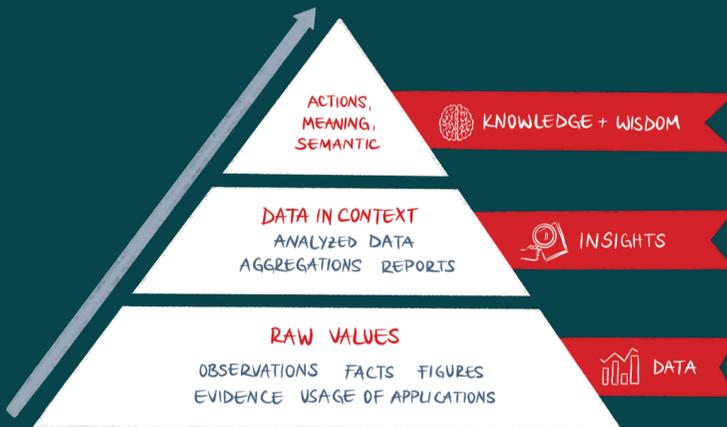


LLI WHITEPAPER

Data-driven Legal Departments | An Introduction into Metrics and KPIs

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CONTENTS

- Executive Summary** 5
- Why Should We Measure?** 6
- A Primer on Data, Information, Metrics, and KPIs** 8
- A Comprehensive Process for KPIs in Legal Departments** .. 12
 - Preparation Phase 14
 - Implementation Phase 15
 - Derivation Phase 16
- What to Measure? From Measuring Metrics to Measuring Performance** 17
 - Input/Resources 18
 - Activities and Work 20
 - Output 21
 - Outcome 22
 - Impact 23
 - Combined Metrics/Indicators 25
- Managing and Leading with KPIs** 28
- Summary** 31
- Authors** 32

EXECUTIVE SUMMARY

The discussion on KPIs and metrics for Legal Departments (LDs) has just started. We need to lead it actively so we can lead the transformation, avoid external control, and be aligned with internal (enterprise-wide) objectives including their financial metrics.

In order to do so, we have to enter territory quite unknown to most lawyers. We need to leave the argument behind and trust in numbers. This approach has brought science far but cannot be applied to LDs without adapting it to our needs. We should start to look at effortless data and use the metrics in our daily discussions to better understand what is happening in the LDs. This is not enough. We need to familiarize ourselves with this different approach and learn to integrate it with our way of working. It is an opportunity for us to improve. While most LDs have a clear view on input data, like internal and external spend, understanding the outcome of our work is much more complex. To use Key Performance Indicators (KPIs) in this area is a difficult task and might need further discussions. We cannot set data-driven goals without understanding their impact and without extensive methodology knowledge. Nevertheless, we need to learn and to adapt to a changing environment, to set objectives that also include the value LDs are creating, and to measure this value systematically. Furthermore, we need to be aware this is a cultural change for everyone involved, and such a transformation can only happen with the people, not against them. Metrics can be a powerful tool but need to be used in a way respecting the individuals. We have the chance to measure our business impact and motivate legal teams to improve with new tools, thus illustrating clearly the value an LD brings to the company.

WHY SHOULD WE MEASURE?

Over the past few years, LDs saw increasing cost pressure and have been requested to be more efficient while maintaining – if not increasing – their effectiveness. Like other departments in the company, legal has been instructed to apply new management tools and techniques, and to demonstrate its contribution to the overall value creation processes. Besides tightening expectations from internal stakeholders, we also see higher expectations from outside the company, from customers, authorities, labor markets, etc.

Thus, it is not optional but imperative to think about things, such as:

- Performance and effectiveness of the legal department;
- Transparency on internal workload (e.g., visualization of complex tasks) and on legal spend;
- Efficient management and processes;
- Prioritization of legal resources and an understanding of where legal resources are needed;
- Whether we apply the right set of tools to different cases;
- Steering and support for decision-making;
- Effectiveness and efficiency of measures;
- Added value of LDs (e.g., doing the math for business case);
- Whether legal does the right / intended things;
- Identifying trends, etc.

Lawyers are experts in operating with language and typically do not shy away from abstract, qualitative concepts such as “added value”. However, transferring such abstract concepts into the realm of numbers is something different and (still) feels uncomfortable for many members of the legal profession. So why should we measure?

Physics asked and answered similar questions some centuries ago already and its success in terms of scientific progress clearly should encourage us on our journey to a more quantitative approach (nota bene: not replacing qualitative statements but combining them with a more quantitative aspect). William Thomson (Lord Kelvin):

“I often say that when you can measure what you are speaking about, and express it in numbers, you know something about it; but when you cannot measure it, when you cannot express it in numbers, your knowledge is of a meagre and unsatisfactory kind: it may be the beginning of knowledge, but you have scarcely, in your thoughts, advanced to the stage of science, whatever the matter may be.”

