FUTURE LAW... BALANCING MORE WITH LESS

Accenture 2019 Legal Risk Study
Accenture’s 2019 Legal Risk Study surveyed 50 General Counsel professionals from North American financial services firms to capture their thoughts and perspectives on the challenges and opportunities facing their function.
Operating at the intersection of business, legal, technology and regulation, the Office of the General Counsel’s (GC) role has expanded from an ethical sounding board to a trusted business partner.

Within Financial Services, Legal functions perform a careful balancing act. Demand for legal support, knowledge and critical insight is strong and growing, while the more pressing business risks requiring legal expertise and acumen are evolving. Many Legal functions within financial services firms have not undertaken transformational change initiatives unlike their business clients who have faced more disruption from technology and nimbler competitors.

Now the office of the General Counsel and its professionals face a similar predicament. They are being challenged to balance more matters and priorities with less due to fixed or declining budgets, limited resources, changing business models, new market expansion, ongoing regulatory demands and sometimes ineffective governance and controls.
Further compounding the pressure, today’s GCs are also compelled to provide the strategic leadership and vision demanded to sustain their departments’ core legal competence while bringing them in step with the transformation efforts undertaken by the business functions that Legal supports. As a result, GCs are looking for ways to capture more value from their legal resources and how they conduct their daily legal work. They require nimble staffing of lawyers and paralegals and better workflow and technology tools designed to manage complexity and streamline legal operations. They should also become more discerning, eschewing less complex and non-core work by outsourcing it to skilled and less costly resources, while simultaneously investing in the right technology to boost productivity. This self-awareness of the urgency to change is critical to delivering on the growing demands placed on the Legal function. The next-generation workplace for in-house counsel should integrate legal know how, technology, analytics and operations capabilities to manage complexity and streamline legal operations with efficient integrated workflows throughout the above-mentioned functions.

71% of organizations spend at least 3% of their net income on their Legal function. However, the pace of legal spending decreased by 9% over the past year, thus prioritizing investment decisions is critical.

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Future Law - The future of In-House Law

In response to these and other forces, a new Legal department operating model is emerging, dubbed “Future Law.” This allows GCs to nimbly support the business with reduced overhead by shifting non-core functions to third-party providers, leveraging new organizational structures and processes, adopting better infrastructure and technology tools and embracing a culture of continual change. Those GCs that fail to adapt could impair their business’ ability to increase sales volume, launch new products, services or businesses, and thus indirectly reduce their revenue growth potential.
Changing mindsets within Legal is a key step in the journey to Future Law

The current model for GCs is existentially challenged in its ability to respond to never-ending cost pressure, increasing complexity of regulatory and business requirements and the opportunities presented by emerging LegalTech, which could be seen both as a facilitator and as a competitor of sorts. To respond, a paradigmatic shift in thinking and greater self-awareness by GCs is recommended to reshape the legal operating model while still managing business-as-usual regulatory and risk management demands.
The journey to Future Law is evolutionary, not revolutionary, and GCs should take consistent and progressive measures to attain it by focusing on defining and executing a multi-year transformation program. GCs navigating to a Future Law operating model should take steps to create a culture of openness to change and challenge the status quo in their current processes and tools.
STEP 1.

Evaluate the change

We believe a key element to an effective shift to Future Law is the GC’s ability to recognize the organization’s blind spots, to be self-aware of, and candid in assessing the Legal department and the overall firm’s idiosyncratic strengths and weaknesses. A process of candid self-evaluation is critical to objectively assess the changes required within the organization and to evaluate the options for delivering changes that strengthen Legal, for example through shifting non-core functions to third-party managed services providers or enhancing other functions by leveraging technology.
STEP 2.

Identify opportunities to gain efficiencies in delivering legal services

Cost pressures resulting from increased external counsel spend to address escalating regulatory changes have forced GCs to carefully examine the scope of work that external counsel provides. Legal should actively assess how best to deploy outside counsel. For example, many GCs prioritize outside counsel spend on whether there is a specific legal subject matter expertise that is required for a legal matter that cannot be provided by the in-house attorney staff. Alternatively, if outside counsel is being used for staff augmentation work (such as document reviews or basic contractual drafting) because in-house legal resources are stretched, then GCs should re-assess and re-prioritize their legal matter portfolio and other non-core work allocation to focus on leveraging the highest and best use specialized skills of their trained legal resources. In 2019, 17% of 2019 Legal Risk Study respondents said they expect to increase spend on outside counsel. If this increase in spending relates solely to staff augmentation and not to unique legal expertise that is not available in-house, then GCs should consider navigating to a Future Law model where resources are more effectively assigned and used.
GCs should consider new ways of working to enhance productivity and manage expenses. Our research indicates that half of organizations’ in-house attorneys spend up to 20% of their time on tasks that do not require an attorney. Non-core legal work and administrative tasks should be pushed to managed legal services providers, enterprise shared services or automated technology solutions such as Artificial Intelligence (AI) and Machine Learning to reduce reliance on external counsel, cut expenses and shorten throughput time. Shifting the right non-core legal activities to a managed services legal provider or to enterprise shared services (Center of Excellence) can help to significantly reduce the workload of low value tasks performed by legal staff. This also allows financial services firms to benefit from knowledgeable and skilled talent that have been appropriately trained and are available at lower cost, while removing complexity from certain operations and freeing up talented legal resources to address critical legal risk issues. Reducing fixed expenses by using variable cost options such as legal managed services providers or enterprise shared services provides a more scalable Legal function.

50% of organizations’ in-house attorneys spend up to 20% of their time on tasks that do not require an attorney.

