropriate delegation of labor with law firms. However, this KPI is not designed to control the number of hours per file.

The law department should incorporate the blended rates into the partnering agreements with its preferred firms. The effect is to reduce the amount of monitoring of the firm's practice management habits.

Weighting the KPIs and Initiatives

Some law firms maintain that each case is different and that they cannot be held accountable for results and the number of hours per file. The introduction of standards for cycle times, number of hours, and work distribution mitigates such objections. KPIs for Results, Efficiency and costs (Total Legal Spend and Unit Costs) have been accepted practice for more than 10 years.

Most firms will readily accept the five KPIs and related initiatives. However, they may object to the weighting given to each initiative. They may also wish to include other KPIs such as legal expertise. The response by the department should be consistent with trade literature surveys on why clients select and keep law firms as counsel. The top reasons are rarely about saving money. Instead, they relate to quality of service and getting the job effectively.

For this reason, the Results KPIs represents 40 % of the value of the expected performance from law firms. Many firms have improved their service levels, making this a dimension on which differentiation among firms is difficult and less relevant. The focus for clients is to secure the planned results on each matter, thus supporting at least 40 % of the weighting given for results.

The two sample initiatives for efficiency target productivity improvements. Law firm culture and the hourly business model do not encourage productivity. The law department should require its preferred firms to actively manage productivity and demonstrate improvements using proven methods. Each law firm can build up a track record over time so that the law department can compare the success rates of each firm. Allocating a 30 % weighting to the efficiency initiatives sends the right message. One can reduce this weighting in favor of the Results KPI or raise the standards after a few years.

Only 30 % of the weighting for performance directly measures financial performance, even though the Efficiency KPI does so indirectly. There is very little ambiguity in the two financial KPIs. The challenge is in the research, in setting budgets, and finalizing blended rates. A 30 % weighting for financial performance suggests that quality (results) and efficiency together (70%) are more important than saving money. The KPIs and initiatives should be highly correlated and integrated. Performance management in professional services requires it.

The law department sets specific targets based on the business relationship, working protocols, standards, budgets, blended rates, cycle times, and effective use of legal project management.

The law department team should conduct a monthly evaluation and share the result with firms every six months. Transitional arrangements may begin with bi-monthly rather than semi-annual de-briefings with firms for the first year. But a de-briefing does not alter the plan that formal evaluations should be conducted every six (6) months.

Some law departments link law firm performance to allocating a larger share of files. The expression "You get what you measure, and you get what you pay for" should apply. In the same vein, performance can be better aligned with alternative fee arrangements than with a straight discounted hourly rate.

Agreements with Preferred Firms

The commitment to performance management should be embedded in multi-year partnering agreements with preferred law firms. KPIs, the related initiatives, and targets should form part of the agreement. It makes sense to also include law department operating protocols, legal practice management and budgeting templates, the levels of complexity and staffing distributions by file category and complexity, and the blended rates by level of complexity. Finally, the agreements should briefly describe how the performance management system will be managed.

About the Author
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