

A PROOF OF VALUE ON THE SHOP FLOOR

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A client who felt his legal bill was too high asked his lawyer to itemise costs. The statement included this item: “Was walking down the street and saw you on the other side. Walked to the corner to cross at the light, crossed the street and caught up with you. Got close and saw it wasn’t you: £50.”

Nearly everyone knows at least one lawyer joke, which tends to revolve around how much lawyers charge, how inefficient they are or how the only worthwhile place for them is at the bottom of the ocean.

Complaining about lawyers is also a favourite pastime for many of their clients. As professional service providers, lawyers are often seen as uncommercial, passive and more concerned with their fees than their client’s best interests.

In reality, however, the buyers of legal services at companies and financial institutions are now well versed in the purchase and management of external lawyers. And private practice lawyers in turn have become more skilled at delivering a client-focused service. Jeremy Ogden, in-house counsel at Barclays, the UK bank, says: “We have ironed out most problems now and rarely have issues with our outside lawyers.”

The development of the role of in-house lawyer over the past decade has been instrumental in improving purchasing. Few finance directors, chief executives or non-lawyer managers now get involved in the hands-on selection and management of external lawyers.

Graeme Musker, general counsel at AstraZeneca, the pharmaceutical company, says: “It is a core competency of an internal lawyer to extract the best value from external lawyers and use them in the best way.” Mr Musker says that in-house legal teams can be quite jealous of their preserve, and prefer to exert almost total control over the way in which external lawyers are used.

Using experts to manage experts has significantly improved the way in which businesses purchase outside legal advice. However, as many in-house lawyers will agree, their own legal expertise is not a guarantee that the company will be getting genuine value for money from private practice lawyers. Far too often, the service they receive falls short of expectations.

“Sourcing legal services is a complicated affair,” says Robert Ivens, head of legal at Marks and Spencer. “Each individual PLC is completely different and requires a range of legal disciplines. Added to this is the need to then derive value from a variety of legal advisers.”

A tightening of corporate governance rules in the past few years has encouraged more formality in purchasing and managing external lawyers. Corporate procurement departments are now more often brought into the legal purchasing process to help the in-house team negotiate a better deal on fees. Formal service agreements are becoming common, though they are mainly used to lay down the initial

framework for the relationship such as staffing of legal teams and fee arrangements.

For legal service buyers with a high level of expenditure, such as financial institutions and insurance companies, the panel system - where a company has a fixed and exclusive list of

providers - is popular. It helps reduce and control the number of law firms instructed, creating economies of scale. Geoff Timms, group head of legal at Legal & General, the UK insurer, says: "The panel system is essential to an effective system of corporate control of the client-lawyer relationship."

More importantly, the panel system enables organisations with varied legal needs to have close relationships with their advisers. And a close relationship, say in-house lawyers in all corporations, is integral to obtaining value.

Denise Jagger, former general counsel at Asda, the UK supermarket owned by Wal-Mart, and now a partner at Eversheds, the UK law firm, is an expert at client relationship management. She says that the problems in the client-lawyer relationship often stem from a lack of resources and time among the in-house legal teams. "In-house teams often moan about not getting what they want, but they need to invest more time with their advisers, bringing them into the business. Half the time legal advice is not given in context because of the way in which instructions are given."

At Asda, though she chose not to have a formal panel, she actively encouraged a collaborative relationship between her team and outside advisers. Lawyers were allowed to see the company's business plan and forward plans so they might foresee problems. Ms Jagger encouraged joint team-building exercises and on some projects even had outside lawyers help out in Asda stores.

Isabel Duchamp, head of legal at Nestlé, says it is not unusual to bring outside lawyers into the companies' factories on special projects. "We try to have an open relationship and make sure external lawyers understand the business. If something goes wrong, you have to address it immediately through frank and open discussion."

But value is not just about delivering a legal service on time and to budget: it also includes definable extras such as secondees, training, newsletters and seminars. Ms Duchamp particularly appreciates having a secondee (a qualified solicitor on beneficial rates) from the London law firm Norton Rose. "They are very good at listening to our needs and adding that little extra service," she says.

Norton Rose say that Nestlé is part of its key client programme, which is designed to improve the firm's service delivery. Groups of lawyers and marketing people meet regularly to pool information, research and business intelligence about individual clients.

Value, however, is an elusive concept. "Real value," says Mr Ivens at M&S, "comes from the lawyers having a displayable, in-depth knowledge of your business that they can bring to bear to add suggestions or save time. It's the added dialogue." Knowledge of the business is vital for both internal and external lawyers. Two years ago, Mr Ivens stacked turkeys in an M&S store over the Christmas period. "Getting on to the shop floor reminds us when we are drafting a complex corporate contract of what the business is actually about," he says.



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However much an external lawyer knows about the business, though, there is another crucial element to a good client-lawyer relationship: chemistry. “It is pointless to have an excellent but remote lawyer who can’t empathise with us,” says Mr Ivens. He points to one of his lawyers, Trevor Borthwick at Allen & Overy. “He has a can-do approach. Their ethos gels with ours and they’re enthusiastic about what they do.” Not only that, he is pretty sure that Mr Borthwick is a regular visitor to the flagship M&S store in the City of London.