Wolters Kluwer

When you have to be right

Driving value by facilitating better collaboration across the business

How legal departments can provide more value by improving interdepartmental collaboration across key competencies and empowering colleagues to self-serve.

Introduction

Legal departments are under more pressure than ever before and are constantly fighting fires on a number of fronts. Regulatory and legislative changes, political instability, changing market needs and growing competition all contribute to a growing deal of complexity for legal departments. And with it, the need to interface with a growing number of stakeholders across the business who demand quick answers immediately.

To deal with these pressures, many legal departments are **working harder and increasing resources**. According to the 2018 Chief Legal Officer (CLO) survey by Altman Weil Inc., CLOs cited growing workloads as the number one reason for increased workforce and spending last year. However, increasing resources can be out of the question for some legal teams - creating a compelling reason to find alternative ways to **work smarter** by transforming operations.

So how can Legal address these demands and rise to business expectations? One answer is to facilitate better collaboration with colleagues across the business - from Sales, Finance, Purchasing, Human Resources and beyond – freeing up more time to focus on strategic tasks.

Boosting interdepartmental collaboration remains a challenge though, especially in organisations where Legal processes are not standardised or automated. When processes are unclear, colleagues across the business may have the perception that the legal department is a barrier to business, but it also plays on the morale of legal teams. As per a CEB study, 90% of legal staff reported feeling that they slow other functions down when they execute their tasks slowly – a clear sign that **inefficient processes hinder the ability to provide value**.

In this whitepaper, we explore how legal teams can **improve interdepartmental collaboration across key competencies including contract, entity and case management**. By identifying areas for optimisation and adopting tools to boost collaboration, even the smallest legal team can provide better advice and service, with greater assurance, quicker.

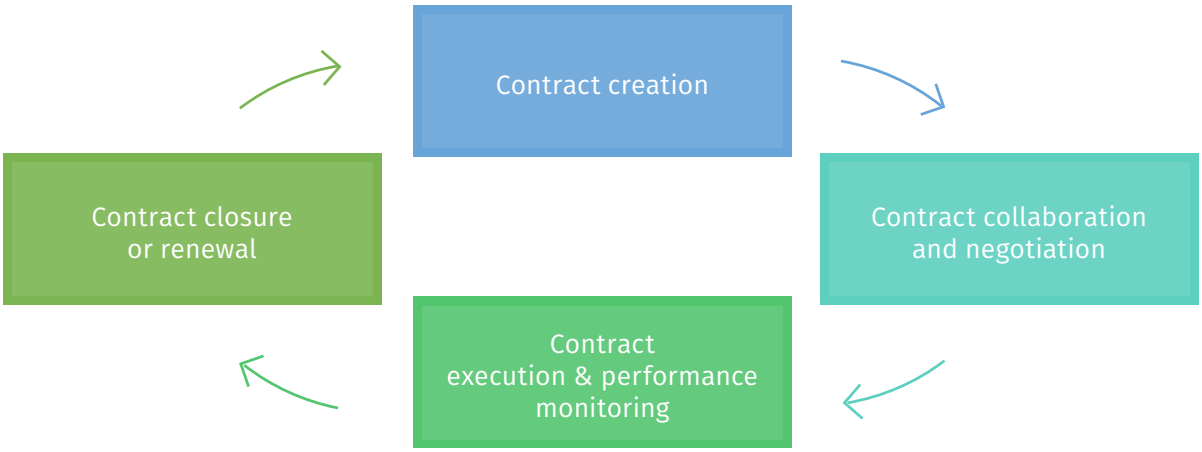
1 Collaboration for contract management

Contract management is an integral function for legal departments and, on any given day, requires working with colleagues in different departments. Whether it is Sales, Procurement, Marketing or HR, Legal must work together with other departments to **ensure that contracts are valid, legally binding, enhance business results, protect the company from losses and deliver on expectations.**

Most business contracts fall into one of three categories:

1. **General business contracts:** Partnership agreements, indemnity agreements, non-disclosure agreements (NDAs) & property and equipment lease contracts
2. **Sales-related contracts:** Bills of sale, licensing contracts, purchase orders & security agreements
3. **Employment contracts:** General employment contracts, non-compete agreements & independent contractor agreements

Each type of contract will require different processes with different people, in accordance to unique business rules. Here we will explore how legal departments can overcome common challenges at each phase of the contract management lifecycle and identify opportunities for adopting more collaborative processes and tools.



