

Defining Your Performance Metrics

by Patrick J. McKenna & Derek E. Patterson

When we ask executives to tell us if there are any aspects of their organization's business, strategic objectives or competitive challenges that they wish their in-house lawyers were either more sensitive to or understood better, we often hear things like:

Our lawyers are usually responsive to our needs but they need to adopt a work style that initiates ("how else can I help you?").

They need to be far faster at getting work done. There are no clear agreements established on when something is going to be completed.

It would be great to have our Legal Department come out and do a presentation for us on how the work flows and how they could be most effective. No one from Legal has ever visited with us.

We need Legal to have a better understanding of our area of business, how they can help, how they can be better integrated, and how they can provide us with quick opinions when required.

Corporate Legal doesn't seem to really understand the business or our business relationships. Currently, some of our key suppliers cringe whenever they have to deal with us on a contractual matter.

There is too much 'why you can't do something' and not enough of 'how do we make this work.'

Our Legal Department needs to do more trend line analysis on repetitive issues that they are observing and then initiating the discussion on how these issues could be prevented or better addressed.

Concurrently, we ask executives to rank (on a seven-point scale) their perceptions of 28 key legal function attributes; first by how **important** each might be to the organization and then by how **effectively** they believe their legal department currently performs the function. There is often a disconnect between what the lawyers believe and what the executive client perceives.

While deemed important, the areas that almost always seem to be scored low on the effectiveness scale by executives include such functions as:

- Meeting deadlines
- Solution orientation
- Knowledge of business strategy
- Knowledge of business operations
- Focus on high-value work
- Preventative / proactive advice
- Receptive to feedback
- Risk tolerance

There is an old adage that states, whether we like it or not, we are going to be measured by our clients. If we take a passive approach the measuring stick against which we will be measured will be exclusively a creation of our client. Alternatively, we can help create and shape the measurement criteria.

The same is equally true for you as a Chief Legal Officer in dealing with the executives in your organization. Any General Counsel who doesn't understand the importance of developing a set of meaningful metrics is missing out on a great opportunity to demonstrate the value of their department's contribution. After all, how can you rationally justify increased compensation or be successful making a request for additional resources, if you have not invested in setting up a process for documenting what it is that your department actually contributes?

“One reason we periodically measure a child's height on the same wall is to help that child get a sense of how much – and how fast – they are growing”

While this may all sound rather trite we can report from first hand experience that many of your executive colleagues do not understand what it is that you do. They may not really understand what the HR Department does either. But the HR Department doesn't intimidate them the way that your lawyers often do.

There are a variety of different metrics available to you for demonstrating the efficacy of your legal department.

FINANCIAL METRICS:

Budget Performance. Report on the extent to which your Legal Department's forecasted budget is met (on monthly, quarterly and annual bases) together with an explanation of any budget overages.

TLS / Revenue. Total Legal Spend as percentage of Revenue remains the accepted standard and best metric whereby one can review the trend-line on legal costs. This metric allows for internal comparatives over a period of years to evidence whether the costs of your legal department (as a stand-alone unit), relative to revenues, are rising or falling.

Number of Lawyers / 1000 Employees. Number of lawyers per thousand employees is another of the common benchmarks that can be employed internally to measure your growth relative to the rest of the organization.

Number of Matters Handled. This information will provide your organization with information on what types of exposure / areas of law are increasing in importance (e.g., legal compliance, competition, IT, etc) and which, if any, are diminishing to ensure proper internal allocation of legal resources.

‘New’ Matters Sent to Outside Counsel. This information will inform your organization on how many new matters are being sent to outside counsel and the reason for their being outsourced. The information would also give a clearer understanding of which areas of law you are most frequently sourcing external lawyers for and which external lawyers are being utilized the most.

Internal vs. External Cost Comparison. Calculate the average hourly cost (fully-loaded) of in-house counsel as compared to the cost of a billable hour (blended) as provided by the average law firm being used, to determine the savings achieved where legal matters can be executed by in-house lawyers.

Litigation Successes. Estimate the savings to your organization from the successful defence of a litigious exposure (actual results vs. reserve).

Financial Contribution. Estimate the revenues your legal department has contributed to the organization through successes on matters such as enabling new programs to be rolled out.

SOME NON-FINANCIAL METRICS:

Regular Client Meetings. The proper alignment of legal work to corporate needs requires regular two-way communication. It should prove worthwhile to schedule regular meetings with the senior Executive to (a) hear which issues are of importance to the Executive and (b) share information about legal issues and trends of importance.

Monthly Reporting. You should assume that your executives are not really aware of much of your legal department’s day-to-day work. Your monthly reports should include:

- (1) High level summary of significant legal issues (e.g., new legislation, significant court decisions) of interest;
- (2) Summary of preventative steps taken (e.g., bulletins circulated, policies and procedures developed, training done, etc.);
- (3) Summary of new matters opened, broken down by area of law (i.e., number of new matters opened in each general subject area), to be tracked on a departmental basis (i.e., not reported on by each individual lawyer);
- (4) Report on significant matters closed (e.g., transactions completed, litigation concluded); and
- (5) Recommendations for further work/focus.

Managing Expectations. Develop Service Level Agreements with major client departments that provide consensus on what constitutes high value work, what work might be capable of being channeled away from the legal department, what are appropriate turnaround times, and what sort of proactive information the client can expect from your legal department.

Finally, establishing your unique metrics should involve one-on-one discussions with the key executives of the departments that you serve. In most cases, the process should function as an important opening for you to work with your executives in a communicative partnership that helps you to:

- engage your clients in a discussion of your goals and objectives;
- enhance dialogue and candour between you and the management team;
- obtain meaningful feedback;

- get important information relevant to improving your department's performance; and
- set an example of dialogue and accountability for all of the departments to emulate.

The challenge in leading any service department is in demonstrating how you add value and enable the organization to achieve its strategic goals.

© 2007

Patrick J. McKenna (www.patrickmckenna.com) is a principal in Edge International (www.edge.ai) and since 1983 has worked exclusively serving the legal profession in matters of strategy and practice management. He is one of the foremost authorities on practice leadership and the author of numerous business bestsellers including *First Among Equals: How To Manage A Group Of Professionals* ((Free Press, 2002). In 2005, the book *Management Skills* (John Wiley/Jossey-Bass) named him among one of the leading thinkers in the field of business management.

Derek E. Patterson sits on the Board of the Canadian Corporate Counsel Association and has many years experience in both senior legal and general management roles. Presently he serves as General Counsel and Corporate Secretary for the Insurance Corporation of British Columbia. Derek has also served as VP and General Counsel for a national investment firm and as COO for a national financial planning firm. Derek received his law degree from Osgoode Hall Law School and his MBA from the Schulich School of Business at York University. He is a member of the Law Societies of both Ontario and British Columbia.