



GENERAL COUNSEL

Demonstrating value as an in-house legal team

‘If I let my legal team make all the commercial decisions, we would never do any business. If I let my sales team make them, we would be broke and in court within eighteen months’.

The CEO who said this to me was (I think!) exaggerating to make his point. What he wanted to highlight was the perception that on one side of the business are the rain-makers and entrepreneurs. They seek out and create opportunity, generating revenues and driving profit. They bring innovation and creativity to the unending task of building a thriving and growing business. And, often, they do all those wonderful things in a way that exposes the organisation to legal, financial, reputational and potentially existential risk.

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By contrast the CEO was implying that lawyers are often accused of being professional nay-sayers, risk-averse and congenitally cautious. According to this view, the in-house legal team raises problems and creates barriers, obstacles and difficulties, earning a reputation as the “Business Prevention Unit”.

Both of these descriptions are parodies however both contain a grain of truth. In our work with General Counsel (GC) and in-house legal teams we have identified five dimensions of success. By “success” we mean that the team is embedded at the very centre of the organisation, working in close collaboration with colleagues in every other function area to manage risk, implement strategy and contribute to business success.

Let's look at each of those dimensions in turn.

- 1. Publicise your role.** This is about having a clear definition of your team's identity, culture and above all, value proposition. You should be able not only to define the value you deliver, but to articulate it in language that feels relevant to and resonates with the organisation you serve. This language should be about enabling, facilitating and expediting; about helping to make things happen and to move things forward. It should also be about pragmatism, practicalities and commercial awareness.
- 2. Aim to get involved in projects early on.** In the 1990s, a "free flights" promotion by the Hoover Company in the UK led to a £50m loss, years of litigation, reputational damage and the dismissal of three senior executives. An initial offer of European flights was extended to transatlantic ones to improve take-up; evidently, nobody had calculated the impact of offering £600 worth of air tickets in return for a minimum outlay of £100 – or anticipated the revised offer's popularity. The lesson for the in-house legal team? Make yourself available to give advice in the early stages of idea generation, planning and execution. Early-stage involvement is infinitely preferable to damage limitation and remedial intervention when things have gone wrong. Companies usually have sign off procedures in place that can help to prevent such unfortunate incidents.
- 3. Be seen as a source of help.** The business should be making three assumptions: legal can help, we need to talk to them, and we need to proactively reach out to them. For those assumptions to be in place the clearly defined value proposition discussed in point 1 is crucial. So too is a broad, trust-based, open, mutually respectful relationship between legal and the rest of the business. A relationship of that quality is a construct, not an accident. It takes time, effort and a commitment to excellence. This commitment can be shown in the advice the legal team gives and the service it provides. The same commitment should be apparent as the team continually deepens and enhances its connections with other individuals, teams and function areas across the business.

- 4. Project empathy.** When someone from the business asks, 'Am I making sense?' it's a plea for reassurance. Do my lawyers 'get' me and what I am trying to do? The quality you need to show here is empathy. By this I mean an intelligent, sensitive and informed ability to put yourself into the shoes of your internal clients and to understand what things look, feel and sound like to them. 'Intelligent' in this context means you bring incisive powers of analysis and understanding. 'Sensitive' means you're emotionally intelligent and understand what is at stake. 'Informed' means you know about context, commercial realities, competitive pressures, revenues and profitability, organisational strategy and business benefits as well as all the legal dimensions of the issue being discussed.
- 5. Position yourself as an asset.** Suppose that with the blessing of a company's new, charismatic and forceful CEO, an advertisement is signed off claiming that the core product is 60% more reliable than that of its direct competitor. The GC sees the advert in the trade press, books a meeting with the CEO, and makes it clear that the 60% claim cannot be substantiated. The GC also explains that it exposes the company to litigation risk and to action from the regulator. The CEO and GC then agree that a strategy for dealing with these issues is needed and that in the future, the legal team must sign off all marketing collateral.

To be viewed as a benefit by the business, you, as an in-house lawyer, need to make points like those clearly and concisely. You must communicate them tactfully and diplomatically, in a way that is seen as constructive and helpful.

To actually be an invaluable benefit to the business, you need to do a couple more things. You must achieve the best possible outcomes whilst successfully deepening and enhancing the relationship that you and the legal team have with the CEO and the rest of the C-suite. Do this and you'll establish yourself as a highly professional operator who understands and can meet the not inconsiderable challenge of being a successful and effective GC.

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