

TO HATE OR LOVE FORMAL LAW FIRM SELECTION PROCESSES?



Surprised? Read why.

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KNOWLEDGE MANAGEMENT IN NEED OF AN ESSENTIAL IT UPGRADE IF YOU WISH TO MOVE YOUR BUSINESS FORWARD

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PANELS: TO JOIN OR NOT TO JOIN...



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Steven De Keyser

A formal law firm selection process brings clarity and predictability.

Clarity because a clear framework is defined. Clients of law firms have thought through and defined their needs for the next few years, they are clear about what they value and not in their relationship with law firms. Clients are usually clear about specific needs they may have and are clear about what they are willing to pay for all of that. Clients are not going naively in this process. They know the market and they know it is important to pay a realistic price for the services rendered. They know that top quality has its price and that no long lasting bargains exist. Clients are looking to bring an increased degree of objectivity in the relationship and enhance the relationship between the law firm and themselves. In fact, in virtually all situations where we assisted clients of ours with a formal law firm selection process, price was not the driver other than making sure the right price was paid for the right service. Of course, the importance of this little phrase cannot be underestimated in an industry where it has been possible for many years to simply charge the hours worked at a defined hourly rate and this irrespectively of the efficiency.

When you think through it, formal law firm selection processes are a blessing in disguise for law firms as it will help them adapting to the realities of the market and hence be better positioned going forward. Perhaps you can think of some partners in law firms who have developed very strong personal relationships with their clients. However, as they grow older and their counterparts at the client start retiring, their business

starts to shrink. More process driven and objective selection processes by companies will keep those partners and law firms awake and ensure that the business streams are linked to criteria that a law firm can effectively manage.

Predictable, because once the law firm selection process is finalized, it is clear who is selected, for what areas of law and at what cost or price. It is also clear what the additional requirements of the client may be and it brings a pretty good understanding of the resources that will be required for a number of years as well as the budget that may be realized. It helps the client and the law firm to be organized.

For the company that goes through a formal law firm selection process it will also bring clarity and enhance the structuring of the relationship between the client and its law firms. It will allow better budget management. In addition, the formal law firm process will allow the client to meet new people, be confronted with new approaches and new ways of pricing. It will allow for discoveries and confirm some of the choices made in the past. It will also nourish the reflection about what is done in-house and what is outsourced. And in case of outsourcing what is outsourced to what kind of player. The end result will be better decisions and better process, not necessarily lower cost. However the ratio of cost/value will in virtually all situations have increased. It is a way of managing professionally your suppliers of legal services and challenging your intuitive or historic views on the providers of services and their value to you. In fact for any company with a reasonable outside legal spend, a formal law selection process seems an absolute must. The cost of doing so is rather limited and it brings enhanced professionalism. Legal counsel who thought to have a pretty good knowledge of the legal market and its suppliers and initially considered such process to be burdensome and potentially a waste of time, sometimes became the biggest fans of a formal law firm selection processes.

For law firms, the formal law firm selection process brings opportunities to present the law firm to new prospects and potential clients. It brings

the law firm an opportunity to compete for new work and such as part of a professional and objective process. It makes the law firm reflect about what it is good at and what not so well. It will provide the law firm with feedback as to why it is selected or not. The latter will give the firm very valuable insight in what it may need to do differently going forward. But most important, it will make the relationship with the client more predictable. The law firm will know that for the next 3 or 4 years it will have a relationship and that allows it to invest in that relationship and organize itself accordingly. It will allow the law firm to build stronger ties and will ultimately place it in pole position for the next round of law firms' selection process at the client.

So to hate or to love law firm selection processes is not the question. Decide in what league you want to play. If it is the league of the professional players that secure the best for their company or firm, you just wish to embrace the law firm selection process and do it. Not convinced ? Read my partner Patrick Bignon's contribution on Legal Panels in this Newsletter.

Finally five practical tips to organize a good law firm selection process :

1. Define clearly your needs
2. Prepare for an objective scoring
3. Do not kill the market with upfront maximum hourly rates
4. Create room and encourage innovative approaches
5. Be sure to invite all relevant parties to the table

And five practical tips to get invited to law firm selection processes :

1. Work on your rankings in official publications
2. Ensure to meet legal counsel of target clients
3. Let legal counsel know what is changing at your firm
4. Share your vision and ambition in the market
5. Follow up on official journeys publishing tenders

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We have seen the topic of knowledge management on the priority lists of virtually all heads of legal or managing partners for decades. Most have actually acted on it also, for good reasons. Knowledge as opposed

to just information is recognized as being one of the main contributing factors in the business world to the performance of a firm or an organization. Many have come to realize that it pays off to manage knowledge as an asset in a similar fashion to the traditional assets such as cash flow, human resources or raw materials. For actors in the legal industry making knowledge actionable is their intellectual capital and increasingly they have been supported by technology in doing so.

