



Ron Pol talks to **Craig Sisterson** about some key findings and action points from a comprehensive new benchmarking report for Australasian in-house legal departments

While in-house legal teams are very different from other business units in respect of their need for independence, overriding duties to the court, and the professional obligations of lawyers, they are also very similar in that they still need to clearly identify, deliver, and demonstrate their business value to their organisation, says Ron Pol, director of specialist legal services consultancy Team Factors Limited. This need to demonstrate value within a business has become even more important in the aftermath of the Global Financial Crisis, with employers looking to slash costs and inefficiencies.

But now in-house counsel on both sides of the Tasman have a comprehensive new resource available to help them improve, and prove, their value, with the launch next week of the *ACLA/CLANZ Legal Benchmarking Report 2010* (Report).

2010 Benchmarking Report

The Report is the fruit of the most extensive study of its kind ever conducted across Australasia, and provides a clear and detailed picture of the current state and future direction of in-house practice. It is based on in-depth research by ACLA, CLANZ, and Team Factors into more than 150 companies and government agencies that together spend more than \$2 billion on legal costs annually. The Report will enable in-house counsel to “measure performance and improve efficiencies” and “provides a resource base to develop strategies to save costs for corporate and government legal departments,” says Pol, a former CLANZ President. “A smart and savvy General Counsel could pick up this Report, go through it, and then identify the key issues that really impact on them. There’s probably not a single legal department in New Zealand that couldn’t save at least 10 per cent or more by using these resources. There will be some who could save 30 or 40 per cent.”

For many companies and government agencies, their legal spend is quite big, so even a 10-15 per

cent improvement “can result in millions of dollars in savings,” said CLANZ Executive Officer Helen Mackay. The Report builds on its 2008 predecessor, with entirely new sections and analysis, more data, graphs, tables, and metrics, and the addition of case studies and more than 100 “action tips” to enable in-house counsel to take practical steps to “get more value from the data.” Pol will deliver the findings from the Report at seminars in Wellington and Auckland next week.

Key trends and issues for General Counsel to consider include matter management, the reality of alternative fees, and the use of better metrics, says Pol.

Matter management

The use of matter management systems is really surging in Australia, but is just starting to take off for legal departments in New Zealand, says Pol. “We’re just on the cusp... [I]t’s a massive way of saving costs, and being much more efficient and effective at running a legal department.”

A matter management system allows lawyers, wherever they may be, to punch in details as a matter is happening, says Pol. Such a system is a vast improvement on law firm extranets, and light years ahead of the common and more traditional practices of law firm monthly reports or lawyers retaining much of the information themselves, says Pol. Matter management systems allow General Counsel to access all relevant data from all their own staff, and any law firms that are advising on matters, in one place. “A lawyer in law firm X can see what they’ve done, but they can’t see law firm Y or law firm Z,” says Pol. “The General Counsel can see the whole lot of course. And what that means is that the General Counsel gets 24-7, real-time visibility of all the legal issues facing their organisation. Now that is the most powerful thing you can do really. And also what it does is it gives you the ability to slice and dice financially, so [a General Counsel] can compare

across all the law firms. They can look at the last 1000 transactions in this particular area, and decide which law firm is the most efficient and start funnelling [more or] all the work to that firm. It is a huge way of generating the next generation of where legal departments should be going.”

Alternative fees

The Report also debunks some perceptions about the increased use of alternative fee arrangements between in-house and external counsel, notes Pol. “There is a lot of talk that there seems to have been an explosion of alternative fees.” While there may be a greater percentage of in-house departments using alternative fees *on occasion* than in the past, says Pol, the true increase may only be negligible if the majority of those in-house departments still use hourly rates for most work. “So we ... also identified the actual proportion of legal costs between hourly rates and various forms of [alternative fee arrangements],” adds Pol. “We found that something like 85 per cent are still on hourly rates, so that’s a *huge* percentage, and of the balance, most of that was fixed fees, which is not rocket science either, frankly.”

Overall, there has been a lot of talk, but little action, says Pol. “That said, there are some organisations that are doing it, and in quite a big way. And they are the real leading lights of where that future is going. So those that are talking about it... who still say hourly billing is terrible... are they putting that into action by changing the dynamics? It’s up to in-house counsel to make that happen. This Report also provides the framework and the belief for that action.”

Making use of metrics

The Report also shows that General Counsel need to take greater responsibility for the metrics by which the value of the legal function is measured within the business, says Pol. “Most people realise that as their company grows, there will be more legal issues arising, and therefore they’ll be growing their legal team. But relatively few measure that very metric – their legal spend as a percentage of revenue.”

Measuring legal spend against total revenue can be much more informative than merely measuring the total legal spend in isolation, says Pol, and can provide a very powerful tool when dealing with CEOs and CFOs concerned about cost. As an example, Pol notes a legal department’s total legal spend could rise significantly year on year, but may actually be stable or even decrease as a percentage of the organisation’s total revenue over the same period. However, if only the absolute cost of legal services is used as a measure, legal departments may get “pummelled by the Chief Executive because they’re spending more”, whereas if they use the percentage of total revenue metric (the “legal footprint” on the business), they may be in line for congratulations. “So why aren’t General Counsel using that figure?”

The Report also contains many other useful metrics, including benchmarking data on median legal staff numbers across organisations of different sizes and industries, which can be very helpful when discussing staffing levels with management, says Pol.

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