Quantitative measuring typically implies a higher level of precision because it forces us to convert fuzzy terms of everyday language into clearly defined measurement rules. And this is actually close to the inherent nature of the legal profession which, i.a., focuses on creating detailed rule sets to cope with an enormous and often unpredictable realm of future events.

To include quantitative methods in the legal department’s toolbox will not replace traditional approaches to real world problems at all but combine them with a new perspective on the very same things, and foster a better understanding of where we stand.

This will enable us to address the issues listed above, and – more general – to:

- Work more data-driven;
- Improve based on data-driven decisions (no longer solely relying on gut feeling);
- Leverage the potential of data;
- Synchronize the legal department with other, more data-driven stakeholders inside and outside the company.

A PRIMER ON DATA, INFORMATION, METRICS, AND KPIs

Experts typically apply a certain framework that creates a common understanding on the essence of and the relationship between abstract terms like data, information, metrics, and KPIs. For this purpose, The DIKW¹ hierarchy has been established and is commonly accepted in the field of information science (and many other knowledge-intensive disciplines) since many decades.² This hierarchy distinguishes four main categories: data, information, knowledge, and wisdom. This classification is suitable to support our purpose as it serves as a foundation for the discussion on data-driven legal departments.

The classification can be displayed as a pyramid, as shown in Figure 1. Without going too much into detail, as numerous detailed articles dealing with this pyramid exist, the main takeaway for this article can be summarized as: When it comes to knowledge, there is no free lunch. Although there is raw data within every organization, this data must be identified as relevant and then needs to be processed (information) before it can lead to valuable insights (knowledge and wisdom) that might support future actions.

¹ DIKW is the abbreviation for **D**ata, **I**nformation, **K**nowledge, **W**isdom

² Rowley, Jennifer (2007). "The wisdom hierarchy: representations of the DIKW hierarchy". *Journal of Information and Communication Science*. **33** (2): 163–180. doi:10.1177/0165551506070706

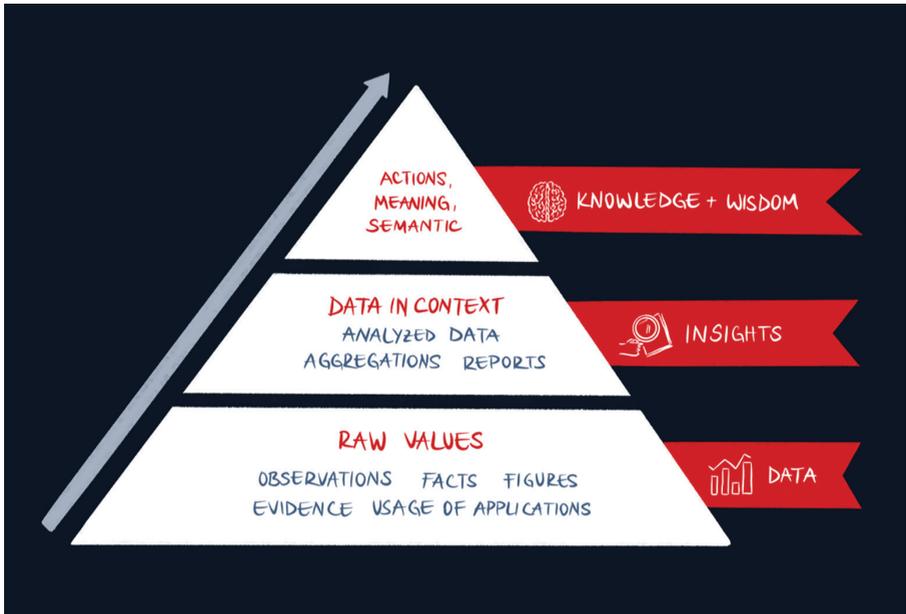


Figure 1: the DIKW hierarchy as an accepted framework combining data, information, knowledge, and wisdom – a perfect baseline for metrics and KPIs in legal departments.

Once we agree on this common understanding, we can focus on central definitions towards a data-driven legal department in which everyone agrees on the power and the usefulness of data, information, and knowledge:

- a. **Data:** Raw values that are produced and generated by users, applications or processes are classified as data. This data may not necessarily be produced for a purpose but can also be the byproduct of daily work and from executing other processes. A particular focus should be on “effortless data”. In practice, generating data is often tedious, cumbersome, time-consuming and expensive, especially when certain quality requirements need to be met. Therefore, a legal department should be aware of data generated effortlessly, such as comments (and red flags) generated by reviewing contracts, audit trails within document management systems, metadata of email conversations, etc.
- a. **Information:** Once data is contextualized to becomes more than a stream or set of values, such as numbers or text, information science refers to “information”. The semantics of data is enriched, which increases the gain and the overall value of the data. This might be simple things such as adding a unit of measurement to

a mere number; or sophisticated, scientific approaches that clarify the relationship of specific data within complex systems.

