

Drivers and barriers to innovation

Accelerating change: barriers in-house leaders must overcome to be successful innovators





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QUICK READ

- Leaders of in-house legal functions seek systematic change: 81% say they are pursuing transformational or incremental improvement in the way they run their function.
- They are motivated by a desire to deliver a better service experience to their business counterparts.
- They want to use data to help the business make smarter decisions and reduce its risk exposure.
- Yet leaders tell us they face many barriers. 61% say lack of lawyer capacity limits their ambition, and 49% describe lack of funding as a constraint.
- Those furthest ahead on the innovation journey have successfully overcome many of these barriers to accelerate the pace of change in their function.

The A&O perspective

Now is the time for in-house leaders to be bold, to rethink how a modern legal function could operate. Whether they see change as radical or incremental, leaders need to drive their function forwards relentlessly. As in-house legal functions move towards maturity, Allen & Overy believes leaders will face barriers. Change is never easy, but the barriers to change are not insurmountable. The most successful legal functions will be those that have a clear innovation vision supported by a pragmatic plan for change and improvement.

This is the first in a series of papers that makes up *The Allen & Overy Legal Innovation Benchmarking Report*. The report explores the realities of innovation and change within in-house legal functions today. The insight in our series was developed through in-depth benchmarking surveys completed by 92 senior leaders of in-house functions immediately prior to the onset of the Covid-19 pandemic. If you are interested in taking part in the benchmark survey to see how your responses compare to the leaders in our research, you can do so by contacting: legalinnovation@allenoverly.com

Riding the innovation wave

Leaders of in-house legal functions are keen to ride the innovation wave to the benefit of their team and their wider business stakeholders.

Among the 92 senior in-house leaders interviewed by Allen & Overy, nearly a quarter (24%) are seeking transformational change within their legal function. A further 57% say they are pursuing continuous, incremental improvement.

However, there is no single, overriding motivator for this change. The in-house leaders interviewed signal that a wide array of factors are driving innovation within their legal function. These range from harnessing

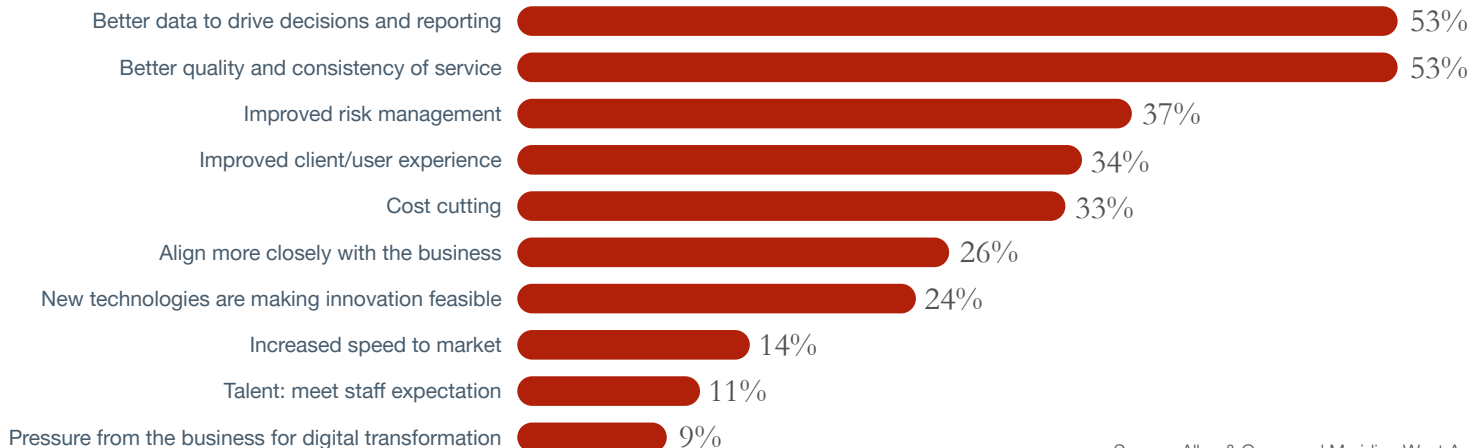
the power of data and improving risk management processes, to improving the user experience for internal colleagues and increasing the speed of legal decision-making.

Just as there are multiple drivers for innovation, these in-house leaders identify a range of barriers impeding their success. Top of the list of barriers is a lack of internal lawyer capacity to focus on innovation or process improvement, closely followed by lack of funds, a cultural resistance to change and limited specialist innovation capability or skills within the in-house team.

