

VALUEDYNAMICS

THE PERFORMANCE CHALLENGE

In the first article in this series, we introduced our ValueDynamics toolkit, a study with 25 leading in-house lawyers to identify and debate the new challenges that they face. The study seeks to share practical hints and tips from our participating clients and to suggest some models that can be used to work through day to day challenges.

In this, the fourth article in our series, we consider in depth the third of four sections of our study: the Performance Challenge. The Performance Challenge follows the Value and Structural Challenges and also provides a platform for the Talent Challenge by enabling General Counsel (GCs) to work out how to get the best out of their in-house legal team.

Having determined and designed the optimum structure, GCs need to understand how to get that structure performing in the right way. How can they harness the activities of the team and its structure to drive value for the business? How can they ensure that performance is greater than the sum of the team's parts?

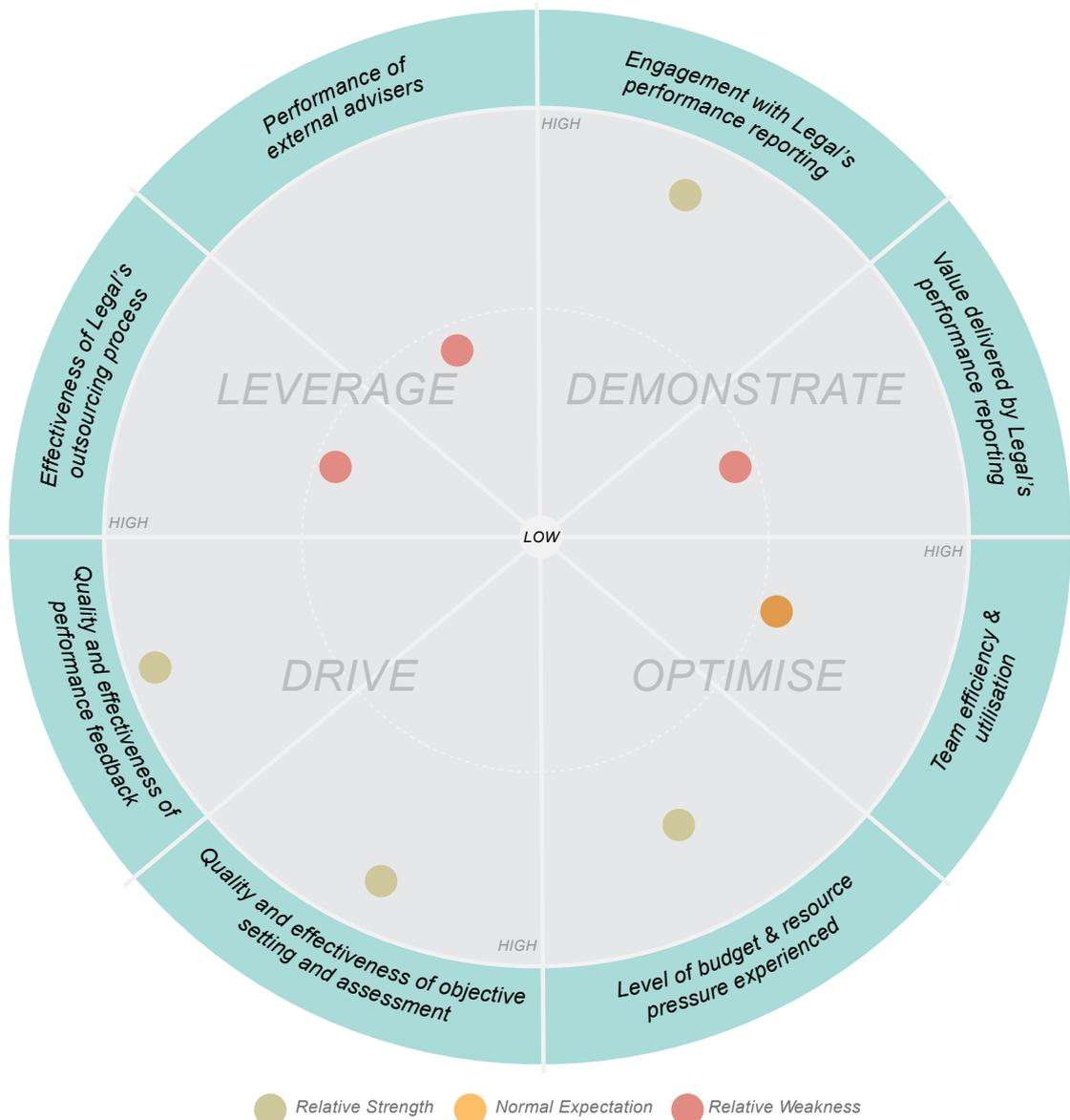
To put performance into context, we defined it as 'the accomplishment of a given task measured against pre-set known standards of accuracy, completeness, cost and speed'. In tune with the major theme of ValueDynamics, performance is also about setting tasks and standards in line with the goals of the organisation - and then making sure they are delivered in an efficient manner.

