

Implementing Managed Legal Services

Lessons learnt from the Radiant Law GC Workshop

Introduction

In-house legal teams are facing the double challenge of delivering “more for less” and demonstrating how they can further add value to the business. Managed legal services can be a key enabler to addressing both these challenges by freeing up the in-house team to operate more pro-actively and enhance its perceived value in the business. As with any change programme, the key question is how to implement these services successfully so that there is genuine support for the new operating model and the business case delivers on its promise?

In November 2015, Radiant Law gathered a distinguished group of GCs and senior in-house counsel to discuss with their peers how they have tackled transforming their departments and introducing managed legal services. The conversations ranged from how to successfully implement change, the personal challenges of leading change, making the business case, redesigning contracting processes and integrating suppliers within the legal team. The discussions were rich and frank and the feedback for the event has been overwhelmingly positive.

Over the course of the day, the delegates shared many experiences of what works in practice. This paper brings together these experiences of how to transform commercial contracting and the underlying principles that make these transformations successful. We also present the results of a survey of in-house counsel we carried out ahead of the workshop. The challenges facing in-house teams can only be met through bold action, and we hope this paper helps you on that journey.

Value of Managed Legal Services

Managed legal services are the external support of high volumes of similar commercial contracts. Participants identified how they add value:

- Speeding up the execution of deals.
- Being able to handle spikes in volume or absences of team members.
- Enabling the in-house teams to focus on strategic aspects and client engagement.
- Greater consistency of delivery and standardisation of approach.
- No loss of knowledge when team members change.
- Improved visibility to enhance control.
- Continuous improvement and the introduction of better technology.

Key Takeaways

- Look at your current situation honestly and identify any cracks such as low morale, poor staff retention or high stress levels.
- Start with something manageable and build from there.
- Understand how change needs to be led to deliver effective results.
- Look at both the financial and soft benefits when making a business case.
- Form coalitions with those who possess skills you don't.
- Review what your team does and what adds the most benefit to the wider business.

Making Changes

All progress requires change. So a key starting question for improving legal delivery is how does one actually implement change? The workshop participants discussed change in two contexts - what they've seen work and the personal challenges associated with making changes.

Many senior legal teams recognise that “cracks are appearing”, evidenced by issues such as spiralling costs and poor retention of team members, as well as a recognition that there must be a better way.

The triggers for change can come from external factors, such as broader business transformations, but also proactive GCs who recognise that change is needed. Many senior legal teams recognise that “cracks are appearing”, evidenced by issues such as spiralling costs and poor retention of team members, as well as recognising that there must be a better way. Above all there is a need to honestly acknowledge the current situation that in-house teams find themselves in.

Many opportunities were highlighted of the benefits of change: individuals may derive increased personal satisfaction from their jobs, legal can create a reputation within its business as leaders of change and the legal team can set its own agenda rather than it being imposed on them.

The participants in the workshop identified what works in practice:

- Engagement and partnership with the rest of the business so that there is a real focus on what the broader business needs.
- Starting with the end in mind and a vision for the transformed function.
- “Just doing it”, including allocating seed money to try small experiments and piloting offerings from third parties.
- Market reviews to identify what works for peers as well as new offerings from suppliers. Peers are particularly important not only for ideas, but also as a “pair of ears”, willing to listen and understand the challenges.
- Creating the space to think through how to deliver in better ways, which requires honesty about what is possible with current work loads and the budget needed if change is to be taken seriously.

The critical role of leadership was discussed in detail and how it could overcome “paralysis by analysis”. The most important features of leadership were identified as the willingness to provide support to the team, the ability to articulate a vision to ensure buy-in from all stakeholders and, above all, the ability to communicate a plan consistently and clearly, including the “why, what and how”.



The topic of the feelings that might prevent change occurring or indeed encourage change, formed a separate part of the discussions and was perhaps one of the more interesting and surprising topics. The pressure and frustration with the status quo is clearly building within the participants and there was a refreshing candour and consensus amongst delegates around tricky issues such as fear and distrust, which they described as being rampant within and outside their legal teams. The pursuit of perfection was cited as the bane of in-house counsels' lives and by far the most worrying revelation was the recognition that for much of the time the pervasive attitude is “keeping heads down” and “not rocking the boat”. Such inertia was recognised as being the enemy of successful change and probably the route to sub-ordination of the legal function.

