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The annual Asian Legal Business In-house Survey sheds light on the biggest trends corporate counsels are seeing, and gives clues as to which way the industry is heading. This year’s survey focused on the challenges and disruptions of the way legal work is getting done, by who and by what. With the rise of alternative legal service providers and the growth of legal technology, the clear winners are in-house counsel. BY ELIZABETH BEATTIE

Doing more with less. If ever there was a phrase to describe the evolving demands of in-house counsel work, this is it. As lean teams grow commonplace, work stretches across geographies, and budgets for external spending are gradually cut, the pressure is on for in-house counsel to consider how to deliver the goods with the resources at hand.

But in-house counsel are proving to be nothing if not resourceful. As competition between law firms and other legal service providers intensifies, in-house lawyers are using the opportunity to reshape their relationships with external parties. At the

BASIC DATA

Which of the following would best describe your position?

Head of Legal	16%
Legal Counsel	49%
Legal Manager	14%
Senior Manager/	
Department Head	5%
Others	16%

same time, they are enhancing their own image within their organisations by playing increasingly important roles – from merely a lawyer to a trusted business advisor. All this, and more, is visible in ALB’s 2019 In-House Survey.

CHANGING ROLES

As the remit of their work expands, in-house counsel find themselves splitting their time across a variety of work. At the same time, they also face an expectation, now more than ever, to offer advice that extends beyond just citing the letter of the law.

Mark Tan, who serves as general counsel at Global Logistic

IN-HOUSE LAWYER

Properties, has noticed that over the past few years there has been a push for in-house counsel to be “more involved in the strategy of the business, which involves technology and crosses digital platforms.”

Meanwhile, Agatha Zhang, ASEAN & North Asia regional counsel at Thomson Reuters, says her background working at external firms that undertook a large amount of corporate work helped prepare her for a future where she would be required to quickly adapt to changing circumstances, chameleon-like, even if at times things appeared to fall outside of what she considered “traditional” duties.

“When I joined the company as an in-house lawyer, my role was focused very much on commercial transactions, contract drafting and advising the company on legal risks associated with commercial transactions. My training and experience have prepared me well as a gatekeeper and legal advisor to the business. But over time, as I gained more trust and visibility, I became more involved in the business decision-making process. This made me wonder – what exactly is the kind of role that I should play as an in-house counsel and how can I help the business achieve its overall objectives?” she says.

Zhang adds that she likes to look at everything within the company as a chance for her to get involved. “The role of in-house counsel has really evolved. We increasingly see a move away from the perception of in-house legal department purely as a gatekeeper or advisor to the business, to becoming more proactive and involved in business decision-making, in advising on opportunity and in helping drive innovation in a more strategic way. In addition, in-house counsels are expected to be an advocate and champion of a company’s core value.”

BASIC DATA

Which is the primary jurisdiction or jurisdictions your company operates in?

China (Mainland)	42%
Hong Kong/Macao/	
Taiwan	49%
Japan/Korea	37%
Southeast Asia	72%
India	29%
Middle East	11%
Australia/	
New Zealand	39%

Which of the following are key performance indicators that you report regularly to your business?

Total legal spend	49%
Litigation exposure	48%
Litigation win rate	27%
Projects successfully closed	66%
Average response time of legal department	39%
Management of regulatory risks	57%
Legal initiatives in support of the business	65%
I don't have any KPIs	9%

TRIMMING THE FAT

With businesses tightening their legal departments, willingness to step up to the plate and take a flexible approach to work is essential. Over the past few years, the shrinking of in-house teams – but not the scope of their work – has been noticeable.

Maree Myerscough, general counsel at Conergy Asia in Singapore, says that from her own experience, lean teams, even within very large organisations are common. As a result, it is important for staff to manage their workloads “a lot more efficiently,” she says.

Tan has also noticed that in recent years, on the legal end, there’s been a drive to become more efficient, and attempts “to focus in-house counsel’s efforts on where we can be efficient, and where we can add value. A lot of that is propelling the business forward, being involved in strategic thinking and using technology to make ourselves more efficient.”

With emphasis on efficiency, discussions around technology are never far behind. Technology has drastically altered the way business is carried out – from commercial transactions to strategy and planning. For many in-house counsel, its usage extends beyond day-to-day efficiency and automation, and enables users to understand and track the changing rules and help them keep up with the rollercoaster of emerging and changing regulations.

Myerscough takes a calculated approach to selecting technology tools. For her business, which emphasises a lean operation, price must be carefully considered. When it comes to technology for her workplace, Myerscough says: “I think it is a matter of being very selective... There are a lot of fancy offerings out there,” she says, but because of cost restraints “we need to selectively look to technologies

that can ease our burden and take some of the more administrative tasks off our plates.”

One “simple” game changer has been rolling out DocuSign internally, so signatories and clients can sign documents remotely.

“I have managed to arrange for a director to execute an important document for us while he was on a boat in Indonesia. Not only did the technology facilitate the process, but all parties could rely on it because it is authenticated in the software,” Myerscough says. “That has been a game changer for us. It may seem simple, but because a lot of our executives are travelling, for work or personal reasons, it allows the business to continue running efficiently while they are away.”