The current picture

The key priority for the in-house lawyers that participated in our study is how to do more with less, or at least more with the same, or constrained resources. Yet while many of them were driving performance at an individual level, few had come across training or methodologies to focus on team performance in a highly co-ordinated fashion.

Some were using a balanced scorecard to measure their own or other individuals' performance, but only one third of GCs were using full 360-degree feedback for the whole team. Those who had adopted a team-wide approach of this kind were able to demonstrate that greater transparency and openness led to higher performance by the team.

YOUR EFFECTIVENESS IN THE PERFORMANCE CHALLENGE



Barriers to change

During our study, we asked why more in-house legal teams were not adopting 360-degree performance reviews. We found that the main barrier to change was cultural, and a natural part of the legal professional's approach to work.

After all, giving advice comes naturally and is the bedrock of a lawyer's day to day work. GCs are paid to be right. However, accepting advice about one's personal performance is another matter, particularly if one is in a senior position. There's also a natural human reaction to keep under performance issues quiet and to smooth day to day issues over rather than tackle difficult problems head-on.

Nevertheless, a more transparent and open culture must be driven from the top and fully supported by the GC. Performance requires senior leaders to be relentless in their pursuit of improvement at every level.

This starts with an honest assessment of the GC's own performance. Many of the participating GCs in our study commented that it is almost impossible for the team to be seen as high performers unless their leader has achieved that status him or herself. It's also important to recognise that this isn't about personal skills as a lawyer, but as a leader or manager. Unfortunately, GCs in our study had plenty of examples of team leaders who expected to see exceptional management performance from their direct reports, while failing to pass these skills on themselves.

What's working well?

The majority (80%) of contributing GCs reported that they had formal objectives in place across their teams, either as part of an overall balanced scorecard or as structured objectives. However, 20% of the panel who had developed these objectives had not formally put them in place with their teams for the current year.

Many GCs felt that balanced scorecards encouraged individuals to think about their own performance and contribution to the business, but stressed that objectives should always be based on outputs rather than inputs. It is the actual achievements that count, rather than the tasks undertaken to get there.

Just over half (52%) of the panel had reviewed and developed more structured approaches to their performance management process over the previous three years. While having these approaches in place was important, real success was achieved when high quality dialogue was undertaken by individuals and their managers – especially when new tools and approaches were introduced.

There was clear recognition that more could be done in many organisations to help managers and supervisors develop their feedback and coaching abilities. As usual, the amount of skill demonstrated by senior managers to impart this knowledge was not in doubt: what was often missing was the will to make it happen when both time and resources are at a premium.

Another factor in the mix was the need to keep equilibrium in a team of skilled and intelligent legal professionals. As one contributor said: "The most important feedback that you can give someone about their performance is often the hardest and last thing you will say, as you are often fearful of putting the relationship at risk".

On the other side of the coin, contributors emphasised the negative impact on team morale that comes with not addressing poor performance. Why should we all work hard when xx is not pulling their weight, and nothing is being done about it?