Building the Business Case

Delegates felt that in order to build a defensible business case it was necessary to undertake a thorough review of the “as is” baseline and give thought to identifying (1) the parts of the legal team’s current “day jobs” that relate to high volumes of similar agreements, (2) areas the internal team could advise on if they had time and thus eliminate the need for costly external law firm assignments or secondees, (3) more pro-active tasks that lawyers could take on to support the business and (4) how managed services could support this work to free up the internal team.

There was significant discussion on how to categorise the work that the legal team do. One model was:

- Cream - this stays in-house as it’s highly valuable and requires in-depth knowledge of the business. It is also the work that the in-house team want to do and the business would expect they do.
- Core - this is real legal work that requires judgement but also has significant scope for standardisation, which is perfect for a managed legal service.
- Commodity - much of this could be performed by a contract manager, company secretary, non-lawyers or an LPO at the bottom end and managed legal services at the top end.



Starting with simpler agreements to prove the case was seen as the best approach. This also allows time to establish and develop relationships and operating principles as a solid foundation for a wider-ranging implementation.

Establishing the baseline performance through data can be hard as in-house legal teams may not track inputs (like time) or outputs (like number of contracts or time to close). This also drives the need to “suck it and see”. However, the tracking and metrics created as part of a managed legal service pilot can become a valued extra for both the in-house lawyers and the business. Legal will benefit from being able to articulate the value of work it keeps in-house as well as executing through managed legal service, meaning that metrics put in place for managed legal services may also have use in demonstrating how legal adds value to the “cream”.

Collating this information requires not just strong analysis but also a need to present it in the language of the business. It was suggested that the business case would need to be able to pass the “crayon test”; that is, if it could be drawn with a crayon then it is well understood and distilled. It was also thought that using the term “managed service” would be more likely to gain the support of the wider business than “outsourcing”.

Although financial benefits will be important and likely to be popular with the CFO and CEO, they are not the only benefits. Softer benefits can also be identified and articulated. Lawyers can be more proactive and released to look for risk and opportunity as well as be more integrated with other business areas. Fundamentally, the in-house team should be able to consider what they should do, achieve objectives relevant to the business, and not just fulfill a basic legal caseload for which they are overqualified. This can lead to happier and more fulfilled lawyers, improved staff retention, happier clients and fewer sticky situations requiring rescue by yet another “diving catch”.

Designing the Contracting Process

All delegates believed there was scope to improve their contracting process, which had rarely been designed but rather been inherited and perpetuated. The delegates saw managed legal services as a chance to improve the process, enabling consistency, providing greater transparency on the inputs and outputs and as a source of helpful metrics that can be used to optimise the process.

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The act of stepping back and considering what happens in practice, what the business really needs and where there is waste and then designing a better approach was seen to be highly valuable. It may also lead eventually to a refinement of the role of legal in the broader business and how it is perceived to add value.

What the business needs is not always easily determined from asking the business, who may not know what they want and are happy to let legal “just run the deal”.

Agreeing with the business clients what their objectives are is a good starting point. A more thoughtful approach to who is best placed to fulfil each step in the process may also be needed. Ultimately, legal needs to control the appropriateness of matters entering the pipe and deliver consistent and timely output to the business.

An outcome of a review of the commercial contracts process may well be that the business needs to be able to do more itself. Much debate centred around how legal might best support this. Areas to consider include precedents, guidances, FAQs, escalation rules, processes and training, including training on issue spotting. There are also solutions such as portals, online training, workflow, document automation and expert systems that can assist with enabling client self-service in a way that manages risk.

Investing time in planning and designing the solution is usually time well spent and can save considerable pain post-implementation. A key aspect is defining the correct questions at the point when the business is instructing the legal team. This helps ensure that deals are properly understood, characterised and triaged based on factors such as value and particular types of risk and therefore completed by the most appropriate resource.

