

Becoming an Informed Purchaser of Legal Services

Helping In-house Counsel get the most out of their external legal spend...

Legal clients are leading the demand for lawyers to change their ways of working to deliver more effective client outcomes, on time and on budget!

This is the second in a series of two articles on the Legal Informed Purchaser framework. It is designed to support in-house counsel with the planning of strategic legal services, and when making purchasing decisions for external legal services. It covers the last three stages in the Leading Practice Procurement Process framework developed by the NSW Attorney General's Department (NSWAGD).

"The central role of the informed purchaser is management of the allocation of all legal work, monitoring of the quality of legal services delivered, management of legal risk and management of legal costs and value for money." NSWAGD Informed Purchaser Training Module 1

Best Practice Legal Services Procurement Process

The NSWAGD's Leading Practice Procurement Process has six stages –

1. Defining Legal Services Needs
2. Establishing in-house legal resources
3. Select external legal services
4. Manage provider relationships
5. Information sharing
6. Measure, monitor and refine

This article covers Manage Provider Relationships; Information Sharing; and Measure, Monitor and Refine in more detail. It will also cover related content on stakeholder management and some specifics around applying the Legal Project Management concepts when implementing the Informed Purchaser Model.

This information can be applied by in-house counsel in any major organisation (government, private sector and not for profit) to assist in the efficient management of internal legal services and the effective engagement of external legal services.

It is also beneficial for external counsel to understand these concepts so they can build better relationships with their in-house counsel clients and achieve a greater understanding of game changing new expectations in the legal services market.

Manage Provider Relationships

Under the informed purchaser model, the **10 key functions of the manager of the external legal services** are as follows (adjusted for more general applicability) -

1. Be an informed purchaser and manager of legal services
2. Follow relevant purchasing and probity requirements
3. Actively monitor agreed fees and analyse, review, report on legal services costs
4. Manage uncertainty and risk
5. Use in-house legal capacity to best advantage and be in harmony with the panel
6. Manage relationships
7. Manage individual work assignments under the panel
8. Educate clients
9. Adopt effective knowledge-management and information systems
10. Review performance and service arrangements.

(New South Wales Attorney General's Department, Informed Purchaser Training, Workbook, p 57)

The informed purchaser model discusses the benefits of establishing a relationship management protocol to formalise dealings with external counsel in terms of minimum standards, preferred delivery methods, preferred reporting formats, and preferred contact or communication channels.

Being an effective manager of legal service providers all starts with the foundation of Effective communication.

There are many definitions for the concept of 'effective communication', most of which require translation before being understood. Basically, effective communication is the transferring and understanding of meaning. This involves a two-way process whereby a message is communicated and correctly understood.

Effective communication is not easy to achieve as we convert information into meaning through filters and the use of our senses. Filters include past experiences, education, personal preferences, assumptions, cultural background and so on. Thus, in order for you to ensure that your message has been understood as was intended, it is critical to verify the receiver's understanding of your message and (perhaps more importantly) to confirm your understanding of theirs.

The selection of the communication style, media or channel is also important to effective communication. If a client or key stakeholder has a specific preference regarding communication channels and these are not respected by the legal project manager or team, the communication will often be ignored, and the relationship disrupted.

For optimal communication, the legal project manager needs to choose the most appropriate communication style, media and channel for every piece of verbal or written communication in relation to the matter.

Effective communication requires a set of skills and techniques that can be learned and practised in order to become seamless. The three most useful techniques that can be consciously adopted in order to improve communication are -

1. active listening
2. conversation
3. observation

Stakeholder and client management

The informed purchaser model discusses the benefits of establishing a relationship management protocol to formalise dealings with external counsel in terms of minimum standards, preferred delivery methods, preferred reporting formats, and preferred contact or communication channels. Other recommendations include conducting induction and briefing activities for legal firms once they are engaged to ensure that they understand the client's and stakeholders expectations, as well as establishing key performance indicators for reporting and relationship management purposes, arrangements for post-matter reviews, and formal processes for dealing with issues.

A large component of this stakeholder and client management relates to the importance of standardised invoices, reporting and presentation of legal deliverables. This standardisation has advantages for in-house counsel receiving these outputs as it aids understanding and ensures that key requirements have been addressed. It can be especially challenging for external firms as they need to meet the different demands of many clients who may have vastly different expectation and standards.

Stakeholder is someone who is interested in the outcomes of the work and can influence the work, whilst a client is someone who pays for the work and requires the outcome of the work.

Many lawyers underestimate the importance of managing stakeholder expectations and the importance of understanding client requirements.

Primary stakeholders for in-house counsel

The primary stakeholders for an in-house legal project manager are generally as follows:

1. **Legal project sponsor** - the project sponsor may be general counsel or another senior executive, such as a risk and compliance manager — this role is effectively the primary internal client.
2. **Program manager** - often the legal project is a work stream that forms part of a broader compliance or commercial program — in this case, the program manager is a critical stakeholder as they will determine the project management techniques and approach required to manage the legal work. They will also hold the legal project manager accountable for delivering according to plan.
3. **Steering committee and senior management** - for large programs there is normally a steering committee made up of peers of interested and impacted senior managers. The legal project manager may regularly report into this forum.