Our conclusion was that most GCs would like to establish the right feedback culture, working with a set of simple tools and processes and helping to reinforce both the skill and the will within the management team to ensure that open feedback becomes the norm.

We went on to look at how GCs gather feedback from their external advisers and found that this process, while extremely valuable, tended to be managed on an informal basis. Only 10% of the panel had considered formally requesting a benchmark report against peers from their advisers, but many felt that there was more that they could do in this area.

Those GCs who had established a collaborative relationship with external advisers found that they could quickly build a two-way knowledge transfer process for mutual benefit. This relies on GCs having the confidence to share business and personal objectives with their law firms so that they can understand where the most value can be added.

When it came to reporting on performance, a third of GCs felt that formal reports for CEOs about how well the team was performing did not add any real value – but instead was merely complying with corporate governance.

What was also interesting was the gap between the picture their reports presented of their function versus the reality. For example, reports tend to be cost focused, rather than showing the value that the team is adding to the business. Our sense was that a significant amount of time and resource is currently spent on reporting but that recipients are not getting value from those reports – it's clearly time to refocus the information that is presented to the CEO and other important stakeholders.

Performance reporting from the legal team varies significantly. The larger the team, the greater the degree of tracking and reporting, but also the greater the challenge in monitoring the activities of the team and its suppliers.

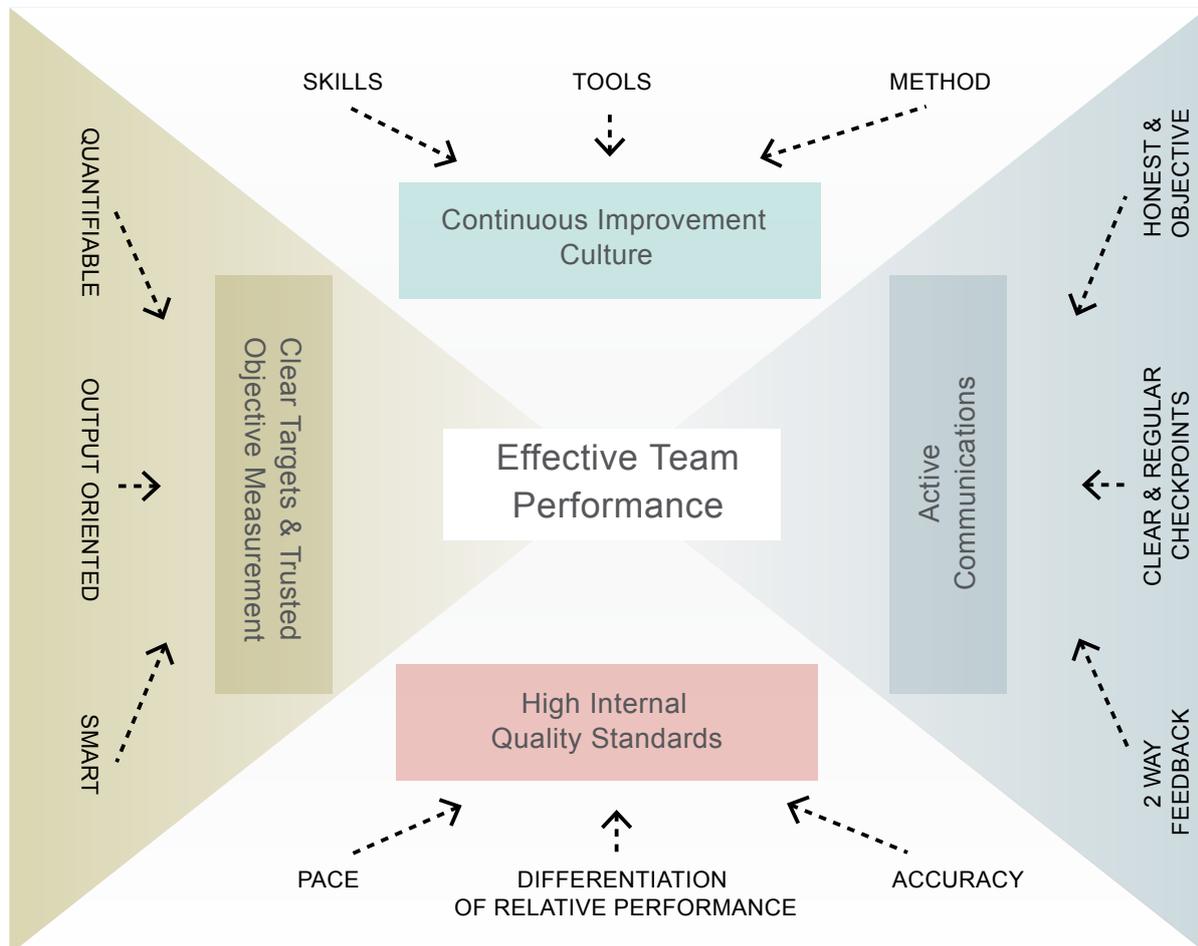
Whether to introduce time recording is a live debate at the moment. 15% of our contributors were tracking time, with a further 23% evaluating the introduction of broad time reporting. Only a small number had stratified underlying job codes into high/medium/low risk and/or strategic impact so they could identify where resources were being used.

