

Need some direction?

A guide to choosing
a law panel

October 2008



An exploration in selecting a law firm panel

Every week, sometimes several times a week, CMS offices across Europe resound to the flurry of activity of a panel review or a client setting up a panel for the first time.

Of course many clients still rely on a “horses for courses” approach or long established personal relationships, but selecting a panel is a trend that undoubtedly has increased in recent years. The fact that it is a trend however, doesn’t mean it’s a straightforward or trouble-free path to tread.

A bit like a major expedition, the objective may be relatively easy to describe, but success will depend on many factors; like the right amount of planning, having the right team with the right experience, giving yourself enough time in sometimes hostile conditions and having a good enough sense of direction.

It got us wondering whether there was any guidance out there, a map and compass for in-house lawyers setting out on the panel trail? And we discovered that there was very little.

We then surveyed a significant number of our clients about their plans and processes for outsourcing legal work and we asked the question “would you find such a guide helpful?” and 90% of them said they would...

...so we got to work and here it is.

The guide is divided into five chapters

Chapter one discusses whether panels are becoming obligatory

Chapter two outlines some panel preliminaries

Chapter three looks at the need for communication throughout the process

Chapter four examines the tender document

Chapter five deals with the short-listing and pitch presentation

It’s a guide, not an instruction manual and we are very well aware that one size won’t fit all, but it does reflect our experience sitting “across the table” for a diverse range of businesses across Europe. We hope that there are useful insights, practical tips and good ideas for you to consider and use as you embark on your own expedition...bon voyage!

Richard Price

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“Of all the firms in all the world...”

Chapter one: Are panels becoming obligatory?

The answer to the question is emphatically “no”, but there are many reasons why an in-house law department might consider setting up a panel of law firms to tackle most (if not all) of the legal work that is not directly handled by the in-house team.

The four most common reasons to set up a panel

1. Relationship

To develop a long-term relationship with a law firm (or a small number of law firms) who know how you operate and know your business too.

2. Best fees

To trade predictable volume of work (or at least a significant share of volume) for better fee deals and thus keep your own staffing to a minimum.

3. Transparency

Where the business demands an open and transparent process of allocating work to external providers (especially if the procurement function in the business is involved).

4. Value-added

To obtain value-added benefits as part of the panel relationship. While such things like training and secondees can also be part of arrangements where there is no panel, it is clear that one of the main drivers for having a panel is to institutionalise the value-added regime (See Appendix 2).

But whatever the reasons for wanting a panel, it's not a panacea and a law firm panel will not mean relationship management is automatically any easier.

The key to any successful relationship will always be the quality of the engagement (both formal and informal) and this requires a level of commitment and trust on both sides whether or not there is a panel.

So, while the infrastructure provided by some panel arrangements might aid the establishment of trust and confidence in the relationship, it does not guarantee it. Panels need continuous care and management to get the best for all concerned.

Even so, there is at least good anecdotal evidence to suggest that panels are becoming more the norm, even when volumes of activity are unpredictable.

In our survey:

55% of respondents did not have a formal process for selecting law firms to work with...and 58% of respondents were contemplating a panel review in the next twelve months





If you are contemplating setting up a panel what are the factors that might indicate when a formal panel might be best for you?

There are many reasons, but if you answer “yes” to most of the following ten questions, we think that you should at least consider setting up a panel.

These questions tend to indicate whether the formality, certainty and familiarity of relationships with law firms (as intangible benefits) can be allied to cost control, value-add, better management information etc (as tangible benefits).

If your answers are predominantly in the “yes” column, it suggests that you will value the intangible as well as the tangible benefits described and therefore a panel may be right for you.

1. Do you have predictable volumes of activity in discernable areas of legal specialism?	Yes	No
2. Do you tend to return to certain firms for certain types of work?	Yes	No
3. Do you use more than one team within the same law firm and expect the firm to be joined-up and co-ordinated so that you are not reliant on a series of individual relationships within the law firm?	Yes	No
4. Are you under increasing pressure to demonstrate both cost control and value for money?	Yes	No
5. Is there a Purchasing or Procurement function within your business that has evaluation criteria for most other external purchases?	Yes	No
6. Would you like to create more certainty in the so called “value-add” you receive for the work outsourced?	Yes	No
7. Would you like to manage fewer law firm relationships?	Yes	No
8. Would the firms you currently use offer you better value for money if they were tied into more exclusive arrangements or there was more competitive pressure?	Yes	No
9. Do you need to assert discipline across your business in the use of law firms?	Yes	No
10. Have you struggled to get consistent management information from different law firms to enable you to compare performance?	Yes	No

“

A panel can provide consistency of advice and a close understanding of our business from a small number of trusted advisors. This close relationship means we have, in effect, another pair of eyes and ears - they are aware of forthcoming changes and so they can alert us early on.”

David Di Francesco, Director of Legal, Henderson Group plc.



What are the strengths, weaknesses, opportunities and threats involved in having a panel?

Strengths

- Certainty of who to use aiding internal communication and decision-making
- Transparency of activity to outsource
- Transparency of fees
- An “internal market” for firms to compete for work once on the panel
- Encourages law firm investment in value-add.

Weaknesses

- Potentially limits choice
- Potentially misses an opportunity to go to particular known experts
- Internal conflicts
- Takes away the discretionary application of judgement to make a different type of decision
- Rarely involves going to the Bar directly which might be even better value for money.

