

LOD

# Building the next in-house legal team

CLONING WON'T CUT IT. PART 3: KEEPING THE RIGHT TALENT

TERRI MOTTERSHEAD



LOD pioneered the very first alternative legal service in 2007, and we continue to lead the exciting market we created.

We support the best legal teams in the world with our brilliant legal professionals, legal services team, processes and technology. Together, we find new ways to boost the value that in-house legal teams deliver today, tomorrow and in the future.

LOD is still one of the largest and fastest-growing flexible legal services businesses in the world. We have offices in 12 locations and over 1000 world class lawyers and paralegals, legal operations and tech experts, and risk and compliance professionals. We're constantly recognised for our innovative approach, working hand in hand with clients to create the future of legal work.

## OVERVIEW

In Part 2 of this series, we looked at the framework for talent management, a talent management strategy (TMS), and those components dealing with acquiring the right talent: recruitment, setting a team up for success and creating a learning culture - one that supports the new legal normal of adaptability and continuous improvement. In this Part 3, we'll focus on the TMS components dealing with keeping the right talent: retention (and how that has been redefined), what you need to keep your best talent engaged and how you plan for the inevitable...retirement!

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## RETENTION

Everyone is looking for the magic ingredient that will make great employees stay. There is no magic ingredient. The reasons people stay are the same as they have always been - smart people who are good at their job stay when they have a purpose, respect, autonomy to do their job well,<sup>1</sup> are challenged, valued and enjoy going to work every day (the employee experience or perhaps more accurately referred to now as the human experience<sup>2</sup>)! The thing that has changed, as we discussed in Part 2, is that people now have more places to go, more options to pursue and, with the generations of employees now in the workforce and entering it, are more willing to experiment and proactively seek out opportunities that are engaging, enjoyable and motivating.

In short, mobility,<sup>3</sup> like flexibility,<sup>4</sup> is part of the career life cycle for everyone these days. Rather than seeing that as a negative, you can instead leverage the new or different experiences that these employees can bring and, perhaps even encourage mobility through secondments - especially where your department cannot offer ongoing challenging experiences or where you have identified someone with a need to develop a particular skill e.g. forensic data analytics.

Some new approaches to **secondments** to think about:

- Secondments should operate across all experience levels i.e. not something just offered to your most senior people.
- If you do go down the secondment route, make the most of it. Even if you lose your team member to one of these secondments, it will still deepen a relationship you already have - a win-win, no?
- Secondments should happen as a result of people moving within, out of, but also into your team.
- If your team is large enough to have people working in specialist areas, then create rotations within the speciality areas for a while or have some of your lawyers share speciality areas.<sup>5</sup> It can create depth of experience, better understanding within your team of all the legal issues faced by your organisation, and enhanced cross speciality collaboration and co-operation too.
- Use this as an opportunity to create a new level of collaboration within your organisation by sending a lawyer to another department or, bringing someone from another department to your team. For multinational organisations, this move may be within the same office (local) or the national, regional or global legal team.
- Send someone outside your team to a law firm on your panel or a legaltech start-up, or ALSP you are working with or want to partner with in the future. Imagine what team members could learn about innovation, project management, process improvement, data-supported decision making, design thinking, agile management, and augmented work from a secondment with a leading

## RETENTION

ALSP! And, as the delivery of your services become more collaborative, closely aligned or even integrated with your internal departments and external providers, these sorts of collaborations will not only become desirable but critical to the seamless delivery of legal work.

And finally, on this point, make the well-being of every team member a priority and a big part of how you value and appreciate them. For too long the legal profession has worn long hours, overwork and burn out as a badge of honour – it isn't, it's just poor people management and the legal industry has lost too many talented people to it.

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## CAREER DEVELOPMENT

As discussed in Parts 1 and 2, the work and workforce of the in-house legal team is increasingly diverse. Recruitment can happen at any time and increasingly at any stage of a lawyer's legal career. But legal careers are not what they used to be. The days when the only option for a graduate lawyer was to enter the partnership track in a law firm, have long passed:

- **Careers are not linear.**
  - **Careers don't start in law firms (or even legal departments).** Law grads, especially those with dual degrees, don't see legal practice as their only option – they now have more opportunities in business, start-ups, ALSPs, hybrid (e.g. legal technologists) or the transition roles discussed in Part 1, in addition to legal practice. And, as mentioned in Part 2, anecdotal evidence suggests that legaltech start-ups and yes, in-house roles, are the favoured employers over law firms now.
  - **Careers get interrupted.** Our lives are busy and complicated. Taking time out to try something different, have a family, or care for aging parents is part of the life-work cycle as it is the work-life cycle – the two are not disconnected! And, there's always the external and unexpected events like where we find ourselves today.
  - **The definition of career path and success has changed.** Increasingly, career paths will be defined more about the human experience (who people work with - organisation, colleagues and clients), where they work (purpose and values) and how they work (collaboratively, flexibly, remotely) as much as the legal work itself.
- **The length and location of a career path has changed.** Starting down one career path does not preclude stopping and then starting another in the same or a different place. We used to think of careers in terms of experience, place and time. It's still about experience but in different places and in different ways regardless of time. Flexible work arrangements, secondees, gig workers or lawyers in a transition role (discussed earlier) will acquire experience and move along a career path through a portfolio of projects.
  - **The COVID-19 pandemic will have an impact on career paths but it doesn't mean career development is not possible.** As organisations and consequently their legal departments emerge from the business impact of the COVID-19 pandemic, legal careers will be starting at different times, at different stages and different capabilities will be needed to support the busiest practice areas. There will be more emphasis on the gig economy than ever before – that means careers will be on hold, take a different direction for now or permanently, and start in different places. It will be important to take time to assess this for your team, communicate, be transparent, candid, creative and focus on retention (where possible) because great people will always be hard to find!



## CAREER DEVELOPMENT

As noted, lawyers joining your team will not have the same experiences and for different reasons, some noted above, will also not have the same career aspirations. Even more reason, adding to the discussion in Part 1 and 2, that when recruiting, you are not only clear about the capabilities needed in your team, but ensure there are learning opportunities to support them that can be customised to the needs of your lawyers while they are with you. Where legal department team structures are flat, this will be particularly important because, if members of your team have nowhere to go, they will be looking for other ways to enhance their careers like: learning opportunities, secondments, taking the lead on and having autonomy of decision making for a discrete project, or taking on the role of deputy GC, if and when that is available. In all these scenarios, being transparent and upfront about what their career path looks like is critical.<sup>6</sup>

In any discussion about career development today, it is also important to underscore something mentioned earlier, that not everyone wants to or will be with you forever! That will be even more likely in the current environment. It's also worth noting here that contrary to one school of thought, mobility of your workforce does NOT decrease the need to invest in people or understand their career paths, it deepens it – it's why people will stay (or go, if you don't invest in them), why they will come back if they leave (bringing with them new ideas and different ways of doing the job), why they will remain engaged on the job and be their

most productive (because smart people treated this way feel valued), and the only way you can ensure your team will consistently deliver the best legal services/products possible (because their capabilities are up-to-date). If you want people to stay, walk the talk and treat them like your greatest asset – invest in them.

And finally, on this point, as your legal team becomes more diverse and more specialists from allied professions join your team, it's going to be important for you to map and support their career development too. If these specialists are employed elsewhere in your organisation or seconded to your team or dedicated to your team and develop a sub-specialism in legal (e.g. legal operations management), they too have career aspirations that need to be catered to. These specialists won't join the legal team if that is seen as a career limiting move! If you want the best data analysts, legal operations management, knowledge management and project management specialists in your team, invest in them too!

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## MENTORING AND COACHING VERSUS FEEDBACK AND EVALUATION

Mentoring and coaching your team is where the rubber meets the road. In fact, it's never been more important than it is right now. There's no time to wait to give feedback for annual performance reviews or even the end of a matter – it needs to happen in the moment, in-person or digitally,<sup>7</sup> and course corrections made immediately when a problem arises. Also, an obvious but nevertheless important point to note...if your workforce won't be with you for a year e.g. if your team is comprised mostly of people on a part-time, casual, on demand basis or on secondment, there is no "annual" in the performance evaluation title! So, here's what this means:

- As a supervisor, you need to manage projects well, people need to be clear about their responsibilities, there needs to be clear check-in points, your staff need to know when to report something to you, and you need to make yourself available for them to speak with you. You have to be the person your staff can learn from (mentor), will prompt them to learn for themselves (coach) and want to hang out with for a coffee or a beer, because they know you have their best interests at heart.
- As an employee, being open to constructive criticism. Accepting that a mistake need not be the end of your career. Knowing when to "manage up" or ask the question when you don't know the answer. And always admitting when you are wrong.