Smart data analytics: a leading driver of change

When we asked in-house leaders to tell us their top three drivers of innovation, a range of factors emerged – see Figure 1. While we may have expected a few factors to dominate the responses, the results show that motivations were quite evenly distributed. Only two motivating factors are cited by more than half of the survey respondents among their top three motivators. This suggests leaders are pursuing their own innovation agenda for their own reasons. They are not simply following the path set down by their peers.

Figure 1: Please rank the following in terms of their importance as drivers of innovation in your part of the legal function – showing top three drivers aggregated.



Source: Allen & Overy and Meridian West Analysis



Utilising data more effectively to drive smarter decision-making emerged as the joint top driver for change, cited by 53% of survey respondents. In-house legal leaders recognise that they are custodians of valuable business intelligence. They want to utilise data contained in contracts and other legal documents, as well as insight collected about the operational performance of the in-house function, to improve their understanding of the business, minimise its risk exposure and improve commercial outcomes and turnaround times.

Among the ‘engaging’ segment in our research – those furthest ahead on their innovation journey – utilising data to drive smarter decision-making is the stand-out driver. This is cited by two-thirds (65%) of this segment. It is followed in second place by a desire to improve the user experience for colleagues across the business, cited by 50%.

Innovation initiatives and new technologies that facilitate greater visibility and sharing of data have become an important focus of effort for in-house legal teams in recent years. The intent demonstrated by the 53% who desire to use data smartly is closely allied to the 37% who want to improve risk management outcomes for the wider business.

Take the example of a large commercial bank that makes thousands of loans to its

corporate customers each year. The legal documents associated with these loans will contain valuable data about customers along with relevant contract terms and commercials. Extracting and analysing this data will help the bank to understand better the profile of its loan book, as well as the operational processes by which it makes lending decisions and documents these in a contract.

With easy access to more relevant data, the legal team can help the business to model its risk and reward appetite, and the potential consequence of making certain lending decisions. It can find correlations in the data between loans that deliver higher returns for lower risk and gain a better understanding of how the presence or absence of certain contractual provisions in the loan documentation increases the bank’s risk exposure.

Our survey points to an increasing role for in-house legal teams not just to respond to the wider needs of the business but to utilise this kind of smart analytics to provide proactive advice and intelligence based on the data and insight within their domain.

This is why the in-house teams in our survey who are furthest ahead in their transformation journey – those we are calling the ‘engaging’ segment – prioritise better data analytics over all other drivers of innovation. They know investment in this area can unlock significant value for the business.

Aligning the legal function more closely with business aims

A third (34%) of the in-house leaders we surveyed say they are motivated to innovate in order to improve the experience of their wider business colleagues when engaging with the legal function.

Leaders want to change the perception of the legal function as a blocker to business transformation and growth. They want to move from being considered a function that is difficult or cumbersome to work with, to a function that helps colleagues to realise their commercial objectives.

In-house leaders are achieving this shift in multiple ways. One is by explicitly linking the innovation strategy and activity of the legal function to the broader strategic aims of the business. This signposts their intention to be accelerators, not blockers, of change. This is reflected in the 14% in our survey who say increasing speed to market is one of the top three drivers of innovation with the legal function.

A second way that this supports the in-house team to move from blocker to enabler is the trend towards greater deployment of self-service tools. In-house legal teams are increasingly developing simple tools that will allow business colleagues to triage their issues and be directed towards appropriate templates or other forms of support with minimal intervention from the legal team itself.

Barriers to change: are internal teams over-stretched?