- b. **Knowledge and wisdom:** The third layer of the pyramid in Figure 1 is even more complex than the distinction between data and information. Knowledge and wisdom are often considered as two separate layers, which is however not essential for our article. For our purposes, it is sufficient to point at the additional value generated for the business. “Turning information into something actionable” could be a nice summary for the purpose of the third layer in the context of this paper.
- c. **Metrics:** They can be defined and derived from the pool of information. A metric is the result of processing data (this might include mathematical operations, e.g., aggregations) and puts underlying data into a certain context that allows for interpretation. Data processing has to be defined clearly, so everyone using the metrics is – in principle – enabled to reconstruct the information. This requires using consistent and transparent definitions, which is particularly important when comparing or combining metrics. Otherwise, metrics are reused inconsistently, and ultimately, wrong or illegitimate conclusions (knowledge and actions) are drawn.
- d. **KPI (Key Performance Indicator):** A metric (or a set of metrics) can be declared as a KPI if the metric is used in a certain performance context and if a target value is defined. Consequently, KPIs are used to track a progress and to check whether goals or objectives are met (benchmarking) or will be met (forecasting).

Based on these observations and looking at Figure 1, metrics and KPIs are placed within layer 2, “information”, and are closely linked, not to say tightly bound to layer 1, “data”.

When working with data and information we need to keep in mind that different units of measurements exist (similar to SI base units in physics: meter, kilogram, second, etc.). These need to be considered carefully when measuring and interpreting data. If these units are applied consistently, they allow for valuable insight, especially in cases where several quantities are combined to more complex indicators. Such units also promote clarity of thought and increase transparency.³

³ While we might easily use the SI units from physics, socio-economic analysis typically requires some modifications, such as currency (USD, EUR, JPY), time (seconds, minutes, hours, date, months, years), subjects (people, jobs, inhabitants), material quantity (kg, lbs., ltrs, m2, GByte, cases, ...), time period (duration in years, months). Cf. Lauster, M: “Mathematical Analysis on Hidden Constants in Quantitative Economics”, <https://publications.rwth-aachen.de/record/738483>.

Additionally, the level or rather scale of data measurement needs to be considered. Therefore, the following commonly accepted⁴ overview has been established:

| Measurement | Example(S) | Order | Operations |
|-----------------------------|---|------------------------------------|------------------------|
| Nominal | Contract type, contracting parties, | No natural order | Grouping |
| Ordinal | Settlement value, contract volume, number of contracts | Natural order ("is greater than") | Sorting |
| Intervals and ratios | Difference to average contract negotiation time, duration of contract negotiation phase | Natural order ("took longer than") | Comparisons and ratios |

These determine the character of the metrics and allow/prohibit certain mathematical operations. Quite often we see examples where, e.g., arithmetic means, or standard variations are calculated from ordinarily scaled data; this kind of practice overstretches the inherent quality of such data and reveals methodological shortcomings. Both data analysis and the findings derived will benefit from considering levels of measurement.

With these basic considerations on data, information, metrics and KPIs, we can now move on to discussing their impact on a modern legal department by looking a step-by-step blueprint process to guide us through a prototypical KPI project in three phases: Prepare, Implement, and Derive.

⁴ https://en.wikipedia.org/wiki/Level_of_measurement.

A COMPREHENSIVE PROCESS FOR KPIs IN LEGAL DEPARTMENTS

Obviously, the transformation towards an innovative and data-driven legal departments comes at a cost and takes some time (there is no free-lunch). Beside many other important things, continuous engagement and resources are required. This holds true for all legal innovation projects that deal with transformation and change.⁵

Within this section, a comprehensive process⁶ is presented which is based on the experience of leading experts at the Liquid Legal Institute. The process describes the steps to be considered once the decision has been made to use, define, and work with KPIs in Legal Departments. Depending on the maturity of legal innovation within a legal department, certain steps may be skipped or may be handled quickly. Nevertheless, it is worth considering and recapping before launching a KPI project – feel free to consider this section as an open invitation to reflect on the KPIs in Legal Departments end-to-end process in your department.

The process consists of twelve steps that can be clustered into three phases, each including four activities:

- **Prepare:** The process starts with basic and essential considerations to answer the “Why?” and “What?”. You need to be clear on what you want to measure and on the specific hypothesis to be answered by data-driven methods.
- **Implement:** The second phase considers the implementation and answers the “How?”. Many project teams start highly motivated only to realize a lack of infrastructure and data, meaning even simple KPIs cannot be calculated in the beginning.
- **Derive:** The third and last phase focuses on gaining insights and deriving measures to improve the legal department and its impact, but also on the critical reflection on the adequacy of the KPIs. A KPI project is never finished but requires iterative improvement and continuous engagement.

⁵ See also work on the [Digitalization Guide](#) by Liquid Legal Institute e. V.

⁶ See also work on the [Legal Inhouse Processes](#) by Liquid Legal Institute e. V.