Opportunities

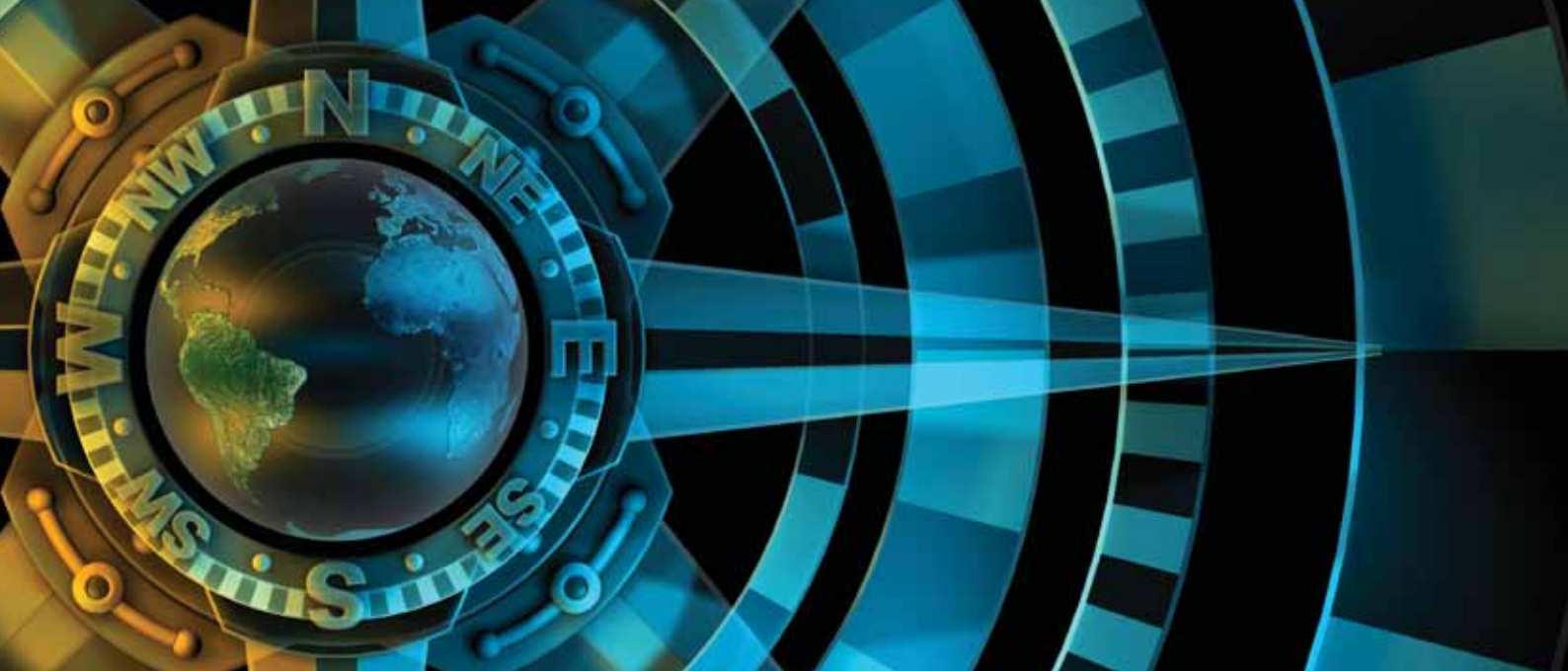
- Drives competition and therefore value
- Builds trust as relationships are for the long term
- Encourages more value billing which is more likely in a long term relationship
- Creates a framework to develop best practice and monitor trends
- Potentially assists knowledge management.

Threats

- Rigidity of the panel potentially stifles innovation
- Creates a level of bureaucracy that does not drive efficiency
- Gives too much power to too few law firms
- Might encourage a level of complacency.

Panels have weaknesses as well as strengths and the issue is complicated further by the fact that panels do not fit a standard template and there are many variations on the theme:

- **Multiple panels** – for different legal disciplines (e.g. property work that goes to a property panel, employment work that goes to an employment panel etc)
- **A single panel** – for all work and where performance by individual law firms drives the amount of activity that goes to each firm
- **The “internal market” approach** – where winning a place on the panel only means that law firms can compete for specific projects
- **The non-exclusive panel** – where some work is carved out as always to be allocated at the discretion of the General Counsel, on or off panel
- **The single firm per country panel** – pioneered by Du Pont a decade ago
- **The single firm panel** (extreme and unusual) but there are high profile instances of clients giving all their outsourced work to a single firm (e.g. Tyco) and slightly less extreme but still innovative, giving all work in a particular category to a single firm (e.g. Linde Group and Severn Trent plc).



However, despite the pros and cons and the complexity, it's clearly the case that panels are increasingly the way that a great many in-house teams choose to outsource work. And even more than that, we also think there are now at least three significant trends emerging in the rationale for panels:

Trends in panel rationale

1. Value

Clients are becoming more demanding of their law firms to show both value and value-added. This in turn is encouraging performance indicators that are real and it's driving more pricing innovation.

2. CSR policies and diversity

There is an increasing emphasis on strong CSR policies (including pro bono work) tying in with your own core values and demonstrating the firm's commitment to diversity.