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Administrative tasks, such as reviewing outside counsel billing, certain contract negotiations and document reviews could be handled outside Legal with the right templates and control frameworks. Looking ahead, we expect GCs to conduct a specific legal matter-type assessment of tasks and to align to specific processes and protocols that outline which tasks get handled by external counsel versus those that remain in-house. Many GCs have, of late, explored the transfer of certain work they currently handle to shared services functions internally or to managed services functions outside the firm.

Necessary preconditions to this shift of work include understanding and documenting the current state and core capabilities by methodically analyzing each legal coverage area and its related processes within Legal. To determine candidate areas, it is critical to evaluate time spent on the processes and/or functions by evaluating matter management and attorney allocation data showing the time current legal resources are spending on these activities to determine which can be readily lifted and shifted to third-party managed services providers. Once it is evident, how legal staffers are spending their time, the GC should leverage that information to assess how to become more efficient by surgically offloading to managed and/or shared services providers or by using automated solutions.

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60% of respondents track hours worked for in-house legal counsel by task, project, or case-based tracking. This percentage has almost doubled since 2018.

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STEP 3.  
Shift from tactical to strategic use of LegalTech

Today’s GC is leveraging technology to deliver legal advice faster, better and smarter. For 2019 Legal Risk Study respondents, the greatest challenge in adopting new legal technologies is finding the right LegalTech to fit the organization (62%). The next biggest challenge is securing the budget for the new technology (42%).

62% of respondents say the greatest challenge in adopting technology is finding the right legal technology solution to fit the organization.

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The issue is that many of the LegalTech tools available to attorneys are single point/siloed and non-integrated enterprise solutions. This leads to less robust user adoption and less efficient workflows, with the potential for duplicative labor in moving files and/or re-keying data from one tool to another. Even if multiple tools are offered through a single LegalTech vendor, they may not meet all of an attorney’s needs, nor may all the features offered be best in class.

To understand which systems are siloed versus integrated and which could be replaced, a thorough inventory of all the legal systems and their interrelationships should be mapped out. Then each system should be analyzed to determine which are fit for purpose. Along with this exercise, the GC should map out what their technology strategy is to create synergies, to embrace a nimbler technology platform that can be scaled, and where new and enhanced technologies can be readily integrated. Only after gaining a complete understanding of these systems can one begin to shift to fewer single purpose and/or siloed LegalTech solutions and leverage enterprise-wide integrated technology systems that serve multiple purposes.

84% of respondents report that their organization has multiple systems or applications addressing specific legal needs or processes.

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According to the 2019 Legal Risk Study, 89% of respondents have set up and implemented new legal technology within the past two years. However, many GCs are now faced with maintaining multiple systems and technologies at a sizeable expense, yet few attorneys use them to their full potential because, the tools are often too cumbersome to use and/or were not implemented with a logical workflow to allow lawyers to get their work done faster or more efficiently. This proliferation of new systems has not always yielded the expected results due to poor user adoption or less efficient use of the tools. There is often a lack of understanding of the systems and how to use them most effectively, from inadequate scoping of requirements that are tailored to an attorney’s way of working to insufficient training of legal staff.

Document management (48%) and internal time management (46%) are the processes for which most organizations plan to utilize or implement new legal technologies in 2019.

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Moving forward, GCs should be more strategic with their technology investments instead of tactically solving for a single problem or use case. GCs’ partners in the business have been shifting their focus and becoming more strategic, making key investments in their technology architecture and framework. The Legal department should follow suit, given the critical role it plays within the firm.

Some LegalTech tools are configured narrowly to only address a certain technology infrastructure which may not be easily integrated with enterprise systems. This becomes an increasingly important consideration for the GC, especially in the legal document management space. Lawyers should be able to find documents in which they offer advice, as well as source data and information for their daily legal matter work whether for applications/licensing or regulatory reporting purposes. One should continually ask whether the data and information used daily can be leveraged from the firm’s enterprise data systems. For this reason, selection of the appropriate LegalTech tool is critical to gaining efficiencies and reducing the time a lawyer needs to complete his or her work.
Lawyers undergo extensive legal training to become experts in providing legal advice. Law school curricula include courses on constitutional law, contracts law and torts, but law schools do not offer courses in technology strategy, design and implementation, nor in business process and operations. GCs can enhance their departments’ skill set through hiring of technologists, project managers and legal operations managers, leaving their trained lawyers to focus on the law. GCs can also leverage managed and/or shared services providers for technology, project management and operations support to gain efficiencies. Those GCs that effectively and consistently harness the power of new technologies are best positioned to adapt more quickly, expansively shifting to new operating models to support the business.

76% of respondents say employees have been receptive to new legal technology solutions. Accenture 2019 Legal Risk Study
In efforts to narrow the scope of services provided and avoid becoming jacks of all trades and masters of none, GCs should develop a new legal service catalog facilitated by a legal demand management system. By compiling this information and data in an integrated technology platform, applied intelligence can be leveraged to more easily match demand for legal services with actual bona-fide service offerings of the department. GCs should think of creating sustainable best-in-class standards for the provision of legal advisory services.

This shift in thinking should help attract and retain better lawyers and promote a working environment that encourages efficiency and tech-based capabilities. This, in turn, should help rationalize spending on external counsel, which in the past could be substantially influenced (and increased) by the selection of individual lawyers, the effects of panel guidelines and the web of loyalty and habits.

84% of respondents believe legal technology solutions are becoming increasingly important for handling day-to-day activities.

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Crossing the finishing line

Through fresh thinking and new approaches such as using legal managed services to run non-core legal activities and processes, tapping into the expertise of legal services vendors and judiciously adopting new technology (LegalTech) capabilities, the Office of the General Counsel of 2019 can live up to its expanded role and the accelerating demands of the business. And by moving towards a Future Law operating model with a targeted focus on only the core, value-add functions of their department, GCs can deliver on the expectations of “balancing more with less.”
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