For Tan, who in addition to his general counsel work oversees IT for the group, the impact of technology is a game changer, and a point of excitement. Automation of the routine work, and utilising AI to review summaries of agreements, have just been some of the ways his team have helped to smooth processes internally and increase efficiency.

“Some of our external counsel use AI-based platforms for documentary due diligence when we’re doing M&A transactions, to scan through thousands of documents very quickly, and use smart contracts to put together high volumes of agreements in a reliable manner,” he explains.

This has been particularly useful, he adds, “because for one it frees up the team to focus on other things rather than just routine drafting. Secondly, it improves corporate governance because you have a reliable system in place that you can control, and this system is able to do much of your work for you.”

While he is a fan of technology and its power to innovate the legal

SURVEY RESULTS

Has the adoption of legal technology by your legal department increased in the past year?

Yes49%
No 51%

In 2019, do you expect your in-house legal/compliance team will grow?

It will grow53%
It will shrink 7%
It will remain the same40%

What kind of work keeps your department most busy?

Ethics and compliance issues66%
Regulatory or governmental changes 71%
Information privacy54%
Protection of intellectual property ...32%
Mergers and acquisitions45%
Anti-bribery issues44%
Others48%

process, Tan says that there is still more that it can do. For example, AI can be used in the context of document summaries and record keeping. “As you can imagine, ours is a global business and there are just thousands of PDFs just flying everywhere and landing in people’s inboxes. Trying to find a solution to the problem of ‘how do you maintain accurate records without requiring tens of thousands man hours of data entry on an ongoing basis?’ – is something that technology can really help with.”

Tan notes that there is something of a divide between the legal teams who are looking to utilize technology to its full potential, and those who are not. “We’re in regular conversation with law firms, and the interesting thing is, the more progressive law firms dedicate fairly senior resources,” he says. “So, you have senior partners overseeing technology; it is immediately evident who’s taking it seriously and who is not.”

Zhang says that because she works for Thomson Reuters, which prides itself as being “the answer company,” she says there is an expectation that she is up-to-date with all the latest technology. She has also noticed technology become an increasingly important part of in-house counsel’s role.

“In my view, technology has had a major impact on the work of in-house counsels in the past eight years. One particular area of impact is as lawyers look for ways to do things differently, for instance, in search for more efficient and productive ways of working, technology has played a significant role in helping lawyers think how we can retool, and there have been real expectations on lawyers to be able to leverage on some of these tools when suitable,” she says.

Tan suggests that it is just a matter of time before in-house



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- Maree Myerscough, Conergy

counsel embrace the full possibilities of technology.

“I actually think we’re on the cusp of very widespread adoption of AI,” he says. “But I do not think we have completely crossed the tipping point yet, and that’s because the software is not infallible yet. Take for example, when you scan a document. In our experience, the software is about 90 percent accurate, but you still need someone to go through things.” he says.

“That said, the software is evolving very, very quickly. Once that accuracy improves, and the

SURVEY RESULTS

Do you use “NewLaw” firms, flex lawyers or other alternative legal service providers (ALSPs)?

Yes 32%
No 68%

What are the kinds of non-law firm ALSPs that you use?

Accounting firms
such as the Big Four ... 29%
LPOs 10%
Flex/contract
lawyer services 25%
Document creation
software/templates 12%

How has the mix of your external vs internal work changed in the past year?

More legal work is
done internally 49%
More legal work is
given to external
law firms or other
service providers 14%
No change since
last year 37%

technology becomes just a little bit more reliable, I think then it will be on the verge of widespread adoption and we will see the acceleration of the adoption of these types of technologies across all businesses as opposed to right now, where law firms are the early adopters.”

EXTERNAL LAW FIRMS

While in-house counsel today are taking on an increasing amount of work, a significant chunk is still entrusted to outside lawyers. However, in-house counsel are becoming increasingly smarter about the relationship, and in many cases, managing to dictate it. Increasing competition among legal service providers is certainly playing a vital role in this process.

Myerscough, who works in the renewable energy sector, says an understanding of the industry is a key factor when it comes to choosing external counsel. “When I engage external counsel, it is not just a simple case of passing the matter to them and saying, ‘please do this piece of work’. It is important that we take the time to develop a relationship with them over time, so they understand our broader business needs in the context of the particular project.”

While league tables are part of her decision-making process, it is important to make sure the law firms actually possess the expertise that they boast of. “There’s so much excitement around renewable, and for good reason, but a lot of them will simply say, ‘Oh we do renewable work’ because they want to get into it,” Myerscough says.

Apart from knowledge of the sector, maintaining a good relationship is also crucial. Myerscough likens it to paying a visit to a doctor: “It helps when they have a good bedside manner”.

“I will choose external counsel

that will work well with our commercial team and not just give us a dissertation on the laws and the regulations in a particular area, which is unfortunately what someone sent us the other day," she says. "We want to work with those who are keen to learn about our business and are looking at innovative ways to address our legal needs."

