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Legal 2.0

Law Department Management

The legal profession has experienced several years of upheaval and disruption. General counsel are now optimizing their internal service delivery model in the same way that they have done with their external ones.

Internal legal departments have, until now, been handling the challenge of ever-greater demand with static or shrinking budgets by rationalizing their external spend. This approach, which might be termed “Legal 1.0,” involved GCs unbundling their external value chains and then allocating each external task to the most efficient provider. Some of that work was also brought in-house, which lowered both costs and improved quality. Law firms, which used to be the one-stop-shop for nearly all external work, have found that they need to share space with new competitors — ranging from alternative service suppliers, to emerging technologies, to their clients’ own growing internal legal departments. Successful firms in the Legal 1.0 world have identified their unique selling proposition and how they fit in to the value chain.

But the rationalization of external costs in Legal 1.0 is no longer enough. The next iteration, “Legal 2.0,” involves doing the same thing to internal costs. Since in-house and alternative legal services are generally cheaper than law firms, GCs captured a lot of “low hanging fruit” in Legal 1.0 by “in-housing” lawyers to cover core legal risks. While some also implemented basic technology adaptations, the effort to shift external to internal spend has often created “concierge” style internal service models. In this model, teams of in-house lawyers are assigned to specific business partners, where they act as a legal “concierge” to provide a “white glove” treatment for their clients. They solve all legal problems on a priority basis with tailor made solutions.

While this approach has been popular with clients, in a world of ever-shrinking budgets, it is increasingly unsustainable. In Legal 2.0, the low hanging fruit of easy external cost reductions will no longer be enough to cover the gap between growing demand and available supply. The pressure to cut is relentless.

Something has to give. Empty slogans about how teams should “stop” doing certain tasks or how they need to prioritize better are just that — empty and useless. In the real world, it’s hard for lawyers to just “stop” providing certain services. To truly address this problem, GCs have to muster the courage to embark on Legal 2.0. This effort involves breaking down the internal legal department value chain in an effort to optimize service delivery by farming each category of work out to the most efficient provider.

Legal 2.0 often begins with a work analysis, in which the legal department’s work is internally categorized into one of several categories:

- “High value-high risk;”
- “High value-low risk;”
- “Low value-high risk;” and,
- “Low value-low risk.”

GCs and their legal operations teams must then consider how to handle each of these categories.

“High value-high risk” work often remains the core priority for senior in-house teams, perhaps combined with support from external specialists. This type of work often involves the company’s core legal risks. For that reason, it should be a central focus of internal lawyer time. This is where in-house lawyers add the most value.

“High value-high risk” work may present a value opportunity that might call for automation through self-service or other “low-touch” solutions. One example of such work might be standard-form customer contracts. These obviously generate revenue or value, but if none of the terms are amendable, they will also be low risk.

“Low value-high risk” work constitutes a hybrid category of work. This category presents little value for the company but poses significant risks if it is done poorly. One example would be “interested” litigation that the company assumed through an acquisition. The case may have little upside for the company, but handling it correctly will nevertheless require expert attention and strategic input. A combination of internal senior counsel and external specialists may therefore be needed.

Finally, “low value-low risk” work falls on the opposite end of the spectrum from ‘”high value-high risk” work. It is often commodity work that is best automated or outsourced in the most cost-effective manner that still ensures basic quality control. Some of this work may even be self serviced, stopped altogether, or shifted to other functions. In a world of too many things to do, does anyone really need to review standard local office supply agreements where the values and risks are nominal?

The next step in Legal 2.0 is determining how incoming work gets allocated to these different buckets, who undertakes what work, and how each parcel of work gets prioritized and handled. How exactly that gets done may be the subject of future columns. **Suffice it to say that Legal 2.0 will be both disruptive and exciting for internal teams.**

Forward thinking departments will thrive in the Legal 2.0 world, discovering new ways to optimize their efficient frontier of quality, risk, and cost. Departments that resist such change, however, will be replaced.

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