As ever, there is no 'silver bullet' when it comes to time recording. The answer depends on the size and scale of the team, as well as the level of 'will' to do something with the data that is collected. The place to start is with a question: why do we want this data, and what will we do with it? If there are clear 'value adding' answers to those questions, then it is worth looking at the best way of recording time in as automated a fashion as possible.

Some practical steps

Most GCs will not wake up in the morning and ask themselves 'how am I going to help my team add value today?' Their minds are much more likely to be focused on client issues and commercial challenges. However, there are a range of practical steps to take and repeat that can provide an achievable set of objectives and agenda for change.

GENERATING EFFECTIVE TEAM PERFORMANCE



We recommend that a 12 month programme could include the following three clear steps:

Step One: Bring your team together and evaluate your current approach to delivering performance. Generate a common focus based on where the best improvements could be made and set a plan for the following 12 months, after which this process should be repeated.

Engage the whole team in the idea of performance improvement: ensure everyone knows it is in their remit to 'raise the bar'. Also engage external providers in your discussions - they may well have some great ideas for changes that can be made for the better. Then review performance objectives and measures that are already in place. Are they achievable and in line with corporate goals?

Step Two: Gather performance feedback on individuals within the team from colleagues and business partners. Set a performance improvement plan that is simple, measurable, achievable, realistic and in the right timeframes (SMART). Challenge the team with a 'calibration' meeting where examples of achievements and progress towards objectives are discussed openly - this allows GCs to change expectations across their team.

Develop a value and output-based information report for the CEO and/or Governance Committees. This report should be succinct yet detail the achievements of individual team members, showing that resources are being allocated to the right projects.

Step Three: Monitor the performance management capabilities of the team and coach them in self-improvement, intervening more strongly when performance is not up to standard. Finally, start the next 12 month period with three key components:

- ▶ Performance reviews from the previous year
- ▶ Clear value-driven objectives for the year ahead
- ▶ Targets for the continuous improvement of the team.

All that remains is to repeat these steps relentlessly each year and never to be complacent: there is always room for improvement. Even when a legal team is genuinely world class in the eyes of its peers, CEO and external advisers there will be ways to drive performance up a notch.

Conclusion

As GCs look at their own performance and that of their teams, it's clear that they can learn a great deal from those who have already focused on this area. In our view, you can have the best structure talent, brand, product and capital in the world but unless all of elements are managed properly to be utilised and delivered at optimum performance levels, then the legal team will not succeed as it should.

There is not a wrong or right way to go about tackling the Performance Challenge. The most important thing for GCs and their teams is to have the will to succeed, as well as a set of tools and approaches that help to drive performance through.

Next articles in the series: The Talent Challenge

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