3. Consolidation

Panels are tending to be smaller, perhaps reflecting the reduced opportunity for in-house lawyers to engage successfully across multiple relationships. However, the effect of this is to push more work to fewer firms and for in-house teams to manage that activity more tightly.

In this guide from this point on we make the assumption that you are moving towards creating a panel or that you want to refresh an existing panel.

We begin by taking a look at some preliminary issues and activities and then progress through different aspects of the process through to post-completion.

We hope you find it useful on your expedition.

Chapter two: Panel preliminaries

Any panel process should follow good project management disciplines and for the sake of the sanity of all concerned, avoid the exercise becoming too cumbersome or unwieldy. In this chapter we highlight two key preliminary steps and then we tackle some of the important questions arising as a result.

Before this, however, consider the overall timeframe for the work you are about to embark upon. Be realistic about what you can do and try to keep momentum and energy in the activity; this is not an exercise that can easily be picked up and put down or allowed to drift.

TOP TIPS

Allow enough time. Typically, from beginning to end, a well managed process that is not over-engineered will take a minimum of four months and perhaps as much as nine months to complete.

Suggested timeline	weeks
Canvass internal stakeholder support and develop communications strategy	2
Prepare and agree the Invitation to Tender (ITT), sometimes called a Request for Information (RFI)	2
Devise and agree evaluation criteria	2
Prepare and agree your long-list	2
Distribute ITT/RFI and allow for preliminary Q&A	4
Review ITT/RFI responses	3
Obtain internal stakeholder support /feedback	1
Prepare your short-list	1
Communicate with winners and losers	1
Set up interviews	2
Review pitch performance	1
Obtain stakeholder support	1
Make decisions	1
Communicate with winners and losers	1

Finish (in this example) 24 weeks later...

And then you can think about implementation!



Now let's consider two key preliminary steps

Step one – Establish the long-list of law firms

This sounds easy, and clearly it might be so, but it is also an opportunity to consider which firms you might use from a much wider pool than you have used before. We think long-lists are typically compiled in three ways:

Experience

From your own experience of who you have worked with before or who has opposed you before.

Network

Networking with other in-house lawyers – an excellent way to informally judge the strengths and weakness of law firms from the comments and experiences of friends and colleagues.

Directories

Inevitably the directories have a contribution to make, but always try to validate the claims made.

TOP TIPS

For those firms you have not used before, ask them to provide client referees at this very early stage...a brief chat with a client will often help you decide whether to include the firm or not and will save everyone involved a lot of effort if they are not right for you.

How many firms should be on your long-list?

Consider this rule of thumb – Your long-list should be twice the number of law firms you eventually expect to appoint to your panel; and your short list should be only about 25% bigger than the number of firms you expect to appoint to your panel.

For example:

Long-list	Short-list	Appoint
6	4	3
12	8	6
24	16	12

“

I sat down with my colleagues and we thought back to the firms that had impressed us, and those who hadn't, in the tendering process last time. We also thought about firms we had a relationship with and those who had been knocking on our door all the time. We kept things fairly small with a list of 15.”

General Counsel for Europe, Food and Beverage Company

Step two – Start early the process of engagement internally and externally

Some of the following points are dealt with in more detail later in this guide, but a typical process is as follows:

Prepare the ITT/RFI. This is the formal questionnaire law firms complete leading to the pitch/presentation interview if they make it through

Before you send out the ITT/RFI ensure your objectives have the support of key stakeholders in the business (i.e. those who may use the law firms directly, executive/board colleagues who may already have favoured relationships, and your colleagues in the legal team). It's always hard to impose a panel on reluctant users and a panel that is not working as intended, is very damaging to relationships internally and externally

Make sure your reasons for setting up a panel are understood internally, are supported and that your objectives are realisable. This will be an exercise where you have to manage perception as cleverly as you manage reality

Allow a period before the ITT/RFI must be returned for law firms to make enquiries of the in-house legal team and to find out more of the background. (This is not always offered especially if in-house teams want to maintain some distance, but we think it helpful especially when the law firm concerned doesn't know the client very well)

Issue the ITT/RFI with clear instructions on how it should be completed (see later and the draft in the Appendix). Ensure there is enough time to complete the document well, but not so much time that you lose momentum in the process

As you draft the ITT/RFI ensure you have a very clear idea of how to evaluate the replies. Prepare your evaluation criteria well in advance - in fact, the earlier the better

TOP TIPS

Have a policy of sharing information elicited from a particular enquiry with all firms in the process. It encourages transparency and avoids spending time answering the same questions more than once.

However, limit the time period for questions to keep the process tight and on track.



There are some other big questions at this preliminary stage.

Know how many law firms should ideally make up your panel

No rules, but an observational guide – it seems to us that a typical in-house lawyer with some staff management responsibilities, some legal advisory responsibilities and the full spectrum of day-to-day interaction in their business will only have time to manage four, five or at best six key law firm relationships. Panels of many more law firms are often the least rewarding for all concerned.

Indeed the clear trend we see is for smaller panels.

Know how much work is up for grabs. Be confident of your data

A key driver for setting up a panel is to gain more control over spending, but some teams have less understanding of what they spend than others. Therefore check your data thoroughly.

Law firms will inevitably want to know how much work is to be outsourced, so it is important that your numbers are solid and reliable.

TOP TIPS

Know what you spend, what you spend it on and what the spending trends are likely to be.