Contract lifecycle

Contract creation

Most often, colleagues across the business will ask you for a standard contract, like an NDA for example. Attending to every single request takes time, but many legal departments continue to work this way so that they have control. The consequence to working this way is that colleagues may draft their own contracts based on previous ones, unaware that clauses have changed or that a new template exists, simply to avoid "wasting" the legal team's time.

To better illustrate this scenario, imagine that John from Sales, needs to draft a purchase order. To ensure he gets the deal through on time, he might 'copy & paste' a similar template used in the past which was not originally intended for this new transaction. While doing so, he might accidentally omit (or forget to add) a relevant key term that protects the company.

Can you prevent John from making a contract that could expose you to risk?

Standardising contract creation processes with document automation (also known as assembly) is key. Document automation uses contract templates and term/clause libraries that are approved by Legal to provide a controlled portal for colleagues to create contracts on their own. With an assembly tool, John could simply "fill in the blanks" of a form and export a valid, up-to-date, ready-to-sign contract. And, for contracts that deviate from the standard templates, Legal can set up rules to require review. This way, you still have 100% control, but you are empowering your colleagues to self-serve.

Not only does document automation reduce the possibility of mistakes since John is not editing an actual Word file, but standardisation reduces the need to pass through an actual lawyer, saving you time.

Contract collaboration & negotiation

Going back to John, let's assume that he drafted the contract and is now ready to send it to the counterparty. The contract will then be exchanged back and forth with comments and revisions that are difficult and time-consuming to track via email (which is also not 100% secure) with third parties. The result is that you will have a contract with multiple revisions and inconsistencies, which can leave you exposed to risk.

How can you avoid making mistakes or omitting revisions?

The answer is to employ a collaborative tool that is in a secure cloud and tracks changes. This way, the contract is shared safely, and you can keep track of the edits made by everyone. Moreover, with collaborative tools you can set standard workflows (ie. sequences of tasks) and request electronic signatures to ensure that the right people review and sign contracts.

Contract execution, performance & monitoring

If your contracts are scattered in filing systems, stored on different computers or servers, or managed on various spreadsheets, this means that not only your contractual benefits and/or obligations are "out of sight, out of mind", but no one will have a clear idea of who is responsible for what. What's more, without a shared overview, your colleagues will always be asking you to confirm details such as parties, deadlines and terms. A big part of improving collaboration is also providing colleagues with controlled access to information, so they can do their jobs.

What does it take to share an accurate overview of your contracts?

A central repository to store all your contracts and data can be a game changer. Depending on who you give access to, colleagues can check contract information – like terms - on their own. When it comes to requests for reports, you can quickly generate insights, showing other departments that you are in control. Point being, you have oversight over critical contract information and the business doesn't fail to perform a contract obligation.

Contract closure or renewal

Once again, if your contracts are decentralised, you can easily miss a deadline to renew a contract or renegotiate specific terms which can put the business at risk. For example, failure to renegotiate contract terms when there is new regulation can lead to renewing contracts on outdated regulations. Or, a missed deadline can lead to a contract continuing to bind the business to perform benefits and obligations unnecessarily (for instance, to make payments for services which are no longer needed) causing financial losses. If the unintended continuation of the contract leads to unmet contract terms, this can create disputes, which puts the company at risk of reputational damage, financial loss and/or cost the company future business.

Going back to John, how will he remember when a contract needs renewal? And how will Legal work with him proactively?