These are not easy relationships to establish or sustain especially when they stretch across offices, countries, generations or cultures, but they are essential.

However, and despite some law firms,<sup>8</sup> companies and consultancies<sup>9</sup> bucking the status quo, it's unlikely we will see the widespread end of the annual performance review in organisations, and consequently, legal departments, in the near future. But, that's no reason for not shifting the emphasis towards coaching and mentoring now and even experimenting with a little reverse mentoring too – how better to lead from the front, enhance communication, upskill in the use of legal apps, legaltech<sup>10</sup> or encourage diversity,<sup>11</sup> than finding new ways to collaborate by walking in someone else's shoes?

And that's not all...another step in that direction, and relatively easy to achieve, is uncoupling the annual performance review from promotion, compensation and reward discussions. This supports keeping the focus in these reviews about ongoing development of capabilities versus recognition of success to date (what you have earned based on your work so far). That's been happening in the more progressive law firms for a while, not uncommon in organisations, and makes even more sense for legal departments.

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## COMPENSATION AND REWARDS

There are four overarching, guiding principles with compensation and rewards. They apply as much to cost centres in organisations like legal departments as they do to those that are more directly recognised as revenue generators:

1. Align your compensation and reward systems with your organisation's business performance goals.
2. Compensate and reward without bias.
3. Reward what you want to see more of and don't reward anything else.
4. Reward excellence and, consequently, don't normalise what is not normal!
5. Make rewards about more than money – make them about what individual high performers value like a vacation, tickets to a show, etc., and make rewards available all year round.

Make this happen and your best people will stay. Couple it with proactive recruitment, comprehensive onboarding, customised learning opportunities and career development, investment in mentoring and coaching, and you'll have a super engaged and productive team.

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## SUCCESSION PLANNING

If the predictions remain correct, by 2025, Gen X, Millennials and Gen Y will comprise 87% of the workforce<sup>12</sup> - that's a lot of senior corporate counsel walking out the door in the next 5-10 years and with them, a significant loss of institutional knowledge, experience and relationships (inside and outside the organisation). This would be a lot to manage from a talent perspective alone but, couple it with the disruption in the legal industry referred to in Part 1, and there is no doubt it will have significant impact on legal department teams. It's critical that legal teams prioritise and proactively manage succession, so they evolve and adapt to changing internal demands and the changing legal marketplace as smoothly as possible too.

And, time is of the essence! These are conversations that need to start with your most senior counsel now. It's not a conversation predicated on "out with the old and in with the new" but one where continuity and stability within a framework of change and innovation can flourish. And, it also has to be a conversation about diversity. Retirement from the team need not mean complete disengagement from it. In places like the US pre COVID-19, the fastest growing segment of the workforce was those above the age of 55.<sup>13</sup> While post COVID-19 unemployment will bring changes to this demographic, the opportunity for legal departments to draw on the institutional knowledge, relationships with clients, mentoring and coaching skills of

senior lawyers, will not - this is going to be needed a lot in the coming months and years - could it be serviced by your senior and senior retiring team members - food for thought, yes?<sup>14</sup>







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As the Principal of Mottershead Consulting and Executive Director for the Centre of Legal Innovation (Australia, New Zealand and Asia-Pacific) at The College of Law, Terri works internationally with leaders and managers of law firms, legal departments, alternative

legal service/product providers, legal associations, legal incubators and accelerators, legaltech entrepreneurs, law schools, business schools, business professionals and lawyers, supporting their contribution to the transformation of legal practice. She has been a thought leader in people centred legal practice innovation for more than 25 years.

Prior to joining the Centre, Terri was a practising lawyer and subsequently led the in-house talent management departments for firms and associations including Lex Mundi, the Inter-Pacific Bar Association (IPBA) and DLA Piper LLP (US). She has also led or taught on practical legal education initiatives in law schools in Asia, Australia and the US. In 2010, Terri founded Mottershead Consulting in the US, and later expanded it to Australasia, to focus on supporting lawyers, legal business specialists and law firms in identifying, developing and transforming their capabilities and practices to a new way of delivering legal services/products to the market.

Terri is a frequent keynote speaker at legal industry events and contributes regularly to legal industry publications on the future of the legal profession, practical legal education and legal talent management. She acted as the general editor/contributing author for *The Art and Science of Strategic Talent Management in Law Firms* (West, 2010) and for *Innovating Talent Management in Law Firms* (NALP, 2016).

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