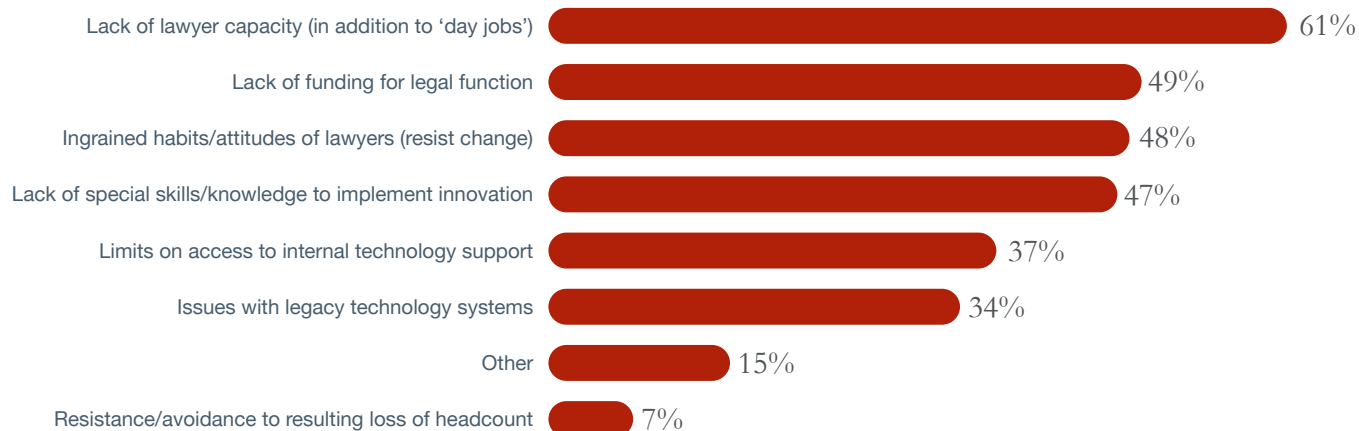
Although in-house leaders express a strong desire for change, this is not always easy to achieve in reality. When asked to identify the three most important barriers that inhibit innovation within the legal function, just under two thirds of respondents (61%) said lack of lawyer capacity was a barrier.

Leaders of in-house legal teams are concerned that their teams are being asked to take on too much innovation or change management responsibility in addition to their day-to-day responsibilities for providing legal advice and support to the business. Our survey respondents paint a picture of a legal function stretched to capacity. Leaders say they are required to juggle effort across two time horizons: immediate business need and long-term functional change.

However, the leaders of legal teams that are most closely engaged with innovation do not share this concern to the same extent. This raises an important question: is the real resourcing challenge for in-house lawyers not a lack of lawyer capacity but a lack of specialist skills to implement innovation, particularly technology and data expertise?



Figure 2: Please rank the following in terms of their importance as barriers to innovation in your part of the legal function – showing top three barriers aggregated.



Source: Allen & Overy and Meridian West Analysis

Figure 2 shows that in addition to lack of lawyer capacity, leaders are also concerned about resistance to change within the legal team (48% identify this among their top three barriers), lack of specialist skills or knowledge within the team to implement innovation projects (47%), and limited technology support from elsewhere in the business (37%).

The most mature legal functions in our research – the ‘engaging’ segment – feel less constrained by these challenges. Only 35% point to ingrained attitudes of

their lawyers and resistance to change, compared with 48% across our survey population as a whole. Less than half (46%) identify lack of lawyer capacity as a challenge. These results suggest this innovative segment feel better equipped to implement their innovation vision and are not held back to the same degree by a culture within the legal function that is suspicious of change.

These multiple and diverse barriers highlight just how difficult change management can be within the legal function while also

managing ongoing operational challenges and addressing rising expectations from business colleagues.

The pressure to be on the front foot in supporting the business in strategy and value-adding activity, not just compliance, adds further pressure. If this tension is not successfully negotiated, in-house leaders are likely to see a widening of the gap between the expectations for innovation and the reality delivered.



Managing cost pressures: balancing efficiency with innovation

While only a third (33%) of survey respondents identified cost-cutting as a primary driver for their innovation efforts, the post-Covid-19 reality may present a very different situation for many in-house legal functions. With many diverse industries facing an immediate financial challenge, businesses will be looking to control costs. The legal function, alongside other support functions and processes, will likely be one area where significant costs savings will be expected to be made.

The lack of funding for innovation initiatives within the legal function was cited as a barrier by nearly half (49%) of survey respondents. That pressure around funding is likely to intensify over the short to medium term as organisations place tighter control over costs.

As a result, in-house leaders will need to be smart about how they deploy their already constrained resources to accelerate change in future. This will require trade-offs between investments in new processes and technologies that will deliver on

innovation outcomes such as improved risk management and data analytics, against a need to find process efficiencies that will eliminate cost and allow business colleagues to self-serve their needs better.

Those in-house leaders who have greater centralised control over their legal budget may find it easier to make the trade-offs required to maintain momentum on their transformation journey, while also achieving tighter cost control. Our survey results show that in just 39% of legal functions today the budget for external legal resource is managed centrally by the legal function. In the remainder of organisations, the budget is devolved to business divisions to manage.

Those who have greater budget control will be more confident in being able to promise a reduction in outlay, such as spend on external law firms, in exchange for protecting resource for innovation projects. This will enable them to run a leaner function in future while remaining responsive to changing business needs.

Accelerating change: challenges or opportunities ahead?

