



Building a Resilient Legal Department

by Rich Cohen, Managing Director and Fractional In-house Counsel

Today's societal, investor and regulator expectations and the exponential advancement of data and technology are creating significant pressures, demands and opportunities for General Counsel (GC) and their legal departments. Increasingly, they are being called upon to do more, expanding their focus to areas that include environmental, social and governance (ESG); diversity, equity, inclusion and accessibility (DEIA); and all things risk and compliance. Today, the GC is expected to serve as a strategic business adviser, who not only understands all aspects of the business but also manages effectively a vast array of operational issues while optimising the legal function.

Historically, legal departments have operated as cost centres, prioritising risk strategy over everything else. As Protiviti Managing Director and fractional in-house counsel Richard Cohen explains, "Over time, legal departments became a hurdle to clear at the 11th hour as opposed to partnering with different enterprise groups — IT, HR, finance, public affairs, sales and marketing, and more — to identify opportunities and synergies." The expanded responsibilities of legal departments call for an evaluation of current competencies and talent needs and new ways of leveraging advanced technologies and processes. To achieve these objectives, more GCs are turning to **legal department optimisation**.

Transforming the legal department from "No" to "Know"

Legal department optimisation identifies opportunities and drives change across skills, processes and systems within corporate legal functions. Much like the COO's role, through business process improvement, technological innovation, and metrics-driven analysis of legal department hours and projects, GCs can promote growth, reduce costs, position the legal department to deliver value and operate as a strategic partner to the enterprise.

It starts with people, processes and systems

Legal department optimisation takes a fresh look at existing processes, identifies friction points that slow the pace of business, and seeks to resolve inefficiencies. Performed correctly, legal department optimisation encompasses the people, processes and systems that directly impact the legal function — as well as any business processes the legal team touches.

People

Legal department optimisation includes building a mix of skills and talents of your staff that includes not only legal expertise, but also financial management, technology expertise, business acumen, industry experience and cultural sensitivity. Options to access these skills and talent include, but are not limited to, staff augmentation, managed services providers and collaboration with other functions in the enterprise. In assessing these options, it's beneficial to consider outsourcing routine, highly repetitive tasks to free up qualified team members in the legal department for more demanding, strategic-level assignments that may elevate their engagement levels — an increasingly important consideration in hybrid/flexible work environments.

Processes

Opportunities to optimise can include balancing of workloads, financial administration of the

department, vendor performance management, innovation, and — perhaps most important — understanding what success looks like for your stakeholders. Optimisation efforts might also call for incorporating the disciplines of service delivery and project management (i.e., scope, schedule and resource management) into the legal department. The goal should be to seek out opportunities to eliminate friction within processes and functions to achieve greater efficiencies, improved levels of performance and, potentially, cost savings.

Systems

Legal department optimisation includes evaluating current technology solutions that support the legal team's processes and determining where changes or upgrades may be beneficial. This is often a faster, more economical approach than undertaking a wholesale system replacement. Optimisation efforts might also encompass new opportunities to streamline the administration of legal matters, document management, legal holds, and risk and compliance to achieve new efficiencies. It also can involve deploying technologies such as automation, advanced analytics, artificial intelligence and machine learning to address unique problems and leverage opportunities for improvement. Additional areas for optimisation might include data management (both within the legal department and enterprisewide), security and privacy management, and cloud-based solutions.

Five principles for success in legal department optimisation

1. The legal department thrives by running like a business unit and by embracing the same disciplines of economy and efficiency as line-of-business departments.
2. The legal function is motivated to reevaluate what they do, how they do it and why, and to question the necessity of doing things as they have traditionally been done.
3. Legal teams can pursue technological solution opportunities, but they don't expect technology to fix broken processes. They focus on fixing people and processes first.
4. Legal department optimisation evaluates the fitness of technology investments already in place and chooses modifying solutions and processes — and retraining people — prior to deciding to purchase new technologies.
5. GCs make smart, informed, incremental changes after gaining the support of their internal clients, recognising that legal department optimisation is a process and not an event.

However, GCs should keep in mind that technology solutions won't fix a process that is broken. In these instances, it's vital to address the people and process areas discussed above.

Ask the right questions

The secret to optimising legal departments lies in looking beyond *what* the legal team is doing to explore *why* they're doing it. For example, a legal department might recognise that business partners want greater visibility into the progress of their requests. The legal department might inquire about available technology-driven intake processes to enable business partners to view the status of their requests — an approach that not only allows these colleagues to self-serve, but also frees the legal team from responding to ad hoc status requests so they can focus on more substantive work.

During such explorations, which might include surveys of key working partners, GCs should ask how the progress of optimisation efforts will be measured. Key performance indicators (KPIs) and metrics about current operations set the benchmark against which GCs can know — and share — the benefits of their optimisation efforts over time.

It also is important to approach the optimisation process incrementally — it is easy for large projects to become too ambitious, fall behind schedule, and be postponed or cancelled. Instead, focus on a small number of discrete areas and seek “quick wins” to demonstrate the value of optimisation efforts.

When it's time to consider bringing in experts — find the right legal optimisation partners

Given the growing number of responsibilities and demands on legal departments, many GCs, as well as their teams, find themselves more pressed for time than ever. As a result, they are looking to external partners to assist with all or components — people, processes, technology — of legal department

optimisation. GCs who seek that kind of help will want to consider the strengths of that partner's subject-matter experts:

- Where did they gain their expertise, and for how long did they work in a corporate legal environment? Consider backgrounds in optimising processes, people and systems in general, as well as in addressing legal, contract, compliance, records, privacy, transactions and investigation-related business challenges.
- How do they operate in the course of their engagements? Can they provide guidance and direction from behind the scenes? Do they have sufficient background to contribute sound business advice to GCs and senior leaders of legal teams?
- Does the partner have the relationships needed to carry out the GC's optimisation choices, wherever their exploration leads? Can the partner provide the following strengths?
 - Seamless access to seasoned resources for outsourcing legal tasks
 - Legal experts with current best-practice knowledge
 - Process and system analysis experts to help tune performance of current IT assets
 - Partnerships to find and implement the best-fitting solutions in the marketplace — when they're called for

With strengths like these, optimisation proceeds smoothly, no matter what direction it takes. The resources and expertise will be there, whether the GC decides to pursue outsourcing, update processes, evaluate how current systems are used or pursue solutions to support new processes.

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Start your journey

As you explore opportunities for legal department optimisation, consider the following recommendations:

- Lean on flexible labour options to enhance and supplement your existing staffing model because business will continue to move fast. Recognise that the jobs people are performing today may not have existed five years ago.
- Keep apprised of the latest technology and recognise the direction the business has taken. Also understand the pressures that customers, clients and business partners are putting on the organisation and actions the legal department may need to take to help prepare for emerging issues such as ESG and other business priorities.
- Artificial intelligence, alternative currencies, privacy laws, etc., are evolving constantly. It is critical you surround yourself with the best people possible. Look to bring in bright and creative talent to the legal department. Also, just because you did something a certain way before doesn't mean you should be doing it again.

Closing thoughts

The GC role has grown in recent years, but no aspect of their traditional duties has gone away. Many GCs are now embracing legal department optimisation in response to new demands and challenges. They're evaluating the legal function through new eyes — as a business unit — and taking an astute perspective to lead the legal department in delivering greater value for the enterprise.

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About the Author

Rich Cohen brings more than 40 years of legal services experience at both public and private companies. He advises in-house counsel on the development and strategic use of metrics-driven legal assessments to mitigate risk, drive efficiencies and contain costs, and serves as fractional in-house counsel.



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