

Business & Careers

In-house, external counsel need to be precise



The Counsel
Network

Communication is the most important part of any relationship, and the relationship between in-house and external counsel is no exception. When dealing with members of your own profession, it can be easy to assume there will be an effortless alignment on the issues, appropriate courses of action and value of services provided. However, as any lawyer who has practised either at a firm or in-house well knows, there is no shortage of places for communication between external and internal counsel to break down.

It's of paramount importance for both sides to approach both

the relationship as a whole, as well as each distinct piece of legal work, with an explicit and agreed set of goals.

Know your client. At the risk of stating the obvious, an in-house counsel must be wholly familiar with their internal client's business priorities, including the value they place or risk they associate with any given piece of legal work, before being able to clearly communicate goals and objectives to external counsel. A client will often attempt to keep costs to a minimum on one matter, for instance, while on another they will think more about the big picture—or even “bet the farm.”

Whatever the client's specific aim, it is crucial for internal counsel to spend the necessary time at the outset of a file to thoroughly understand how it fits in with the business as a whole. Only then can in-house counsel properly communicate that infor-

mation to external counsel and equip them with the tools necessary to ensure they are best serving the business's needs.

Fees first. At the outset of every file, even for small jobs, in-house counsel should initiate a discussion with their external counterpart about fees and the approximate time to be spent on the matter. This exercise will help crystallize expectations on both sides and bring to the front any misunderstandings over the scope of the assignment.

The more frank and precise the conversation, the farther it will go in helping to avoid that all too common scenario of an in-house counsel receiving a bill from external counsel that is some multiple larger than expected. Although conversations around fees can be tense and complicated, they are ultimately in everyone's best interests.

Partner with external counsel. Ideally, the relationship between

internal and external counsel should be one of peers, and the evolving role of in-house counsel makes such partnerships increasingly common.

Over the past couple of decades, in-house counsel positions have become far more sophisticated and demanding. Marrying up the organizational knowledge and judgment found in-house with the skill and expertise found externally will make both sides look good and will result in seamless, value-added service for the client.

Hold post-game debriefs. Although forward-looking file assessment is the stock and trade of most lawyers, it is far less common for a team to sit down after a project has been completed and look back. But even the briefest wrap-up can be a huge benefit as an efficiency tool with respect to time and money. And although some external counsel may seem resistant to hearing your feed-

back, find a tactful way of providing it anyway. The relationship between internal and external counsel is no different than any other in that matters you avoid discussing will fester and grow. The more internal and external counsel can openly discuss what went right and wrong on each file, the better they will do next time.

More than a best practice, spending the necessary time to properly communicate business goals, explicitly discuss fees, work towards true a partnership and hold wrap-up discussions is a critical part of any harmonious, mutually beneficial and long-term relationship between internal and external counsel.

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