Even if you decide that you will only partially share this information, it is essential that you have robust data to demonstrate to your business that you can manage external spend according to good governance principles and for commercial value.

Should you invite assistance from outside the legal team to help with the process?

- Many law firms go through a formal panel process every month – ask your most trusted advisors to share their views on best practice. They are bound to have seen the good, the bad and the ugly...no need to invent your own wheel entirely!
- There are now a small number of external consultants who specialise in this field and who can ease the significant administrative burden – ask your law firms if they would recommend any, or make enquiries through your networks.
- Many companies have a Purchasing/Procurement team; it's often a good idea to involve them in your planning and in creating objective evaluation criteria (see Appendix 3), but make sure the legal team is at the heart of the process, directing and leading the project.

Know what you are trying to achieve

Before you embark on the exercise make sure you are clear about your objectives. This is not a facetious point. Having a panel should not be an objective in itself – what is driving the exercise for you:

- Efficiency?
- Cost control?
- Quality control?
- Cost reduction? (both overall costs and rate reductions)
- Value-added?
- Seeking a long-term partnership?

“

The tender was procurement-driven with the aim of increasing our leverage over a smaller number of legal firms, thereby achieving scale economies in both quality of service and cost.”

Procurement Officer, Financial Services Company

It helps enormously to have an agreed statement of the key high-level objectives – a one-pager you can use both internally and externally to help people understand the rationale.

It will also be useful in the communications strategy generally – which is the subject of the next chapter of this guide.

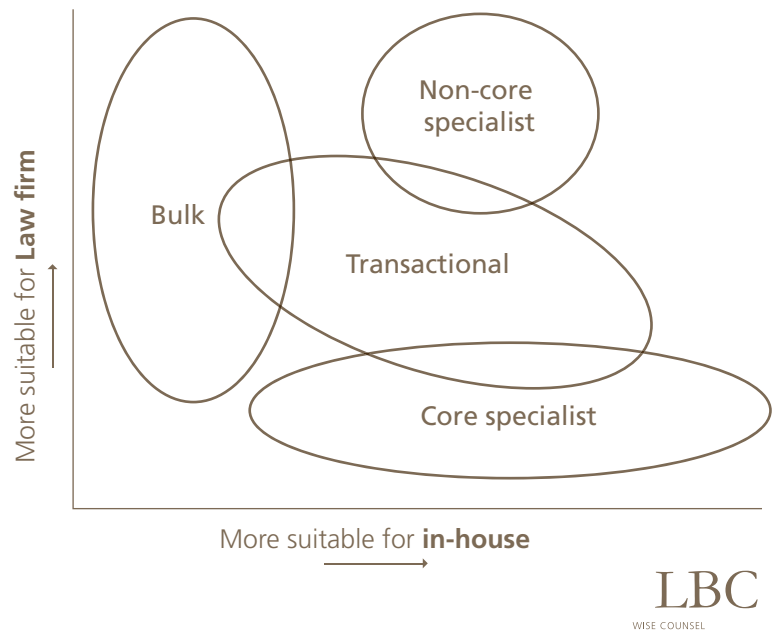
Often the dilemma is whether to outsource speciality work or routine transactional work. The answer will depend on the size and capability of your legal team, the variety of specialist work required and the volume of routine work. Some companies have chosen to build a team of specialists in-house and only outsource lower value work and bulk activity, whilst others have chosen the opposite strategy. Each approach has its pros and cons.

TOP TIPS

Before you embark on the exercise, write a 250 word statement setting out your most important objectives and include a description of what will characterise the strengths of the relationships you seek; what are the client-side responsibilities as you see them and law firm expectations as you perceive them. Use this document to validate your decisions along the way and make sure it figures in your evaluation criteria as well.

Consider the diagram below; it very simply suggests why some work might be more suitable for outsourcing, while other types of work might be best kept in-house.

When communicating your plans to colleagues and the rationale for them, it is this type of diagram that will aid understanding much more than any number of fine words:



In the next chapter we continue this theme and consider the crucial issue of communication.

Chapter three: Communication – keeping friends and momentum

This is such an important element of any good project process. And it's especially important in panel selection.

What are the various interests in play? Who are the blockers, the passive resisters? Who needs to be convinced? How do you sell the proposition to colleagues who use law firms that will be reviewed, perhaps dropped? What does success look like and how will you report your success?

Consider, for example, the communication implications for the following interest groups:

- **Executive colleagues/Board members.** This group may have direct relationships with law firms. Are these off limits or to be included? What is the rationale for including them? Are there political sensitivities?
- **Law department colleagues.** Our colleagues are often used to working in certain ways with certain firms. The whole team needs to support the process and it should not be conditional support (i.e. agreeing, provided "their firms" are retained)
- **Colleagues in the business.** This group tends to just want a great service that is reliable and value for money and they may be concerned that the exercise will be disruptive. Any panel exercise risks being challenged on the "if it ain't broke..." theory of why bother
- **Law firms.** The firms that are currently being used should be kept up to date regularly because they have feelings too!
- **Law firms not being used.** Some firms not being used will still have a reasonable expectation of being

contacted once your process is underway. The last thing you need is to be deluged with well intentioned but time-consuming requests to meet lots of law firms. Be clear and be polite

- **The legal press.** You may not want any public comment, but if the story gets out, what will you say? Sometimes "no comment" will suffice, but we have all seen stories where even these two words are construed ambiguously. Be prepared to explain why you are setting up a panel if it's a new approach.

