

THE RELATIONSHIP BETWEEN IN-HOUSE COUNSEL AND PRIVATE PRACTICE



A supportive and open partnership between in-house counsel and their selected legal panel firms is a crucial ingredient towards fostering a mutually beneficial relationship. However, is there more to consider?

Over recent years, in-house counsel has enjoyed a significant rise in status as corporations seek to leverage more value from within their organisations. The evolution of the industry has lured many high-profile lawyers out of private practices to head up growing in-house teams. Armed with intimate knowledge of legal firm operations, including the approach used by private practices to maintain healthy margins, in-house counsel has applied greater scrutiny to the cost of legal services. With the challenges of the economic downturn, such scrutiny has been magnified and appears to have led to an increase in the number of mid-tier firms being appointed to the panels. While this approach may address short-term financial pressures, we question if it is the catalyst for creating greater value for money in the longer term.

There are always two sides to the story, and we hear the panel firms questioning ways to maintain what are often considered to be archaic processes imposed upon them. As an independent observer of the legal industry, we are often astonished at how much simpler it could be for both parties to achieve more effective outcomes through the use of available technologies to systemise the processes between both parties.

The underlying problem is the high level of administration panel firms must adhere to, without what appears to be sufficient consideration to the cost this imposes upon both parties. While the panel firms may be motivated to pass on the cost of the administration to maintain margins, this exacerbates the problem and does nothing to improve the mutual value of the relationship. Further, the investment made by panel firms in infrastructure and resources necessary to meet the requirements of in-house counsel, often precedes an expectation that volume work will follow to justify the investment. However in an attempt to create a more competitive playing field, in-house teams today are engaging more panel firms, reducing work volumes and consequently discouraging stronger relationships.

This remains a complex issue while in-house legal teams are viewed as cost centres by their own organisations. Under this model, the in-house team's perceived value is often limited to its ability to minimise legal expenditure. The challenge is that while viewed as a cost to the business, in-house teams typically operate on shoe-string budgets, which prohibits them from breaking through the bureaucracy.

So how can the problem be addressed? In Australia, the industry has not sufficiently embraced technologies that can automate processes and/or enable effective online collaboration. Unlike purpose-built systems used within international jurisdictions or technologies used in larger corporations where in-house counsel operate, Australian legal firms tend to develop a multitude of home-grown solutions to service in-house counsel, which are both limited in functionality and cumbersome to maintain. These often require significant levels of manual processing that is costly and fraught with the potential for errors and omissions. Investing in better technology and building contemporary business processes often goes a long way towards reducing the cost of business. Perhaps improving automation and collaboration is a worthy investment to consider for firms seeking selection or re-selection onto legal panels.

“Whether you are a supplier of legal services, or a client receiving legal services, both parties have a role to play in creating value-for-money.”

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