Once the new process has been designed, it will require a handover period to bed in and ensure understanding of roles and responsibilities. Teams such as sales and procurement may be able to help, given that they are keen for smoother contracting and faster signatures. Consider the motivations of those around you and swim with the current to ease implementation.

The introduction of managed legal services doesn't have to drive a complete redesign of your processes, but it does create an opportunity to step back and to introduce new thinking on how best legal can provide support.



Designing and implementing new contracting processes
Jason McQuillen, Managed Legal Services Head, Radiant Law

Integrating Suppliers

The final topic explored was how best to integrate the new supplier into the legal team as part of rolling out a managed legal service.

There are clear differences between adding a temporary contractor or secondee and introducing a managed legal service. Adding “a body” is simpler and can solve short-term gaps in the in-house team, but doesn't bring the advantages of managed legal services highlighted above.

At the heart of the discussion was the question of how closely to integrate suppliers. There are clear advantages to integration. It was seen to lead to opportunities for greater improvements to services and the embedding of efficiencies and best practices in the broader team, as well as leading to a service that is more flexible and seamless. It also offers the in-house team greater opportunity to move up the value chain and focus on more strategic matters.



But integration, if not handled well, can introduce a perception of vulnerability through too great a reliance on the supplier. This led to a number of factors being identified as critical to allowing greater integration:

Integration offers the in-house team greater opportunity to move up the value chain and focus on more strategic matters

- Building trust through starting with simpler contracts.
- Structured collaboration, with members of the supplier team working alongside the in-house team.
- Clarity of scope, hand-offs and processes that are documented in a playbook.
- The members of the in-house team seeing real opportunities to grow as lawyers by being freed up to take on other more challenging work.

- The in-house team setting the pace of integration and being able to maintain control.

It was felt that the exploration of this topic needs to be fact based, within a framework that looks at both the opportunities and the risks. It is also likely to be an evolving conversation as trust is built and results are delivered. Other critical success factors that were identified included:

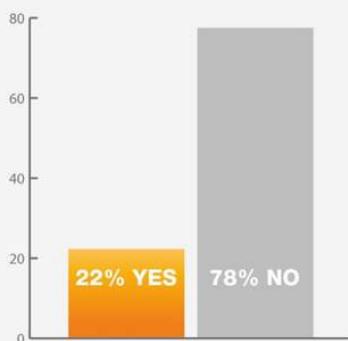
- A strong cultural empathy with the supplier really understanding the business.
- The right commercial incentives, with fixed pricing based on successful delivery.
- A clear understanding of the reasons why the in-house team wants to buy rather than build.
- Ensuring that there isn't lock-in with the supplier so that the services can be moved or brought back in-house.

The Radiant Law GC Survey

Commentary by Paul Gilbert, LBC Wise Counsel

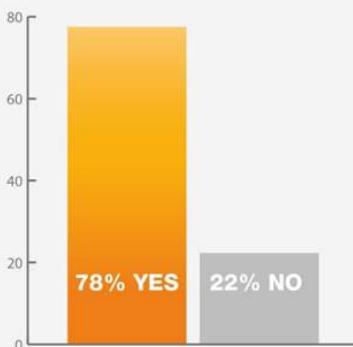
Paul Gilbert CEO of LBC Wise Counsel was an in-house lawyer for 12 years and GC at two major UK financial services companies. For the past 15 years he has worked with in-house legal functions to help them fulfil their potential. As such he is uniquely placed to comment on the trends seen in the Radiant Law GC survey carried out at the end of 2015.

Do you have a separate budget under your control to invest in process and technology?



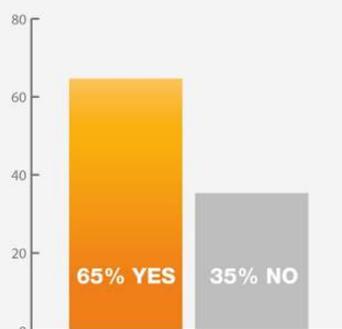
PG Comment: A question for the legal function: “Is controlling legal dept IT spend as important as controlling which law firms are engaged?” The picture painted by the responses to the survey question may not be as stark as the first impression suggests, but there is clearly a significant challenge inherent for the 78%. IT functions often have an iron grip on questions of compatibility and maintenance, but with so many reputable solutions now available, often hosted, often more secure than the company’s own infrastructure, it is a critical area for in-house teams to assert themselves in.

