Checklist for Auditing In-House Legal Departments

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Occasionally, certain corporations might find it necessary to audit their in-house legal departments- whether due to a catastrophic failure of contractual safeguards forcing liability on an unprecedented scale upon the company, thus requiring a massive witch hunt in the legal department; a scheduled annual internal audit/human resources exercise; or the organizations simply feel that although their legal departments have performed well, there should be regular reviews to identify any areas for improvement as well as to continuously strive to upgrade the service and performance provided by their team of in-house lawyers.

We present to you the following checklist for conducting an audit of your in-house legal department, based on our experience in the field.

The audit exercise is divided into the following three parts:

1) The Terms of Reference
2) Methodology, and
3) The Report

1) Terms of Reference

a) What is the scope of work of the legal audit exercise?
   i) Does it involve looking at legal issues only, or does it include non-legal issues?
   ii) Do you consider operational issues as well?

b) You should look at the following matters:
   i) The appointment of external counsel
   ii) The Legal Department’s Standard Operating Procedures
   iii) Security of Documents
   iv) Cost Control (how well does the legal Department manage its budget)
   v) “K.I.V.” System- how does the Legal Department oversee and manage the contracts it is assigned to complete, and monitoring contracts during their life (not applicable if there is a separate contracts management department)
   vi) Document Management System
   vii) Awareness on Legal & Regulatory Risks
   viii) Safekeeping practices of the Legal Department
   ix) Legal Programs conducted for other departments
   x) Contract Approval Process
   xi) Communication Process
      - with external counsel/other parties
      - within the Legal Department
      - with User departments
   xii) Departmental Meetings
   xiii) The Legal Department’s Document Retention Policy
2) **Methodology**

So, now that we know what we’ll be looking at, how do we go about conducting the audit?

First, we look at both the Company’s to determine where the Legal Department is vis-à-vis the User departments, and the Legal Department’s organizational chart.

a) Then we conduct a file sampling of the files handled by the Legal Department.
   i) To see how the Legal Department manages its files
   ii) To assess the quality of the work rendered (whether of the in-house counsel, or external counsel)
   iii) To assess Legal Department’s turnaround time

**REMEMBER**
When you get any documents from the Legal Department, make a note of:
- WHO you get it from
- HOW many pages you received
- WHEN you received/returned it
- WHAT the document is all about

b) Interview Legal Department personnel to determine:
   i) Legal Department personnel’s scope of work
      - Motivational levels
      - Job flow

**REMEMBER**
- DO interview the non-legal/non-executive personnel as well
- DO conduct the interview from the bottom up (don’t start at the top, build up a picture of how the Legal Department operates first from the interviews of the working-level personnel)

c) Conduct a survey, by distributing questionnaires (interviews are optional), with the other User departments to determine the following:
   i) Level of quality of service rendered by the Legal Department
   ii) Proactivity of the Legal Department
   iii) Level of involvement of the Legal Department in the business
   iv) non-legal skills
   v) communications skills
   vi) turnaround time
   vii) contribution
   viii) How the Legal Department handles confidential matters/protects the Company’s secrets
   ix) quality of work rendered by the Legal Department
   x) Skill levels of Legal Department personnel
   xi) Legal Awareness
   xii) Lawyers’ experience
   xiv) Importance to the organization
3. The Report

In writing the report, please determine before you even begin the audit exercise whether your report is CO-sourced, or OUT-sourced. This is very important in terms of how much independence you, the external legal auditor, have in preparing the report. Find out how much the organization can change or make you change, your opinion in preparing the report.

Also, find out whether the report is to be prepared in a certain format- certain internal audit divisions must comply with the COSO (Committee of Sponsoring Organisations of the Treadway Committee) Guidelines for internal Audit, which have been widely adopted by corporate internal audit divisions across the world.

Be prepared for a lot of resistance from the targeted Legal Department, who will almost always see the audit as a fault-finding exercise. Always remember, you're not necessarily looking for faults, but if you do find them, or incidences of non-compliance with the organisation's SOPs or even basic legal/contractual norms, NOTE DOWN THE EXACT DETAILS - this makes it easier to justify your conclusions, no matter how unpopular they may be.

Good luck!