The following illustration shows the flow of the 12 steps and provides a guiding structure for your next KPI project:

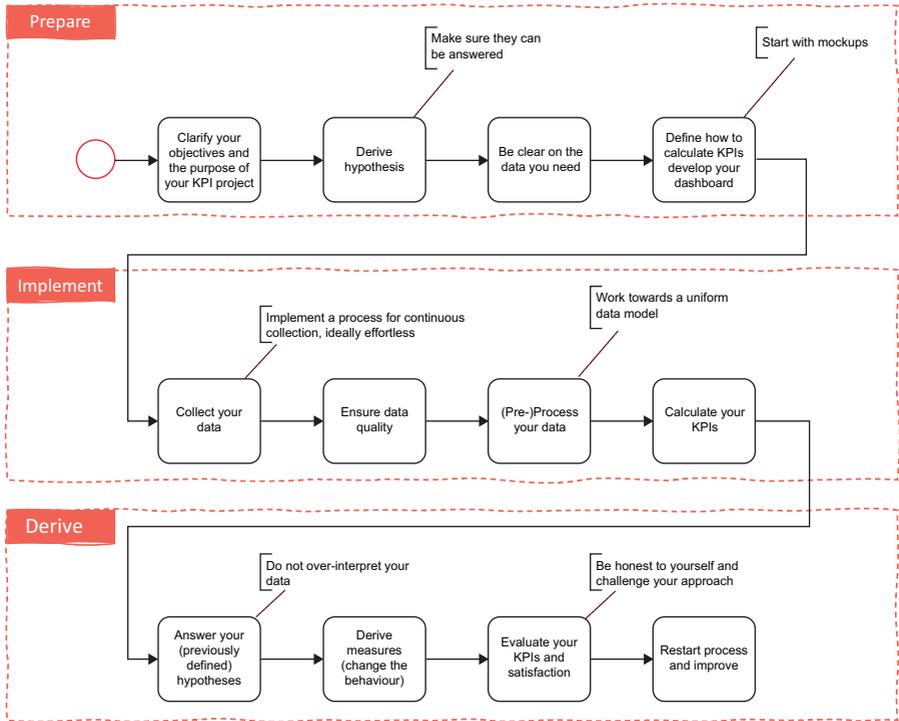


Figure 2: Illustration by Legal Inhouse KPI Group⁷

⁷ Illustration created with <https://bpmn.io/>

PREPARATION PHASE

| # | Activity | Guiding question(s) |
|---|--|--|
| 1 | Clarify your objectives and the purpose of your KPI project | Do you know what you want to achieve and where the KPI project should ultimately lead you? What difference does it make if your project turns out to be a success? You could also think about a staggered approach and start with few key KPIs which could be developed further over time. |
| 2 | Define your hypothesis and make sure it can be answered (verification and falsification) | What are the business-related questions you want to answer with KPIs? Do you have anything specific in mind? |
| 3 | Be clear on the data you need (to answer the hypothesis) | What data would you need to answer the hypothesis? Do you know which data source(s) you could use? Have you ever seen the data (or a subset) you need for the project? |
| 4 | Define how to calculate the KPIs and define the visualizations | Can you define how to clearly measure/calculate the KPIs? How do you want the KPIs to be presented and visualized? |

IMPLEMENTATION PHASE

| # | Activity | Guiding question(s) |
|---|--|--|
| 5 | Collect your data (think about continuous and effortless collection) | Where are the (software) systems that contain and generate your data? Do you have access to them? Do they have adequate interfaces? |
| 6 | Ensure data quality | Have you ensured the data quality is sufficient? Is the data complete, properly maintained, and in the right format? |
| 7 | (Pre-)Process your data and standardize your data model | Do you need to transform the data so it can be combined and used in your calculations? |
| 8 | Calculate your KPIs, fill your database and populate your dashboard | Are your formulas correctly implemented? Do you have adequate pipelines to insert the data into your databases? You can use either simple tools like Excel and PowerPoint, or advanced tools like Power BI and Tableau. |

DERIVATION PHASE

| # | Activity | Guiding question(s) |
|----|--|--|
| 9 | Answer your hypothesis and communicate results | Can you make sure the data and the KPIs suffice to answer your business-related questions? Have you thought about who you should inform about your insights and how often? |
| 10 | Derive measures and change the behavior | What are the desired measures based on the data? Are you sure that you are not overrating the data? |
| 11 | Evaluate your KPIs and your/stakeholder satisfaction | Is the usage of KPIs beneficial or do they only support what you already know ("gut feeling")? Are you or your stakeholders satisfied with the approach? Why? Why not? |
| 12 | Reflect on and evaluate step 1-11. | What would you do if you started over? What would make the whole process more efficient on your next approach? |

WHAT TO MEASURE? FROM MEASURING METRICS TO MEASURING PERFORMANCE

Many legal departments strive for measuring performance but only a few seem to succeed. In many cases, we do not define clearly what is measured and why we measure. Instead, people often randomly take certain random metrics and then quickly combine these in colorful, shiny dashboards. This may look nice and fascinating at first glance but is not sustainable when attacked by real-life questions.