Using a centralised system for managing contracts can make reporting on renewal terms and deadlines easy for Legal, but also for other departments who manage their own contracts. You can set alerts and notifications to remind the relevant people of upcoming deadlines, you can check standard obligations or start renewal negotiations on time.

2 Collaboration for entity management

Entity management ensures corporate governance and compliance in an organisation. It is a set of practices and tools to identify and manage corporate risk associated with the organisation's corporate form at an early stage. **Regulatory compliance, administrative maintenance, monitoring of insider trading and internal record keeping** comprise most, if not all, entity management duties. Moreover, if your business operations are global, it is upon you to ensure your organisation's governance and compliance across different jurisdictions and nations.

With effective entity management, you can make a positive impact on your entire organisation. However, the exceptional growth in new legal entity formation and the increasing diversity of corporate forms have made it a complex discipline, challenging even the most organised CLD. Therefore, it is crucial that you and your colleagues have an expansive view of entity management and its needs.

Legal departments must manage the inflow and outflow of information, policies, reports and documents that inform the organisation's transactions and filings for the **internal departments, managers, board directors, audit committees and regulators** who need them.

How can you improve communication with internal stakeholders and external parties?

By consolidating all your corporate information in one place, you can easily manage and share information with the colleagues who need it. Whether you need to retrieve Certificates of Incorporation, Articles of Association, share certificates, stock transfers, appointment or Directors' service contracts, you and your colleagues can find historical or current information by entity, partner, company or person and see the changes over time. For an example, if you want to know who was on the board between April 1, 2016 and September 15, 2018, the answer is a click-away without having to open multiple files.

Moreover, collaborative tools can also help you plan and follow up on formal meetings more effectively.

Let's take a typical scenario. Your organisation just conducted the Annual General Meeting (AGM) and as the Legal Counsel, in a limited time period, you must ensure that the resolutions are followed up meticulously and in the timeframe required by law. Having a dashboard showing full meeting agendas allows you to record the minutes, assign actions and track their completion.

Finally, whether you need to submit annual returns, renew a license on time or have a colleague carry out a delegated task, software can support you by sending automated reminders to relevant team members. After all, legal entity management is closely associated with people management. To keep your organisation in compliance while mitigating legal entity risks, you need to collaborate effectively by having tasks assigned to colleagues in the business and the legal group.

For an instance, if Directors and Officers (D&O) insurance policy is up for renewal, the risk department must look for a new policy a month and a half before the current policy expires. If a senior official is retiring, you might have to get the human resources department to send an executive succession plan. You might want to alert a team member in one jurisdiction to take care of a new filing requirement or update the records in the register. Automatic alerts notify you of impending due dates related to all these tasks so that you don't have to miss a deadline.

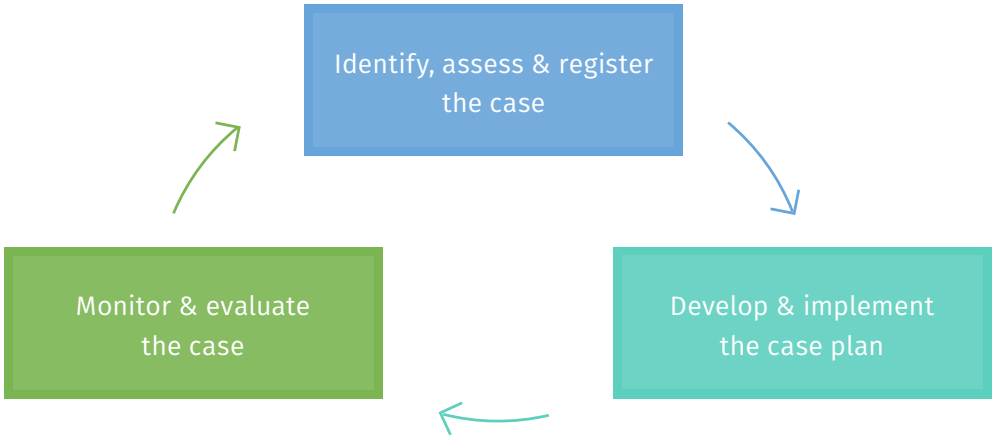
By automating the entity management processes, you can ensure that all resolutions are followed up while statutory filing deadlines and compliance obligations are met. You can identify and mitigate legal risks across the organisation and in the event of crisis, takes actions quicker. By using smart tools to manage entities, you can improve collaboration with the business and the senior stakeholders while saving time to better serve your CFO and the board.