Do you have a compelling need in the next 12 months to invest in process and technology?



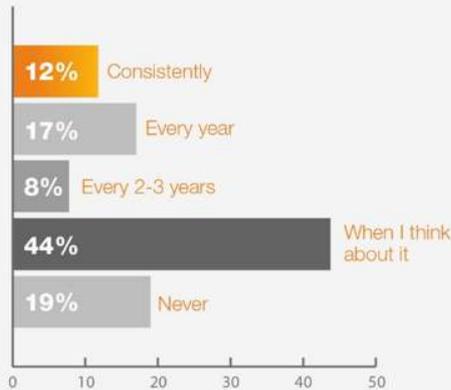
PG Comment: To have a compelling need, but have no budgetary control is potentially “creek, canoe, no paddle” territory. It is however fascinating to know that three-quarters of the respondents describe their needs as “compelling”. The challenge therefore is whether this translates into a compelling-enough need for the business to want to invest. Building the business case therefore must be seen as a vital imperative.

Have you invested in process and/or technology with an external supplier in the last two years?



PG Comment: Should it not be that 100% of teams? It would be premature to draw firm conclusions, but if 35% of respondents have not invested in anything in the last two years what are they waiting for? The starting gun fired a while ago.

How often do you formally assess what is available in the market for process and technology support?



PG Comment: 19% never assess the market...goodness! 44% assess the market "when they think about it", but is that a flick through a couple of articles or a formal needs-gaps-solutions exercise?

What is the biggest obstacle to making an investment in process and technology?

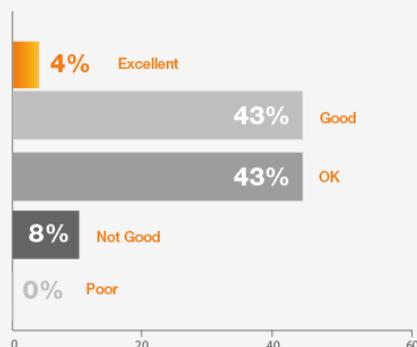


PG Comment: For 28% of respondents, cost is the biggest obstacle. However cost is a context for value and the return on investment ...and this is all to do with matching a compelling business case to the compelling need. 36% consider uncertain value and outcomes is their key obstacle, yet no one believes that market knowledge is their biggest obstacle.

Does this mean that either the supplier side is so weak that even with a compelling need the risk is too high to invest; or perhaps market knowledge is not as sophisticated as proclaimed?

Is it perhaps an excuse not to invest? If there is genuinely a compelling need there will be a solution out there. Of course, it won't ever be a perfect solution, but it will nevertheless achieve more than doing nothing ever does. Hope is not a strategy.

What was your most important process improvement/technology supplier from the last two years like to work with?



PG Comment: Just 4% had an excellent experience, but conversely 90% was ok or better. Frankly I will take 90% as ok or better and see that as a great positive. Excellence should not be the ambition. When using an automated check-out at the supermarket or a pay at the pump garage, we want an irritation-light, reliable experience. "Ok" will do fine!

About Radiant Law

Radiant Law is a UK law firm with lawyers in London, Cape Town and Johannesburg that supports large companies and banks on their major outsourcing and technology contracts, day-to-day commercial contracts as a managed legal service and contract review projects.

We create value for our clients by meeting their needs and commercial objectives, as we design and deliver contracting processes and draft and negotiate the contracts themselves. We bring creativity and innovation to these services, combining legal judgement, processes and technology as well as commerciality and market knowledge.

Radiant Law has a highly-experienced team of commercial contracts lawyers with deep expertise in technology, IT and business process outsourcing and other commercial contracts. We combine project management, rigorous processes and proprietary software with a total focus on our clients' commercial objectives. Our fixed-price model ensures that our goals are aligned with those of our clients.

By doing this, we help clients deliver more business value from their contracts and build better commercial relationships.

To find out more, please visit: www.radiantlaw.com

THANK YOU

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