TOP TIPS

Before you embark on the process, write a detailed communication plan.

Include the "why" the "how" and the "so what"; consider your different decision points, your stakeholders, their interests and their information needs.

In detail, your communication plan should address the following issues:

- **Who is to be told what?**
Identify your stakeholders and their decision points. Leave enough time in the process to engage properly and to provide the required information in the way it's needed
- **At what stages in the process do you need to communicate?**
Manage expectations and don't over-promise. Projects are rarely slowed down because there was too much thought given to communication!



“The greatest problem in communication is the illusion that it has been accomplished.”

George Bernard Shaw

- **When and how will you communicate?**

Thoughtfulness here can give a project a sense of purpose and progress and will help convince agnostics that you really are doing something interesting and useful

- **Keep the channels of communication open with all your law firms as much as you can**

There's nothing quite so disconcerting for them to be asked to engage in a flurry of high intensity activity when completing the ITT/RFI, only then to hear nothing for weeks afterwards.

The communications strategy is a crucial piece of the jigsaw – it needs to be detailed and sit alongside the project, always at the forefront of your thinking.

As you progress through your process, we think three things should be uppermost in your mind so that you stay on track and true to the goals you have set:

- Remind yourself regularly why it is that you are doing this in the first place (See our earlier note on the 250 word statement)
- How do you want to report progress (internally and externally) and how will you keep all your stakeholders in the loop?
- How will you weight your evaluation criteria so that the decisions you make are not just right for your business, but also the right decisions for you, your team and the law firms selected (and not selected); and how will those decisions also be perceived by your stakeholders?

Four common communication mistakes

1. Flaky data

Which means the work promised is not there in sufficient quantity or variety to drive the bargains sought. The answer is to do your own due diligence before you go to market, be confident of your position and you will undoubtedly drive the best and most appropriate deal that you want.

2. Over-engineered process

Too many participants, too many variables, too much complexity all causing delay and frustration. Be clear at the outset, do your groundwork and know the direction you want to take.

3. Evaluation criteria that do not drive the outcome

In other words, it isn't obvious what you want to gain from the process or how your ultimate decisions will be made. No one likes to have their time wasted; communication is at the heart of this issue.

4. Looking disconnected from the broader objectives that are driving your business

You are promoting something your business does not want or think it needs. This is bound to set up resistance within the business for your plans. You must always engage and stay engaged with your colleagues.

Chapter four:

The ITT/RFI

In our survey:

55% of respondents said that preparing the ITT/RFI was one of the two most difficult parts of the process for them.

What does the ITT/RFI need to do?

- **Allow law firms to give you the best information they can**

The ITT/RFI should lead their answers, but allow scope for individuality. Remember the whole point of the process is to allow you to find points of differentiation between firms. Asking banal, predictable questions will probably give you banal and predictable answers. Law firms want a chance to shine and to stand out from the crowd.

- **Not be too long**

You have to read every reply and analysing each reply, if done thoroughly, will take a lot of time. Think of the law firm too; some information requests are so long and so complicated that they can take tens of thousands of pounds worth of time to complete properly. Some firms might even decline to be considered on grounds of cost because of the complexity. Simple and focused is a good motto to adopt.

- **Easily allow comparison**

Ensure you can read across from one document to another; this is very important for scoring, ranking and evaluation generally. If the way you structure the document means you get reams of narrative to read, it will feel more like marking "A level" English Literature papers than making choices about law firms. In addition, as law firms should always be asking for feedback,

whether they win or lose, you should be collating the data in such a way that the reasons behind your decisions can be communicated to them easily and transparently.

- **Point to the type of relationship you want**

This is crucial - in the end you will probably not struggle to find law firms that can do the technical stuff well, but not all firms will be a perfect fit for you in terms of their culture and their ability to relate to you and your colleagues. Your document should be an editorial commentary on what you want to achieve, this will be reflective of your evaluation criteria as well. Again this ties back in with your 250 word statement referred to earlier.

TOP TIPS

Use the ITT/RFI to paint your vision – this is your chance to be creative and to make an impact on your business, your team and the law firms you engage.

In many ways this represents a fresh start and chance to create the service and relationships you most want/need.

- **Help you assess responses objectively**

Evaluation criteria and your ITT/RFI are part of the same project. You can help law firms complete the document well by indicating the issues that matter most to you. Encourage quality of response by being open to their questions and, above all, be consistent so that at the end of it all law firms can see for themselves that the process was fair, transparent and that good decisions have been made whether they are selected or not.



While the ITT/RFI is not the document that determines the winners, it can indicate the losers.

It should be treated accordingly with care, transparency and thoughtfulness, because big consequences can follow when firms lose out.

There isn't one type of ITT/RFI suitable for all needs, but a sample RFI, one we have seen before, is included in Appendix 1. We hope it is a useful comparator to anything you prepare for yourself.

In the next chapter we look at short-listing and the pitch presentation itself.

Four common mistakes law firms often make

1. Not answering the questions

The commonest and most easily rectified error, but too often firms will fudge an issue or simply ignore it.

2. Copying swathes from their websites or marketing literature

It's hardly ever a differentiator and serves only to clog up valuable computer memory. Too many facts and features – no real benefits.

3. Treating the process as an opportunity to assert many strengths

...but not giving any detail to back up their claims.