3 Collaboration for case management

Increasing legal and business complexity has resulted in an exponential growth in case information, with the need to manage more data than ever before, including **confidential corporate and insurance carrier financial data, sensitive claims information, and privileged legal matter data.**

What's more, if case management is unstructured, it can be difficult for legal teams to **collect all of this information in a secure way, communicate processes and collaborate with key personnel** (who maybe also be geographically dispersed) on claims / litigation effectively. After all, if you cannot get ahead of your cases, and your colleagues are not legally savvy enough to know what to do when events occur, you may end up taking wrong or no actions, **exposing your business to risk**.

To overcome these challenges, the modern corporate legal department needs to find ways to improve communication and collaboration at each stage of the case management lifecycle:



Case lifecycle

Identify, assess & register the case

The first step is to identify the case; the nature of it and the people involved. This stage essentially involves the administrative processes; opening a file, agreeing to terms, carrying out conflict and risks management checks- all of which are necessary to kick off a case.

Assume one of your main buyers placed a large order to buy machinery. Failure to deliver the machinery on time results in a breach of contract with the buyer. Hence a case must be registered. This requires you to identify a conflictual situation; collect evidence, establish an internal claim, upon which your team will legally qualify the situation based on these elements which may result in a dispute with your counterpart. To understand the nature of this case and for the subsequent claim, Legal has to communicate with Sales, Production and Accounting etc.

What if Legal and these departments do not have a defined communication flow to deal with cases?

You must gather information related to the order and follow up the case with a chain of events. You need to call for explanation from Production to understand the cause of failure. Then request Sales to provide critical contract information and Accounting to provide details about the Letter of Credit and records of transactions. When there is no dedicated platform to communicate, you end up exchanging multiple emails with no clear flow of and connection between information. When there is no standard way to gather, report and communicate case information, you will waste time collecting information and might end up missing out on some key details.

How can Legal overcome this dilemma?

Seamless collaboration with departments within your business and outside counsel is imperative for better case management. Your team must have the tools to store, organise and identify crucial elements to support claims and litigation- that is, any evidence that would support a potential case allowing the legal team to legally qualify any event by connecting the dots between the evidence, to meet contractual commitments.

By having case information in one collaborative platform you have a single source of truth for all case-related information. This helps you get an accurate overview of your claims and litigation. You can have a dashboard to manage cases which can be accessed by Legal and other departments whenever, wherever.

You can also maintain a historical archive of claims and litigation, complete with exhibits that is easy to access and audit. When information is systematically organised internally on one collaborative platform, you can access different layers of information with structured data throughout their environment and have better flows of communication. It saves you time collecting information and you do not risk missing out on critical details. By using an interactive solution to manage case information, you can have defined workflows so that your colleagues are better informed about their responsibilities.

Develop & implement the case plan

Once the case is registered, Legal must develop an action plan. This includes assigning tasks and setting alerts to avoid missing deadlines. Then, Legal must make sure that the colleagues and other parties relevant to the case carry out the tasks they are responsible for in due time.

What if colleagues work on different servers and systems?

Going back to the previous example, on top of decentralised information, if the departments involved in the case (Sales, Accounting and Production) work separate, not only setting goals, but also coordination becomes difficult and problematic. When the workflow is decentralised and there is no transparency in the workflows, this often causes confusion among parties about their role. Moreover, if a case requires litigation, and there is no defined workflow regarding outside counsel, this increases legal risks and external counsel costs.

How can you ensure that that those who are responsible perform their duties?