Meeting in person and going through brochures and lengthy proposals is time-consuming, as are in-person meetings, but this all helps contribute to a better working relationship.

"For me, it is about developing relationships before we have the urgent need so that when the time comes to do the transaction, and many times it does become quite urgent, we will not be starting from scratch."

CHALLENGES AND OPPORTUNITIES

With increasing responsibilities, leaner teams, and new technology to implement comes new challenges to manoeuvre. As Asian businesses expand across geographic boundaries, new rules and regulations must be considered.

Working within a global business, regulatory oversight across global jurisdictions "is not necessarily a challenge but it is something that does require quite sophisticated legal oversight, as well as implementing best-in-class practices that satisfy the regulatory requirements in all jurisdictions where we operate. I see it as akin to threading a very complex, moving needle," Tan says.

"We spend a lot of time making sure that we get it right, as we have to," he says, adding that this is carried out in a strategic manner, with the company "doing it in a way that allows us to achieve our goals and potentially even using it as a

SURVEY RESULTS

How satisfied are you with the external law firms you are using?

Extremely satisfied 15%
Generally satisfied; although there are a few areas for improvement 74%
Not satisfied; there are one or more significant areas of concern 11%

What are your main concerns when it comes to the external counsel you are using?

Fees are too high or unexplained 72%
They don't understand our company/industry 63%
They are not responsive enough to our concerns 42%
They are slow, inefficient, or give bad advice 33%
Partners are either not involved or don't provide input 27%
The partners/lawyers responsible have changed 13%



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- Mark Tan, GLP

competitive advantage in being able to say we comply here, we comply there, has taken a lot of effort and is a challenge but ultimately one that must be met."

Zhang also feels the challenge of overseeing a large geographic spread: "As the lead lawyer overseeing a region made up of geographically and culturally diverse markets in Asia (i.e., ASEAN & North Asia), it is very important to develop and build strong relationship with a panel of external law-firms across different jurisdictions to support the business as it continues to grow its footprint across the region," she explains. "Rather than focusing on a particular country, there are cross-border issues and risks that need to

be managed and depending on the level of complexity and risks involved, retaining the right local counsel that understands the business goal is key in successful management and resolution of the issues."

In addition to the challenges which emerge out of the work itself, many in-house counsel are also prioritizing an internal cultural shift towards more openness between staff and the legal department. All in-house counsel would prefer to be at the forefront of challenges, steering the business through rough waters rather than receiving a sudden SOS, but in the past, there has been hesitation to include counsels in the conversation when issues do start to appear.

For Myerscough, building trust internally is a key goal and something she is committed to. "The reality is that many people have negative stereotypes about legal being the hand breaks on business, and just saying no to business requests. But my Legal team have been working hard to change this misconception over the last couple of years."

"I think if you present in an open and approachable manner, then business teams are more likely to come to you sooner, and importantly won't try to hide things from you."

LOOKING FORWARD

Going into 2019, the future for talented in-house counsel is almost limitless. With freedom to shape the role accordingly, the career path ahead shines brightly for many. At the same time, the industry is wide open to further change and upheaval, and pressure is a given. But, as always, pre-empting challenges and future changes are part of what enables in-house counsel to thrive.

Myerscough highlights the importance of connecting with other in-house counsel at events provides

SURVEY RESULTS

If you were to employ new external counsel in 2019, what factors would influence your selection?

Expertise in your industry	83%
Responsiveness	79%
Favorable fees/ billing policies	77%
Brand name/ Reputation of the law firm or lawyer	36%
Personal relationship with the law firm/ lawyer	33%
Geographical reach/ office locations	35%
Use of the most up-to-date technology	19%

How do you plan to locate external counsel in 2019?

From list of company-approved external counsel	67%
Referrals from other in-house lawyers	52%
Referrals from other external counsel	33%
Law firm rankings	38%
Law firm marketing ...	34%

plenty of opportunities to stay up-to-date with the latest processes and tools, while also a context to share ideas with her contemporaries. Meeting other in-house counsel, not only provides a forum to "brainstorm", but to also "share ideas and support each other", she says.

Planning for the future also involves mapping out staffing requirements and hiring preemptively. For Tan, who spends a part of his time hiring for the future and developing new talent, this is a sense of standing on the precipice of an exciting new future.

"A lot of my time is focused on building up a team, training the next generation and making sure there's a substantial amount of depth of skill in the legal team globally," he explains, adding that it is challenging to find these skills in the market. "We invest an incredible amount of time in training people, helping people develop the proper judgment and legal skillset, the proper interpersonal skillset to get results."

With rules constantly evolving, knowing in advance what talent is required can be difficult to predict. "I joke that if I was looking for a job at this company right now, I'm not even sure if I would meet the criteria for what we look for at this moment," he chuckles.

Because of this, the attributes he looks for are those that enable in-house counsel to succeed in their careers long-term. "Most importantly, we look at the person. Skills can be taught. There are things the people have to know, but a lot of it is principle base. We look for a willingness to learn, and aptitude, and judgment," he says. "The things which can't be taught we look for in our hiring process. For everything else, we assume a steep learning curve and people just jump in and start running." 