4. **Risk and compliance management and staff** - large compliance programs responding to new regulations and legislation often require formal LPM and will impact many staff in the risk and compliance area.
5. **Procurement management** - large acquisition projects will often require legal counsel to partner with procurement managers to deliver the required outcomes.
6. **Impacted staff** - There are often impacts on broad segments of internal staff who may need to undertake new processes and ensure compliance with new or amended statutory obligations. These groups often require specific consideration of change impacts so that specific communication, training and engagement activities can be planned and executed.
7. **External regulators** - In some legal projects, there is a need to liaise with external regulators and manage their expectations through appropriate communication and reporting.
8. **Government representatives** - some legal projects will be of interest to government representatives and officials, who often require communication according to pre-specified formats and time frames as well as more informal updates.

Primary stakeholders for external counsel

The primary stakeholders for an external legal project manager are generally as follows:

1. **Client** - the external client may be in-house counsel or another senior manager within the client organisation. It is critical to understand and manage their expectations and to communicate with them according to their preferences.
2. **Supervising partner** - the supervising partner is the primary internal stakeholder as they have high levels of influence on how the legal matter is undertaken. They may also be the primary communicator with the external client and other key stakeholders.
3. **Governance stakeholders** - these include the legal project sponsor, internal program manager, internal legal project manager and client steering committee. The client may require communication updates and reporting in formats and in accordance with time frames that have been specified by the project governance processes. It is important for the external legal project manager to support the client in these governance requirements.
4. **In-house counsel and risk and compliance** - external legal project managers may need to liaise with, and present to, in-house counsel and internal risk and compliance management and staff on the progress of large legal matters and major regulatory reform programs.
5. **Procurement management** - large acquisition projects will often require external legal counsel to partner with procurement managers in order to deliver the required outcomes.
6. **External stakeholders** - these stakeholders include regulators and government representatives and will often require specific management by in-house counsel. External counsel has a role to play in supporting in-house counsel with these communication requirements.

Information sharing and knowledge management

Information sharing and knowledge management are general disciplines that ensure both in-house and external counsel are sharing the information required to complete legal deliverables and meet requirements. They also relate to the format of different advice provided and expectations around the quality and completeness of that advice.

For example, based on the categories of advice shared in the first article on this topic -

- simple advice that takes no more than 20 minutes to prepare could be delivered orally
- urgent advice should be delivered orally or via email
- standard advice could be delivered via email
- complex advice could be delivered in the form of a memo
- highly complex advice may require a more formal and comprehensive document

"It can be difficult to establish standards for advice delivery as each client normally has their own preferences. It is more important to understand these preferences and tailor both the legal deliverables and delivery channels to meet each client's preferences."

NSWAGD

Knowledge management is always of benefit, although many times overlooked under the false premise that it takes too long to undertake these activities. The informed purchaser model highlights the importance of -

- using client-specific precedents when these are specified
- making recommendations to improve and update client precedents
- providing best practice examples and alternatives
- undertaking knowledge sharing and knowledge transfer activities with in-house counsel
- providing added value to the engagement via continued legal learning

Measuring legal provider performance

There are opportunities to drive better results from the engagement of external legal service providers by carefully designing and standardising the performance measures applied to these providers. It is important to note that Key Performance Indicators and service levels will vary according to practice areas and the types of services being provided.

"There is a simple rule when establishing performance measures – 'Be careful what you measure, because you will get what you measure, and this may not be what you want'"

It is useful to develop performance measures in several categories and to carefully design them so as to promote improved performance, the most relevant are as follows –

- Cost and effectiveness
- Productivity and process efficiency
- Cycle time and times to meet critical milestones
- Client satisfaction

Critical questions to be answered when designing a performance measurement approach include considerations include –

1. What will be measured?
2. What is the source of the measurement?
3. How will the measurement be undertaken?
4. How frequently will they be assessed?
5. How will the results be used?

About the author...



This article was written by Therese Linton, Founder and Principal Consultant of The BASALT Group® encompassing The Positive Lawyer® and the Academy of Legal Leadership®. She is a global leader in the field of Legal Project Management and literally wrote the book. She also has unique expertise in Legal Portfolio Management, Legal Process Improvement, Legal Transformation and Legal Operations.

As a leading global expert in Legal Project Management, she has worked with thousands of lawyers to develop their capabilities and skills. As part of this work, she supports lawyers to improve their communication and leadership skills to improve their impact and success.

Next steps...

Find out more about the NSWAGD's Informed Purchaser Training and access the materials [here](#). This is an incredibly useful framework for both in-house and external counsel. **You cannot afford NOT to know about these concepts!**

You might like to check out other articles [here](#) or subscribe to our monthly articles and other insights [here](#) so that you stay informed about critical skills to make you a better lawyer.

My aim is to inspire you to achieve great things and I look forward to joining you on your journey! Cheers....T

