Welcome to our first In-House Legal Department Benchmarking Report, which we hope will provide our clients with some valuable insights into the activities and dynamics of in-house legal teams at other organisations. For many years we have been asked by clients to give them benchmarking information, and until now we have not been able to provide anything specifically focused on the UK market. We decided that had to change.

Over the last year, Eversheds has been running a series of workshops and seminars looking at key performance indicators for in-house teams. These events have been well attended, driven by a new demand from board level for legal departments to produce facts and figures on what they are contributing to the business. We have seen this demand gathering pace in the last year, as companies have found themselves under continued pressure to reduce the cost base, and attention has turned to in-house lawyers. Benchmarking against industry peers is a key factor when measuring a department’s performance.

So we asked the attendees at our seminars to complete a questionnaire about their department, and we collaborated with the Møller PSF Group in Cambridge to maximise the survey’s effectiveness and analyse the results. We had more than 150 responses to the majority of our questions, coming from participants in a wide range of sectors, 24% of whom have a turnover of between £250m and £1bn, and a further 42% of whom generate more than £1bn revenues a year. For some questions, we opened the survey up online as well, and received as many as 400 responses.

The results are detailed on the pages that follow. To our knowledge, this is the widest survey of its kind ever carried out with in-house teams in the UK legal sector, and we hope that you find it useful. Please get in touch if you have any questions.
Legal department structure and size

We asked our participants about the size and structure of their in-house teams, and found that almost half (46%) of heads of legal now sit on the board of their companies. That figure was higher than we had expected, though it is unsurprising that the head of legal is less likely to sit on the board where in-house legal departments are smaller. We found that in companies where more than five solicitors are employed, 47% sit on the board, but where there are fewer than five in-house lawyers, only 30% have boardroom seats.

Most heads of legal now report to the chairman or CEO (50%), while 22%, the next largest group, report in to the finance director or equivalent. Again, the reporting line is more likely to be into the finance director in smaller companies.

We expanded our survey group to ask about the staffing levels at in-house legal teams, a question that received 383 responses. We found that in 86% of the departments participating, companies employed 10 or fewer solicitors in the UK. Fewer than 3% of the companies that we interviewed employed more than 50 in-house lawyers.

Finally, we were impressed to see that in two-thirds of cases the head of legal now also has responsibility for risk and compliance (64%) and for company secretarial duties (65%). Given the growing complexity and importance of the risk and compliance functions in most organisations, it is a credit to heads of legal that they have been able to step up and take responsibility for these areas.
Types of work undertaken

When it comes to the type of legal work being handled by the in-house team, the vast majority of mandates concern contracts, which 68% of our respondents say are one of the four main types of work they handle. Interestingly we then see real estate, employment and litigation work all roughly equal and being handled regularly by one in five respondents.

We asked why certain types of work are undertaken in-house, and found that cost effectiveness, expertise and knowledge of the business were the most common reasons given. Contracts are likely to be given to the in-house team because of their knowledge of the business, while cost effectiveness was cited as the main reason for carrying out commercial work, real estate, employment and litigation work in-house.

It was encouraging to find that over the last six months, the vast majority of legal departments have either stayed the same size or expanded. Only 18% told us that their teams had shrunk. What’s more, we found 73% of respondents expect their departments to remain the same size over the next six months, with 19% expecting growth and just 8% predicting a downsizing. We find this quite encouraging given the push on general counsel to cut costs, and assume that we are entering a period of stability after a few years of intense pressure to reduce headcounts in-house.

We asked our clients about their use of external law firms, and found that more than half (52%) use outside advisers on litigation work. Real estate, employment and mergers and acquisitions are also popular types of work for outsourcing. The main driver for all decisions to go externally is the need to access specialist knowledge, while a lack of in-house resource and/or expertise is also a significant factor. For the most part, work handled externally is categorised as more complex, specialist and/or high value.