4. Overselling themselves

...without properly articulating any weaknesses or gaps.



Chapter five: Short-listing and the pitch presentation

What evaluation criteria will you use to shortlist?

The criteria for short-listing must obviously and emphatically drive the type of relationship you want. Perhaps most importantly your criteria should try to identify points of differentiation between the law firms.

TOP TIPS

On this point of differentiation, your work will be made easier by the quality and effectiveness of your questions. Compare, for example, the effectiveness of these two questions:

“Please describe the qualities you would bring to a relationship with us?”

And

“Please provide three examples where you consider you have excellent relationships with clients and the qualities that characterise those relationships?”

Both questions are similar, but the first question will elicit a series of well intentioned platitudes that will make it hard to differentiate one answer from another, while the second question will give you specific and quite detailed “real” examples to consider.

If you want to make “the quality of the relationship” a key evaluation indicator, you can see that the quality of the questions you ask will give you much more insight to help you make better decisions (And this applies equally to both the ITT/RFI as it does to the pitch interview).

In the best processes, the evaluation criteria are reasonably clear; however, some processes are significantly over-engineered. Some ITT’s/RFI’s resemble long questionnaires with dozens of questions that all appear to have equal weighting. That cannot be right; it doesn’t help the law firm (who will struggle to know how much detail to give and where to place emphasis) and it probably doesn’t help the in-house team either (who will receive similar answers from all concerned).

We think that perhaps up to six different criteria are plenty, allowing each criterion to be explored thoughtfully and in some detail.

Take one example (see facing page) of “Technical Expertise and Risk” as an indicator for evaluation. In the table this criterion is described first as a definition, then as indicators.

One gets a clear sense in this case of a team that has thoroughly considered what it values, why and how.

The supporting evidence (i.e. the way the question is answered) will then help you assess responses much more easily and allow scoring to be more reliable and consistent.



Evaluation criteria	Definition	Indicators
<p>Technical Expertise and Risk</p>	<p>To know the law and apply it to our needs - Identifying and balancing risk against business objectives</p>	<ol style="list-style-type: none"> 1. Successful track record (specialism and market place) - references and awards 2. They know what questions to ask 3. Precision - not really looking for 'chapter and verse' 4. Practical advice with consequences (reasoning) 5. Make judgments and offer options - make the right recommendations 6. Balanced approach to risk 7. Experts in different jurisdictions 8. Brand power of firm 9. Knowledge, skills and abilities - skill set

This aspect of the process seems to be one of the hardest.

In our survey nearly 43% of our respondents said this was one of the two most difficult aspects of the whole activity. We have, therefore, included some more evaluation criteria in Appendix 3, but in the end this is an area where there are no real shortcuts; you must invest the time to define the issues that matter most for you if the result of the exercise is to deliver what you want.

For the firms that are short-listed you must now ensure you prepare in detail for the interview. (And don't forget to explain properly to those law firms not selected why they are not on the short-list.)

As with the preparation of the ITT/RFI, make sure you give enough thought to define the points you want to hear in the interview and any points that you believe will count against firms.

Three golden rules to follow

- 1. Be clear and consistent throughout the process**
 Link the rationale for having a panel in the first place to the communication strategy internally and externally, ensure the ITT/RFI follows this lead and link the ITT/RFI to your evaluation criteria.
- 2. Criteria can be subjective as well as objective**
 The quality of a relationship is very hard to describe by numbers. While there should be transparency and good governance around decision-making, let there also be room for your judgement.
- 3. Do not over engineer your approach**
 Complexity rarely adds much except delay, additional costs and lots of frustration. Less can be more.



There are many things that can undermine the usefulness of the so-called pitch interview, but this is now high stakes activity and must be well managed to be fair to all concerned.

Some pitfalls to avoid:

- **Not allowing enough time for the presentation and the Q&A's**

The choreography of the interview is yours to manage. Chair each session well by controlling the agenda and managing expectations before and during the meeting. Ensure you have enough time for questions by requesting they follow the 40/60 rule and allow 60% of the time for the Q&As. At the same time don't let the meeting meander

- **Scheduling too many interviews on the same day (you must manage your fatigue)**

This can be a gruelling time, but it is also the time when most care is needed to ensure the right decisions are taken. Two or three interviews in one day is plenty; any more and the law firms are likely to have a less receptive interview and you are likely to be tired. Allow time to assess each firm after they finish

- **Evaluation criteria that do not appear to be driving the outcome**

This is a theme throughout, but it is stressed again here. While an animated conversation ranging across many points may be engaging and interesting, if you move too far away from your evaluation criteria, you will struggle to make comparisons and therefore to find points of differentiation

- **Allowing the law firm to leave the room with unanswered questions in your mind**

For a law firm there is nothing quite so deflating as getting back to the office after a thorough examination of the firm's credentials, to be met with a message that the in-house team have one or two more questions to ask. At worst, it tends to undermine the process; at best it causes delay.

TOP TIPS

Don't freewheel in the presentation or allow the law firm to establish the agenda.

It is crucial to have a structure that allows for comparison and the transparent evaluation of the selection criteria.

“

The convergence exercise of a panel process is important because it can deliver synergies and a real sense of partnering, if managed properly. Lots of factors go into the panel decision mix - for me a factor which is very important but doesn't get much air time is the General Counsel reference. I think law firms underestimate how often GCs pick up the phone to peers and ask for their opinion.”

