



BY RICHARD STOCK

The Evolution of KPIs

Evaluating the performance of your law firms can be accomplished in three steps

CORPORATE LAW departments and the companies they support are in a business-to-business relationship with their primary law firms. This differs from the professional relationships that in-house counsel have with individual lawyers in firms. In his book *The Inside Counsel Revolution*, Ben Heineman maintains that corporate counsel must be held responsible for the quality and cost of the legal work of law firms, highlighting the responsibility of law departments to secure greater value from primary law firms every year.

There are three steps to evaluating the performance of law firms. Planning assumptions must be anchored in solid historical data about practice patterns, work allocation and legal costs. The first part is a forecast of the demand for legal services including the volume of hours and matters by legal specialty for each business unit in each jurisdiction. The law department should work with business units to extrapolate from historical data and to project requirements and the related planning assumptions. Such forecasts support discussions with law firms and can be incorporated into requests for proposals for legal services.

The second step is to choose key performance indicators, or KPIs. Ten years ago the Association of Corporate Counsel developed a “value index” following extensive consultation with its membership and progressive law firms. At the time, the value index was intended to serve as a common vocabulary for law departments to define and discuss the value of services provided by the firm. The indicators were understanding expectations, responsiveness and communications, efficiency, predictable costs/budgeting skills, legal expertise, exe-

cution and quality delivered. Performance against the six indicators was not intended to be tied to fee arrangements.

While useful as an agenda for discussion, the indicators were not sufficiently differentiated from one another. Law departments also reported that evaluating primary firms twice a year was cumbersome. The six original KPIs have since been condensed by a good number of law departments. Part of the stimulus to streamline comes from the migration to non-hourly and performance fees for complex work and for portfolios

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of legal work spanning several years and jurisdictions. Some corporate law departments now rely on only four KPIs: Results, Innovation, Service and Costs. Evidence of value and performance should be found in initiatives aligned with the KPIs. But the entire exercise requires some rigour if it is to be practical, thorough and timely.

Tom Murphy was mayor of Pittsburgh for 12 years until 2006, and helped to lead the rebirth of the city. “That’s the whole challenge we face,” he said at the time. “Do we spend all our money on today or do we invest some of it for tomorrow? You have a fundamental choice to make: do you want to be loved or do you want to be effective? If you want to be loved, you’re probably not going to be bold.”

A handful of law departments have decided that they must be bold if they wish

to secure still greater value from external counsel each year. Companies are compensating their law firms with hybrid fee arrangements that combine a monthly base fee with payment for successful completion of innovation projects aimed at improvements to effectiveness and efficiency. The strategy is to have the law firm drive innovation for legal services within the company by paying the firm to do so.

Innovation funds are paid to the law firm to take on innovation projects approved by the law department. This type of approach seems to work best when the relationship with a primary firm is long-standing, and the direction makes sense given the range of innovation awards available to corporate law departments everywhere.

The third step solicits feedback from the law firm by the legal team. This helps to deepen the relationship with the company and

is a source of continuous improvement for the legal function. Topics should include formalization of records of instruction, the use of detailed matter plans and budgets, reducing business units’ dependency on the law department and external counsel for routine work, and co-counselling significant matters with inside counsel to better manage logistics, relationships with business units and knowledge transfer.

However many KPIs law departments rely on, the expectations and targets should cover qualitative and financial aspects of performance. A river of innovation should run through the initiatives to ensure that the focus on managing performance is developmental and adds value every year. ▀

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