Finally, we looked at external legal spend and found that, for most of our respondents, it has either stayed the same or risen over the last six months. Nearly half (47%) expect it to stay the same over the next six months too, with just 18% predicting it will fall. Again, we take this to be a sign that spending on external legal advisers has now flat-lined after sustained cuts, and departments will look to keep costs at their current levels. This means that living within current levels of fixed budgets for external spend is going to be particularly important for in-house teams.
Expenditure

When it comes to legal spend, we asked our survey participants what type of fee arrangements currently form the bulk of their external spending, and found that hourly rates are still the most popular terms of engagement, used by 88% of our respondents. That said, fixed or capped fees are now almost on a par (83%), which we believe represents a considerable shift in the way in which lawyers are charging for their services. Eversheds has reported previously on the growing demand amongst our clients for these kinds of alternatives to hourly rates.

Fixed or capped fee arrangements are most frequently employed for conveyancing and other types of property work, as well as for specific one-off projects. Hourly rates, on the other hand, remain most popular for litigation, contracts and employment work.

Relationships with legal providers

Our survey participants were asked about the types of external legal providers that they work with, and found that few in-house legal departments are yet to make use of legal process outsourcing providers. Only 3% of our 285 respondents use outsourcers and, what’s more, few have plans to begin doing so: we found just 4% saying that they plan to use outsourcers at some point in the future.

A significant proportion of in-house legal departments still do not use formal panels of law firms, with 47% saying they don’t have panel relationships. A third of those surveyed have a panel of fewer than five firms, with 9% having panels in place that boast more than 10 members. It is generally smaller companies that avoid the use of panels, while those in the financial services industry are most likely to make use of them.

When asked about how panel members were selected, we were interested to see that a third (34%) of legal teams now use procurement departments, or work in cooperation with procurement, to choose their panels.
Looking ahead, we are already beginning to see evidence of a move towards key performance indicators being adopted by in-house legal teams. A third of departments now run reviews and surveys to measure feedback on the effectiveness of their performance, and more than a fifth (21%) are measuring the value for money and financial return that the company is getting from in-house legal. It is no surprise to see that it is larger companies that are driving this move.

We asked in-house lawyers to tell us the one most challenging issue that they are currently facing, and the most popular response was regulation and government interference, which concerned 15% of those we surveyed. Other major worries were organisational restructurings (13%), the recession (12%) and profitability of the business (9%). It is interesting to see the level of anxiety there is about regulatory intervention, given the coalition government’s apparent commitment to reducing red tape for business in the UK.

When quizzed about the trends facing their departments, in-house counsel predict a growth in their teams, an expansion of expertise, and an increased workload for in-house lawyers as work moves away from external firms. This is a positive trend for the internal legal departments, and illustrates the way the pendulum is currently swinging, as companies move to invest in, and expand, their in-house capabilities.

Our participants also told us that they expect their supplier law firms to improve their cost effectiveness, communications, responsiveness and transparency in the years ahead. In doing so, private practice lawyers will make the lives of their clients easier.
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About Eversheds

Eversheds is an international law firm with a clear vision of the future. It is a firm that is adapting to new demands and business pressures, and a firm that understands what clients need today and, equally important, what they will need tomorrow.

Eversheds is one of the largest full service law firms in the world, acting for the public and private sectors. We are pioneers in flexible working, dispute management, project management, online services and working globally. We have offices across the UK, Europe, Middle East, Africa and Asia, and we have four main practice groups: company commercial, human resources, litigation and dispute management, and real estate.

About Møller PSF Group Cambridge

As a group of 20 practitioners, we work with leaders of professional services firms, partners, directors and their people to improve performance at multiple levels – individual, team, practice and firm.

We offer a breadth and depth of expertise across the professional service firm sector that we use to deliver practical and commercial solutions. We combine proven ability and experience with leading edge thought leadership and the collective intellectual insight gained from working with firms over many years. We are based at The Møller Centre, Churchill College, University of Cambridge.