Deepak Malhotra, Senior Vice President & General Counsel, Constellation Europe

If these are the common pitfalls, what are the things that make a successful pitch interview?

We think there are six characteristics evident in a well-run pitch interview.

Six things that if evident and done well inspire confidence in the decision-making process and which allow even the losing law firms to walk away feeling that good decisions will have been made.

1. Ensure a demonstrably joined-up process

Be consistent with what has gone before.

2. Do not waste anyone's time

Set the right tone, extend maximum professional courtesy throughout.

3. This is not a time for emotion or “clever” point scoring

It isn't a hostile environment. Explore strengths and weaknesses, but be open to exploring your own strengths and weaknesses too.

4. Evaluation criteria must drive the outcomes

Governance and transparency are key to credibility.

5. Ensure you have structured interviews

With pre-determined questions and open Q&A's to encourage the points of differentiation you need.

This requires a great deal of preparation time, don't “wing” it.

6. Always be prepared to give good, constructive feedback

Preferably as soon after the interview as possible.

It's now getting close to decision time.

At the end of all your interviews you will have some hard decisions to make.

If your communications strategy is effective, your colleagues in the business and in the legal team will be on side.

If your process has been transparent, well managed and fair, the law firms will be comfortable with the decisions too.

Have you found enough points of differentiation?

You will have done if your evaluation criteria are well framed and if you have explored these thoughtfully in the interviews.

Will there be areas of grey?

Almost certainly, but your judgment was always going to be a factor unless you just wanted a reverse online auction (and this guide was never about anything as clunky and sterile as that).



Some final thoughts as you weigh up which firms to select and which firms to reject.

Cost

Allow cost to be a factor, but don't be driven by cost, look for value, look behind the headlines and explore thoroughly, even with the same charging models, firms operate differently.

Value-add

Value-add needs to be real and important, not a wish list. If you want a hosted extranet, by all means ask for it, but know why you want it, how you will use it and how it enhances the operational effectiveness of the in-house team and the relationship with the law firm.

Plan for implementation

Because even at this early stage...the pitch interview is only the end of the beginning, no more than that.

Success criteria

Ensure you have success criteria for the ongoing relationship that are verifiable. Your implementation project begins now.

Encourage data sharing

Management information is crucial – simple and useful, but disciplined and well used. After all this process, don't rely on "gut feel" to make it work.

Encourage best practice

The collective brainpower has to be harnessed to maximise the potential of your panel.

Look for early wins to establish momentum

...because at this stage, everyone is looking!

TOP TIPS

Create a first 100 days plan for implementation with the law firms selected.

Identify quick wins, induction issues, communication planning etc.

“Not ‘yes men’ it's all about fit. Can we work with these people?”

UK GC, International Electronics Conglomerate



Postscript: Post pitch, a practical guide to the first 100 days...

First 100 days

Meet as a team

Go offsite if you can, develop a sense of cohesiveness as soon as you can; facilitate internal introductions and induct well.

Prepare a proper induction programme

Explain your business strategy, competitive pressures, your product/service range, industry trends and the role and position of your legal team within the firm.

Consider pitfalls, what might derail us

Now is the best time to plan for what happens if all does not run smoothly.

Define the communications strategy

The best thing you can do is to look joined-up – that needs planning and positioning. Determine what, if anything, will be communicated externally and by whom.

Develop your Management Information requirements

Don't leave this for another day – do it as soon as possible so you can report your successes with confidence and better manage what is revealed to be the less effective.

Share performance indicators

Review performance regularly and encourage contact. The best panels work together as an extended team.

And finally, embrace these great new relationships!

Another journey?

You have arrived, handled the journey and all it could throw at you, but your destination is not the end of the story. Now you have to make your new panel work. After the pitch and after you have made your selections, you will need a practical guide to the first 100 days.

There is so much to consider and so much to get right, especially if you have chosen law firms that are new to you and your business. It's now time to work in partnership with your panel firms and develop long-term relationships.

We hope you have found this guide useful on your journey so far.

“It's crucial to understand our business...The external can be a window on the wider world but they have to relate that to our policies and what we want.”

UK Head of Legal, Utilities Company

Appendix 1

A Draft Request for Information (RFI)

XXXX Co - Law Firm Review Request for Information (RFI) Document:

"A review of our arrangements with you for legal services"

Introduction

The in-house legal services team at XXXX Co is currently engaged in a major integration/value review. The time is now right therefore to gather information about XXXX Co's relationships with law firms.

We would be very grateful if you would please complete this document so that in a structured way we can gather a comprehensive picture of the way law firms are engaged and to assess the effectiveness of those relationships currently in place.

This is part of an exercise that will determine which firms will be used in future. The timelines are very pressing. Our commitment to you therefore is that we will not waste your time and we will be open and transparent on all issues – your commitment to us must be to engage fully and immediately in this process. This document is the first stage in the evaluation exercise and is therefore referred to as the Request for Information (RFI); in it you are referred to as the "legal partner".

What you need to do

Please complete the questions asked in this document and return to (name).

Please provide a nominated person to act as the primary contact for liaison with us and for the purpose of any follow up queries we may have.

Timescales

The information we seek should be provided by email/hard copy by 5pm on dd/mm/yy. If this date causes you any difficulty please contact us as soon as possible.