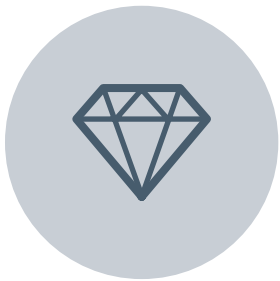
Successful innovators are not deterred by a challenging external environment. While market conditions over the next six to 12 months may intensify the barriers to innovation, the necessity for innovation and change will also increase.

Pressure on resources will require in-house leaders to rethink how their function supports business colleagues and will force greater prioritisation of effort. The need to be agile, increase speed to market and make better sense of data and analytics will not disappear. Instead, they will rise up the agenda for most in-house leaders.

The experience of those in-house functions in our survey which are most active in pursuit of innovation shows that the kind of change desired is possible. A small number have taken significant strides forward already. If the remainder do not seize this opportunity to reassess and rethink their approach to innovation, they may struggle to keep pace with the market.

Drivers and barriers: how to move to your next stage of maturity

Regardless of your starting point, here are three ideas to help your legal function overcome some of the most common barriers to innovation cited by participants in our research:



1: Have a laser-like focus on what is driving you towards innovation.

Our survey shows there are many possible drivers for embracing innovation within the legal function. It is important to clarify the purpose of your innovation activity both within the legal function and to your wider group of business stakeholders. Is there a shared vision and set of drivers around which your team can shape their efforts?



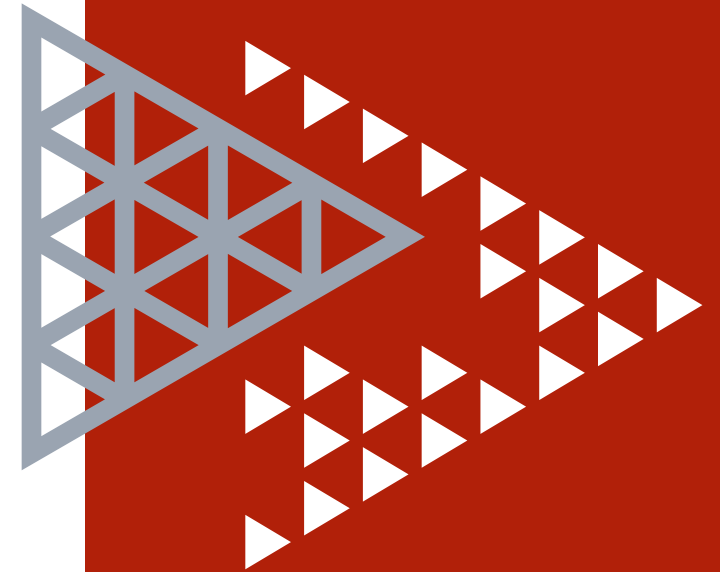
2: Understand how acute the barriers to change within your legal function really are.

Do you understand which cultural, organisational and financial barriers really inhibit your innovation activity? It is important to separate perception from reality. Encourage your team to identify and share their pain points. This can focus minds on the positive changes required to overcome barriers in future.



3: Accept that trade-offs will be required to implement change successfully.

Managing change is difficult, especially in an environment where team capacity is stretched, and budgets are likely to face greater scrutiny. Innovation leaders do not let adverse circumstances derail their efforts. Now is the time to make carefully considered decisions and trade-offs in order to direct funding towards the projects and activities that will deliver results in your desired areas of focus.



Our next paper, *Articulating the innovation vision: how leaders harness new ideas within the legal function*, explores how in-house leaders are clarifying their innovation strategy and vision to provide a clearer purpose to their innovation efforts. It will be available to download on **3 November 2020**. You can read it [here](#).

A&O services



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A&O supports in-house legal functions across the lifecycle of transformation projects:

- Initial advisory support including best practice frameworks for current state assessment
- New model design
- New model change management and implementation including measurement through balanced scorecards/KPIs
- Technology maturity assessments

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Methodology

The insights in the series of papers that makes up **The Allen & Overy Legal Innovation Benchmarking Report** were developed through in-depth benchmarking surveys completed by 92 senior leaders of in-house functions. Respondents held senior legal or operational roles (e.g. General Counsel, Head of Legal Operations) within their respective organisations. Organisations spanned 18 different countries globally. 60% of those surveyed came from organisations with a global annual turnover of more than USD5 billion. Participants represent a broad cross-section of industry sectors, with 81% identifying themselves as belonging to a highly regulated sector.

Please note that due to rounding, percentages in some charts may not always appear to add up to 100%

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