Being best in knowledge management increasingly has allowed them to best serve the interests of their clients as they overcome the dilemma which is faced by law firms and legal departments: the individual lawyer versus the organization benefit dilemma.

We know that many of you have been very diligent and dedicated to make your knowledge management a key asset of your legal organization: developing specialized databases, optimized and up to date models, easily accessible checklists, contract and conditions engines, questionnaires and profiles etc. From simple to sophisticated you do know all of it only works when your organization truly embraces it. Your knowledge management also needs to keep pace with how you deliver your services to your clients.

Today most organizations find themselves at a new crossroad as the impact of technology is becoming more significant on their core business, prompting for significant changes in processes. On the other hand your clients are aware that improved technology tools should make their 'suppliers' more efficient, more cost effective and most important more responsive. Your clients, be it the internal business units or the board or your direct clients as lawyer, in-

creasingly want their advice and the legal service to be accurate, fast and at lower cost. An additional factor is the arrival of more collaborative working tools as well as how clients are embracing the new ways of communication. Letters are long past due as communication tool. Emails will still be around but sharing documents in cloud services through apps and messaging services are increasingly used by the ever more mobile business world in their communication and in the delivery of solutions. This puts a lot of pressure on you as legal service provider to ensure you meet the faster, accurate and high quality expectations.

We are convinced that in order for legal organizations to be prepared they need to embrace new capabilities for their knowledge management. A major part of this will be provided through new technologies. As processes become increasingly more digital the impact will be significant. This will require embedding the knowledge management processes deeper into the everyday business processes and ensuring all possible info and data is captured to generate more relevant knowledge faster. Next generation knowledge management will help you in improving your core business processes to ensure delivery of top quality, fast and relevant advice by your lawyers or legal department: be it through the use of artificial intelligence, leveraging big data or thick data or a combination of it all and of things still to come. It will certainly mean embracing yet more IT into your organization and its processes and ensuring your lawyers make this part of their new way of working.

However do not make the mistake to consider your next investment into knowledge management as yet another IT project. To be successful in transforming your knowledge management approach for answering the future challenges, you should embrace this as a strategic project and hence as a business priority. This means involving and aligning your key resources: lawyers, support staff and capital to deliver on the increased expectations. We are convinced that with new technology being adopted in your business and in the way you deliver your services, knowledge management will continue to be at the core of your successful service delivery.

Dirk Maertens

PANELS: TO JOIN OR NOT TO JOIN...*Patrick Bignon*

As a result of law firm selection processes commented by my partner Steven De Keyser earlier in this Newsletter, many large multinationals have panels of legal services providers. The idea has spread over the last few years, in particular in banking and finance, insurance, pharmaceutical companies and also in a lot of American international corporations. It has not however become general practice – some large companies do not have a panel – and practices are also not uniform – they differ greatly depending on the groups concerned. The panels do not necessarily cover all areas of specialization, the extent of coercion varies, and the most sophisticated panels are generally to be found in companies with information systems that make it possible to measure lawyers' fees domestically and abroad.

How can a law firm join a panel?

The approach is often made by the company itself, which asks the law firm to become part of the group's panel. For their part, within the scope of their business development activities, lawyers (partners and associates) may ask their clients and their prospective clients whether or not a panel exists and, where applicable, identify the dates and terms and conditions of admission. In parallel, by reading the specialist and economic press, it is also possible to collect information on legal departments, their use of panels, and even on the composition of the

panels. The specialist press in the UK and the US publishes information on the European and global panels of large multinationals.

Is it always in the interest of a law firm to join a panel?

It depends. In principle, there are only advantages of being included on the "official" list of a group's legal services providers. However, certain law firms are reticent to conform to this practice. There are several reasons for this. First of all, preparations and applications to join panels or renew their membership are very time-consuming and require specific know-how as they involve knowledge of rates, services, expertise.... The law firm therefore has to choose to devote internal resources to this task. But above all, being part of a panel is only the first stage: the law firm still has to convince their contacts in the group (those purchasing legal services) to use its services rather than those of other law firms in the panel. Furthermore, the panels often do not cover all the legal issues for which a company or a group uses a law firm, and certain strategic matters may not be referred to law firms that are part of the panels. And even though being "outside the panel" becomes less important when the panel has been in place for some time and renewed several times, it may also be necessary due to conflicts of interest. Finally, certain panels are considered to involve too many constraints, or even to be penalizing as they do not assure the firm a large volume of revenue. Certain law firms also refuse to be part of a panel in order not to impede the activities of some of their practices, such as litigation.

Should a law firm therefore develop a strategy of asking to be added to panels or not?

It should ask itself several questions:

- Is the client concerned on/off strategy?
- Is there a chance that the law firm will be chosen?
- What could it gain from being part of the panel?
- And what are the disadvantages?