When you have information consolidated, you can identify the objectives of the case and build an action plan, so that you have a clear idea of what is required to manage obligations. Defining workflows and delegating tasks make it clear for the entire business who is responsible for what. It defines the duties of colleagues to manage cases and claims.

Controlling access rights with manual processes is difficult. Instead, with a central management system, you can allow internal stakeholders to access confidential/ sensitive information with granular permission- setting access rights only to authorised parties. You can also create an account for outside counsel to correspond within a secure environment and manage internal user access by department and make documents confidential to protect sensitive case information. With permission-based access, you do not have to compromise the security of your data as you can be assured that the information is with and only with the authorised colleagues.

Whether you are approaching a court date or a deadline to perform an obligation, you and your colleagues can set alerts to keep track of critical dates.

When working on cases, you and your colleagues will deal with a large inflow and outflow of documents. Therefore, collaborating with colleagues and external stakeholders must be quick and convenient. Exporting and emailing documents brings in significant time savings by eliminating paper-based solutions that require printing and mailing, only to lose sight of a critical piece of information.

Monitor & evaluate the case status

Cases should be monitored at each stage of proceedings, to ensure duties are fulfilled and the action plan is in fact working. However, if the information is decentralised, cannot be shared easily, and litigation workflows and roles are undefined with no way to track deadlines- tracking the claim status (and related financials) will be difficult and you will have to wait for something to go wrong to act reactively. It can also make it challenging to communicate your risk exposure or claim status to the CEO. Unstructured case management can make it difficult for you to have an accurate overview of your organisation's claims, disputes and outside counsel activity.

How can you monitor cases and take actions proactively?

By managing cases on a legal dashboard with reporting tools, you can have summarised information; chronology of events, KPIs, diagrams and charts. This will provide a better overview of claims, litigation and outside counsel activity by entity, counterparty, law firm or claim amount. The easy import and recall of important information in a matter of a click of a button reduces the administrative burden and gives more visibility into critical case details.

In case management, the financial aspects weigh in for an integral part of the decision-making process. They include controlling the budget with law firms/ experts etc., tracking all expenses related to a case and all movement of provisions in a case over its period. Therefore, reporting on provisions and legal costs is a crucial component of litigation activity in case management. The key is to extend the case management tools to the finance department and the board to share information and update the status and amounts regularly, to comply with audit constraints.

As you may deal with various cases at a time, it is important to build an effective mitigation plan to manage your risk exposure. If you and your colleagues manage cases in one cloud-based platform, you can easily monitor the status and performance of cases by entity and track and evaluate which areas need additional efforts. As the information is being updated on the system immediately, you can get real-time insights into the status of your cases and management reports and take measures proactively.

Consistent monitoring of cases will enable you to have better control overclaims and litigation. As a result, you will be able to reduce your external legal bills, increase capacity and bring more litigation work in-house. With productivity improvements and cost reductions to the business, you can deliver a wide range of services to your stakeholders, while assuming a proactive, strategic role in the management team.

Using smart tools, you can improve collaboration with colleagues, the board and outside counsel to comprehensively manage a high load of cases, keep track of deadlines, automate the litigation workflow in an efficient, cost-effective manner. This will help prevent claims from happening in the first place and minimise the burden of litigation. By making improvements in claim and litigation management, you can achieve accountability and credibility across the business.

Conclusion

For legal departments to overcome the challenges of greater complexity and higher expectations to deliver legal services in less time with fewer (or the same) resource – whilst still assuring accuracy – their operations needs to transform.

The right technology can play a critical role in transforming your department's overall strategy. Once rolled-out, collaborative tools can improve legal service coordination, communication and performance across the board. By providing colleagues with easy access to information and services by facilitating self-service, legal teams can stay on top of everything without necessarily having to be involved in everything. With more time, you can engage in high-value work, mitigate risks proactively and create more value for the business.

For more information on legal management software to boost collaboration, visit legisway.wolterskluwer.de/en