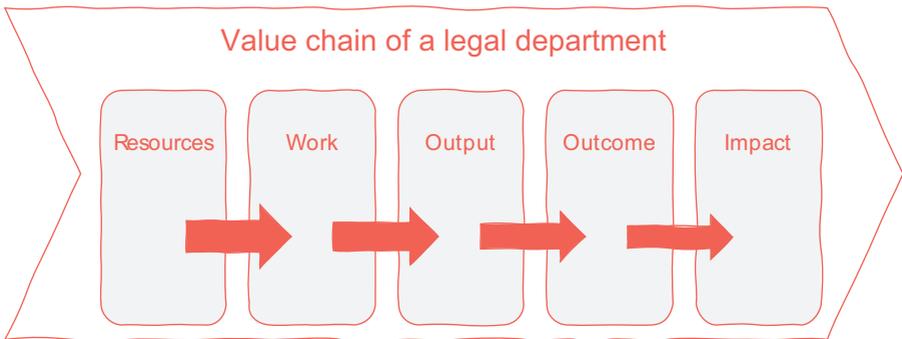
Some addressees of such dashboards complain that the metrics do not show the real picture, describe only one dimension, do not allow benchmarking with other departments, etc.

We need to tackle this more comprehensively. We need a more systemic approach.

We carefully need to define what we want to measure and why we want to measure it. At the end of the day, we want to answer questions or hypotheses raised by the team, (senior) legal management, or other stakeholders, e.g., for the level of efficiency, client happiness, quality of legal advice, legal risk exposure, and so on. These are rather generic terms or aspects of real life which we need to define more clearly during the measuring process. The measurement itself is performed using select indicators that represent this respective (sub-)aspect of real life. The main difficulty of such a process lies in selecting appropriate indicators. These aspects must not always be defined in the same way; in fact, many variances exist which can and must be used with regard to the respective problem and the specific purpose of measurement. E.g., the measurement of "importance of lawsuit x" might – from a legal point of view – depend on how many and which legal regulations are affected, or if it includes legal problems that have (not) yet been decided by the highest court. From a sociologist's point of view, "importance of lawsuit x" might depend on cultural, institutional, familial questions; and on the social setting of the persons involved. An economist might focus on the monetary value of the disputed objects and on other pecuniary implications, e.g., settlement value or provision. Thus, it is not at all surprising that "importance of lawsuit x" might be rated completely different when looked at from different angles. We need to keep this in mind and at the same time, we need to accept that metrics/indicators selected with a certain purpose in mind, might have blind spots and may not be appropriate for other purposes.

First, we need to establish a concept/framework that defines what we are talking about. This chapter focuses on performance indicators. While the term “performance” is mostly used as a vague concept in fuzzy everyday language, people often refer to it as a kind of relation between input and output.

Let us look at a very generic value creation chain; and let us think in terms of input, output, outcome, and impact. For each of these categories we might find plenty of metrics which already include interesting insights into various areas and might be able to answer basic questions.



INPUT/RESOURCES

Rendering legal services requires a certain input, comprising all resources needed to initiate and maintain the value chain. From the CFO’s perspective, this may be quantifiable rather easily in monetary terms via the organization’s legal budget and legal spend. While money or rather monetary values are a properly quantifying input, we might want to zoom in and ask what the money is spent on.

| Money spent for ... | Lawyers, paralegals, assistants... |
|---------------------|---|
| | Office space, computers, software, cell phones... |
| | External (legal) services |
| | Etc. |

Please let us keep in mind that the different perspectives are valid representations of the very same input or resources from different points of view. These monetary values include indirect information about operations, e.g., the actual cost of our legal cost center might be read as amount of currency units spend over a certain time for all goods and services, which we might consider as input for any services rendered by this cost center.

These goods and services may be quantified in various ways. The most obvious method might be counting the number of lawyers, computers, square meters of office space, among others. However, depending on your specific situation, you might also measure available lawyer time (maybe even on different levels of qualification), special competencies, processing capacity of computer/software systems, etc. Furthermore, many of these categories can be broken down into more detailed items if needed.

The following table exemplifies some metrics (to allow for easy referencing, the first column will include unique identifiers):

| Input metrics | Metric | Description | [unit of measurement] |
|----------------------|-----------------------|---|------------------------------|
| IN.1 | Internal legal spend | Money spent on the legal department, incl. salaries, office, etc. | [EUR/year] |
| IN.2 | External legal spend | Money spent on external legal services providers | [EUR/year] |
| IN.3 | Number of lawyers | Full time equivalents (FTE). A similar metric might be used for other staff categories, or for different quality/expert levels | [FTE/year] |
| IN.4 | Available lawyer time | Translates FTE numbers into time units, enabling more transparency on available resources to render services; neutralizes differing working time regimes within the staff population. | [hours/year] |

ACTIVITIES AND WORK

What do we use these resources for? Which *activities* do we see in the legal department? What is done in order to transform input into output?

Methods like the “Uniform Task Based Management System” may help manage measuring activities. For the purpose of this paper, we will take a simplified approach by measuring the following:

| Activity metrics | Metric | Description | [unit of measurement] |
|------------------|---|---|---------------------------------------|
| A.1 | Time spent for drafting / reviewing of documents | Please split into different types of documents/topics if needed in your case. You also might consider separate metrics for lawyers, paralegals, admins. | [hours/year] |
| A.2 | Time spent with the client. | See above | [hours/year] |
| A.3 | Time spent for supporting tools | See above | [hours/year] |
| A.4 | Time spent for internal admin topics | See above | [hours/year] |
| A.5 | Other options: Time used to implement/maintain a client self-service tool or matter management system or knowledge management, training for legal department staff, sick leave/vacation, annual performance review manager/subordinate, ... | | Varies, depending on the case at hand |

Some of these are directed at the client. However, even if there is no immediate effect on the client, e.g., when a lawyer is investing time in knowledge management, there might be a mid- to long-term value contribution from those activities; a question that might be answered in the following sections.

OUTPUT

The term *output* refers to first-level results of activities such as an executed contract, some trainings delivered to the sales team, a finalized contract, a piece of legal advice delivered to the client, the contract templates in our knowledge management system, etc. However, even intermediate products might qualify as products.

As most legal departments address similar topics and create similar work products, the emerging discussions on “legal service portfolio management” are not surprising at all. However, there does not seem to be a consistent product portfolio model at the moment.

| Output metrics | Metric | Description | [unit of measurement] |
|----------------|--|--|-----------------------|
| OP.1 | Number of completed cases | May be split by type of case or other relevant criteria. | [cases/year] |
| OP.2 | Number of iterations in a client self-service tool | | [cases/year] |
| OP.3 | Completed internal projects/initiatives | | [number/ year] |
| OP.4 | Conducted trainings | You might measure the number of training sessions or the number of trainees, whichever is more appropriate for your situation. | [number/ year] |

From the legal department's perspective, producing such output is a critical milestone and therefore, output metrics are rather important. However, our clients are a lot more interested in the value (hopefully) contributed by such output. This will be covered in the next category: outcome.

OUTCOME

Outcome (second-level results) refers to the value that activities and outputs contribute to the client. Although some lawyers may not like it, we need to accept that this constitutes customer value or business value, i.e., it is something defined/perceived by the client and not necessarily measured in legal terms. In many cases, the absence of an outcome of a legal department leads to the client's impression that the legal department is inefficient or too busy with itself.

E.g., if one of our outputs is an up-to-date knowledge management system with a great collection of contract templates, it might – if appropriately used by the employees – create value by saving scarce resources such as lawyer time, legal fees, and by avoiding reinventing the wheel.

Outcome in this sense typically goes beyond short-term output and might include:

1. client happiness with our performance; customer satisfaction, NPS (net promoter score)
2. the client being trained on compliance risks who now knows what (not) to do
3. the M&A contract addressing relevant risks of the deal
4. the percentage of cases being solved/resolved successfully
5. the time and/or money saved with self-help tools and processes for the business to use and follow; e.g., templates, playbooks, automated contracts, standard disclaimers
6. time to solution
7. avoided risks and fines

The following table exemplifies some metrics:

| Outcome metrics | Metric | Description | [unit of measurement] |
|-----------------|--|---|--|
| OC.1 | Client satisfaction index | Several methods to evaluate client satisfaction exist; for reason of keeping this paper short, we will not go into the details | [%] |
| OC.2 | Released provisions, litigation | | [EUR/year] |
| OC.3 | Mitigated legal risks | Overall risk exposure: gross – net; might be split by legal areas (antitrust, data privacy, ...); fines avoided | Might be ordinal or even on a metric scale |
| OC.4 | Time to solution | Metrics for impact might include “time from spotting the issue to the solution”, as this limits the duration of “business value” being exposed to corresponding risks | [time/case] |
| OC.5 | Actual risk versus target risk profile for relevant document types (e.g., contracts) | | [%] |

IMPACT

To differentiate between outcome and impact is not always easy and not necessarily required in each case. More than a handful methods exist that do not draw this distinction. The following lines will however provide some guidance for those who need to separate outcome from impact.

The term *impact* (third-level results) of legal services refers to the overarching aims of the company and will therefore need to be synchronized with the company’s understanding of value contribution. Typically, impact describes the contribution on a higher and often more abstract level, and long-(er)term rather than short-term effects. The guiding question to justify the impact asks for the business case of maintaining a legal department.

Impact typically refers to value contribution (including value creation as well as avoiding value destruction) which might – but not necessarily has to – be measured in monetary units. In addition, impact might in parts be reflected by the company’s corporate culture; its openness towards legal risks, its approach to negotiations and to dispute resolution. If you are willing to include a rather indirect impact, you might easily consider all business values that would not have been realized without the involvement of legal (e.g., via KPIs derived from financial results).⁸

The category “impact” may also combine several outcomes.

| Impact metrics | Metric | Description | [unit of measurement] |
|----------------|---|--|------------------------------------|
| IM.1 | Overall risk exposure of the company or rather mitigated exposure to legal risk, etc. | Might be measured on ordinary scaled risk categories or in monetary units | Depends on your measurement method |
| IM.2 | Added value | E.g., added value = released provisions + potential fines – materialized fines – internal legal cost – external legal cost | [monetary units/year] |
| IM.3 | New business models enabled by legal | E.g., number of proactively supported initiatives and projects of strategic values | [number/year] |

⁸ Do not be surprised if other departments refer to the very same metrics: We are all used to the sales team proudly presenting sales numbers; however, in a world of growing legal complexity, it may also be true that those couldn’t have been realized without proper legal agreements, legally safeguarding those transactions and the resulting value flows. Hence, they also serve as indicators for the legal team.

| Impact metrics | Metric | Description | [unit of measurement] |
|----------------|--|---|------------------------------------|
| IM.4 | Cultural changes in the company | E.g., measured in an employee survey | Depends on your measurement method |
| IM.5 | Reputation (to authorities, (potential) clients, employees, ...) | E.g., measured by press/ media monitoring, sentiment analysis | Depends on your measurement method |

COMBINED METRICS/INDICATORS

While that one clear definition of legal performance does not exist, most readers will agree we need to compare the input/resources we used to what we did and to the corresponding effects they result in. As we have seen above such results may be measured in terms of activities, output, outcome, impact.

So, in theory we might combine input metrics (in their various forms) with metrics of the other levels.⁹ Depending on what we choose, we will generate different quantities with specific characteristics. Combining input with activities or output will result in more operative metrics, while combinations of input and outcome or impact will be of strategic nature.

| Impact metrics | Metric | Description | [unit of measurement] |
|----------------|-------------------------------------|--|-----------------------|
| IN | Admin per lawyer | Or other combinations of different staff types | [%] |
| IN | Cost per lawyer | Or staff types | [EUR/FTE] |
| IN | Internal and external budget/ spend | Internal and external spend may be analyzed in various ways and combined in manifold ways: sums, ratios etc. – they all have their very own characteristics and meanings | Many possibilities |

⁹ However, depending on your personal case at hand you might also read the pure metrics from the previous sections as KPIs.

| Impact metrics | Metric | Description | [unit of measurement] |
|----------------|---|--|--------------------------------|
| IN.1 & A | Cost per activity | This includes information required when considering (out-)sourcing | [EUR/hour] |
| IN.4 & A | Percentage of time used per activity | | [%] |
| IN & OP | Cost per product | | [EUR/case] |
| IN & OP | Matters per lawyer and/or per paralegal | | [case/FTE] |
| A & OP | Activities per product | Type and number of input/activities required to render a service/create a product; this implies information on efficiency and performance are available | [hours/case] |
| A/OP & OC | Outcome per activity | E.g., contribution of this activity/product to client satisfaction | |
| A/OP & IP | Overall value contribution of this activity/product | | [value contribution / product] |
| IN & IP/OC | Overall ratio of input to value created | Such combinations of metrics scrutinize the <i>raison d'être</i> of a legal department; from the corporate client's point of view, it is a kind of insurance premium to be paid in order to mitigate/avoid legal risks or rather their potential negative impact | [%] |

While you are of course free to combine any of the metrics, consider causal relations. Even combinations of non-related metrics might have a valid meaning, so please keep this in mind when starting management with KPIs.

We often see this in cross-company benchmarks which try to compare different legal departments. The ideal solution would include standardized measurements for input and standardized portfolio models of activities and products. Typically, input is easy to measure, and most legal departments have a relatively clear view on headcount, internal or external spend. Beyond the input level however, consistent measuring turns out to be a lot more challenging. Therefore, instead of directly measuring activities and products, we typically search for alternative metrics, such as sales figures of the company in order to calculate “lawyers per sales” or “legal spend as percentage of sales”. Such sales numbers *indicate* the size of the company and may vaguely indicate the amount of resulting legal work/issues.

It is true that sales-related key figures are biased benchmarks if your company’s procurement department has a strong need for legal services.

Also be careful with employee-based metrics, such as “lawyers per employees”. These might have a causal relation in case of labor lawyers, but overall speaking these are mere indicators; they may have a strong message but a weak causal link.

| benchmark metrics | Metric | Description | [unit of measurement] |
|--------------------------|------------------------------------|--------------------|------------------------------|
| B.1 | Lawyers per sales ¹⁰ | | [FTE/EUR] |
| B.2 | Legal spend as percentage of sales | | [%] |
| B.3 | Lawyers per employees | | [%] |
| | | | |

¹⁰ Please note that such sales-based metrics are biased with respect to operating profit, and this needs to be kept in mind when interpreting the numbers of high- and low-margin industries. Instead, a total of sales and cost might mitigate this issue, but those totals are not as frequently published as sales numbers and therefore, benchmarks tend to rely on sales. Such comparative information is still much better than no information whatsoever. When considering legal departments in similar sectors, turnover figures may deliver meaningful statements because margins are likely to be similar. Cf. Ebersoll, M./ Bong, A. (2015): Intellectual Property Work in Key Figures. In: In-house Counsel Journal, Vol. 8, No. 30, Winter 2015, S. 3227-3246. ISSN 1754-0607.

MANAGING AND LEADING WITH KPIs

As in-house teams, we must be conscious of the fact that introducing metrics, KPIs and dashboards is a paradigm shift on many levels. Simply put, we replace or rather combine qualified opinions based on expertise, experience and seniority with rationalized discussions based on data and dashboards. Starting to “measure” legal work creates a completely new approach to managing teams and requires a different set of leadership skills.

As we calibrate our KPIs, we must also recalibrate how we manage our team and our relationships to other stakeholders. Data provides the opportunity to rationalize and up-level the discussions and decision-making – but like mere gut feeling, it must not pre-determine decisions. Especially in the hectic day-to-day practice with tight schedules, unwise usage of dashboards bears the inherent risk of jumpstarting to conclusions. Instead, managers of legal teams should consciously leverage the opportunity to invite guided group discussions based on the new data in order to leverage the diverse perspectives of the team (and their management peers). The leadership challenge can – simply put – be summarized as such: “You look at data – and the team knows it.” In any case, you should try to avoid misleading knee-jerk reactions, like enthusiastically embracing data when it fits your gut feeling, while denying its relevance in cases where it doesn’t (yet) fit your traditional line of thought.

So what needs to be done? The following three focus points will facilitate the change: First, we should be aware of what might be called an “upper echelon effect”¹¹, i.e., the impact of a leader’s behavior and style on decisions and organizational outcome. If team members know how their leader reads the data, the team may gear towards creating a certain “picture”. Instead of prematurely interpreting this as a weakness of working with data, we need to realize the very same effects apply to any information-based process, even (and especially) beyond quantitative data. However, given the transparency and clear definitions of metrics, these pitfalls will be found earlier and may be mitigated in a better way. An effective way to tackle that phenomenon is to try and answer four questions for each dashboard section:

¹¹ Related to the upper echelon theory introduced by Hambrick, Donald C. and Phyllis A. Mason

1. Why this KPI or chart, i.e., what are we reading from it?
2. What does positive look like, i.e., what are we aiming at?
3. How would the team trick the chart?
4. What happens if we overemphasize this chart, i.e., if the team did “everything” to make it look good at the expense of other charts/KPIs?

In addition to that, legal leadership should be clear and explicit about what a given data point (or dashboard) resonates with regarding the five steps of the legal value chain, as introduced earlier: resources, input, output, outcome, and impact.

Second, data creates a spotlight effect. The team will initially feel monitored and checked upon. The transparency and – potential – overuse (or even abuse) of data will be the elephant in the room, as you kick off the journey towards data, metrics and KPIs. This needs to be called out and discussed thoroughly with the team to ultimately make everyone feel at ease. Potential outcome may be an explicit agreement within the team, but even more importantly between the team and its manager. There should be clear “dos & don’ts”:

- The “dos” might include that the data must be fully available to the team and to the management; and that data is rather subject of joint interpretation, but never the immediate trigger for decisions.
- The “don’ts” might include there are no filters and restrictions (the workers’ council will have an opinion on that anyway); that the data should not only be used for internal purposes but also to support better client interaction or even better business outcome.

Third, it is an “eat your own dog food” moment for a leader with the team. The data will inevitably be generated by tools the team uses – ideally, because these are useful working tools rather than “tracking sheets”. The leader should also be acting at eye level, using the tools to generate data, and their own area of responsibility should also be reflected in the data. The immediate upside is that only in doing so, you create the truly full picture of data. Even more importantly, you directly understand what creating the data means in practice and how credible the data reflection in the dashboard is. Finally, your credibility is increased, and the team will join in much faster if you are in this together.

Despite all challenges and even if working with data might initially feel unfamiliar, please make sure you always consider the alternatives: Without quantitative data, you would face similar and even more challenges; you would not only ignore an

abundance of additional information and helpful insights but you would also miss out on an opportunity to challenge unconsciously grown thinking habits and to rationalize decision making – which is especially helpful in times of change.



Errors using inadequate data are much less than those using no data at all.”

CHARLES BABBAGE (*1791 – †1871)

SUMMARY

As we said in the beginning: the discussion on KPIs and metrics for legal departments (LDs) has just started – we need to advance it actively to lead the transformation, to avoid external control, and to be aligned with internal (enterprise-wide) objectives and their financial metrics.

The thoughts assembled and consolidated in our research turned into this article, which we consider a contribution towards data-driven legal departments. More and different aspects need to be uncovered and analyzed thoroughly, so that – ultimately – a common and shared understanding emerges of what data-driven actually means, not only for legal departments but for the business of law in its entirety.

The Liquid Legal Institute will continue to pursue this path together with its members. Everyone is cordially invited to join: Let us change the future – together!

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