What we are looking for

The information provided will be used to help us assess the nature and extent of the current relationships with the legal partners ahead of new appointments. XXXX CO is looking for process improvements and cost effectiveness in all their relationships (both from the legal partners and in the way the in-house lawyers work with them) and the comprehensive nature of this overview exercise will help develop thinking and accelerate implementation of new ideas.

Your questions

If you require clarification of any aspect of this request please contact (name) (see contact details above). Any substantive new information resulting from your enquiry will be shared with all participants in this process.

What the current arrangements look like

XXXX CO is generally satisfied with their current relationships. Law firms are engaged in a number of practice areas and we believe they provide an important and valuable service to XXXX CO.

Some arrangements are based on strong local relationships, others have been established over many years, some are relatively new; in all respects, however, XXXX CO has not consistently sought to co-ordinate the selection, instruction and management of firms, to share best practices or to seek (and give) value for the benefit of strong, mutually supportive relationships.

This rather ad hoc approach has been successful to a point, but XXXX CO believes more should be done.

What the future will look like

This exercise will lead to the setting up of a new panel but is not a review of past performance. It will be helpful to share with you XXXX Co's thinking for the nature of the relationships they would like going forward.

It is very likely that XXXX CO will move to deeper relationships with fewer firms.

In any event the future XXXX CO operating model for engaging with law firms will also be characterised by/lead to:

- Greater understanding of XXXX CO's business, strategy and key issues
- More transparency and accountability in their relationship with you
- Co-ordinated added value initiatives
- Shared best practice and know-how transfer from XXXX CO to you and vice versa
- Excellent management information from you to us and vice versa
- Even more transparent price structures and potentially a move towards genuine value billing.

Information with this document (example)

- Key business imperatives and priorities and an organogram
- Message from GC
- Copy slides of XXXX CO operational model plus copy slides of XXXX CO legal services model
- Specifically include information on each region – nature of the legal activity in that region and any trends data useful to the firm in evaluating their response to the RFI
- FAQ (write your responses to predictable questions about your team, the work, your business etc)
- Data on current spend and trends analysis plus commentary on future savings required

The information we need from you

Section A: Current activities with XXXX CO (if relevant)

Please supply the following information to us to enable us to validate our understanding of XXXX Co's relationship with you.

1. Who are your primary points of contact within XXXX CO and for what purpose?
2. What were the total fees spent with you in 200x, 200x and in 200x? Please break down this detail by matter, indicating the individual/team within XXXX CO for whom the work was done
3. What are the current fee levels and discount structures (if any) for the work identified?
4. Please confirm details of any value-added services you have provided over the last 12 months (e.g. help-lines, secondments, research, briefings, training etc)
5. Please let us have a high level written report on all current active work in progress with analysis of work done but not billed and fee estimates for the balance of work outstanding
6. Please provide examples of your current work in progress reports for XXXX CO matters
7. Have you been able to implement any efficiency improvements during the last 12 months for the benefit of XXXX CO?
8. What is the quality of instructions you receive from XXXX CO (e.g. clarity, timeliness, provision of relevant information, etc)? What improvements would you like to see to the way that XXXX CO instructs you, communicates with you or generally manages its relationship with you?

Section B: Achieving our goals:

In this section, your questions will reflect your evaluation criteria.

Section C: General information about your firm:

Please supply the following details:

1. The name, title, direct telephone number and email address of the primary contact for liaison with us for the purpose of this RFI
2. Firm structure chart including key personnel and physical locations
3. Firm turnover for the last 3 financial years and firm profit before tax for the last 3 financial years
4. British/International Standards that your firm complies with e.g. ISO 9000, Investors in People etc
5. Approach to CSR, pro bono and diversity as well as conflicts policy.

Section D: Quality Control Management

Please provide details about:

1. The client relationship management and quality control processes you adopt
2. Your document management systems and your existing general policies dealing with conflict of interests between clients and between the firm and your clients.

Process

XXXX CO will evaluate your response and will invite a limited number of firms to be interviewed.

Interview dates will be XXXX – XXXX. The interview will be with a panel of lawyers from XXXX CO Legal services and you will be required to present as a team, including your relationship partner and key players on the XXXX CO account.

The interview will be informal but we will provide additional information ahead of the interview on the issues we particularly wish to address with you.

Appendix 2

Table of possible value-added services

Type of activity service	Must have	Nice to have
Internal bespoke training for lawyers		
Internal bespoke training for business colleagues		
Helpline		
Free ad hoc advice		
Secondees - law firm to in-house		
Secondees - in-house to law firm		
A "value account", linking fees to training and other initiatives (like air miles!)		
Legal surgeries		
Ongoing client feedback process		
Extranet development and management		
Research and library facilities		
Knowledge management		
Law firm hosted seminars and networking opportunities		
Joint CSR/pro bono initiatives		
Tailored news alerts and info on legal developments		
Offering meeting room facilities		

Appendix 3

Sample (of selected) evaluation criteria

Evaluation criteria	Definition	Indicators
Technical Expertise and Risk	To know the law and apply it to our needs - Identifying and balancing risk against business objectives	<ol style="list-style-type: none"> 1. Successful track record (specialism and market place) - references and awards 2. They know what questions to ask 3. Precision - not really looking for 'chapter and verse' 4. Practical advise with consequences (reasoning) 5. Make judgments and offer options - make the right recommendations 6. Balanced approach to risk 7. Experts in different jurisdictions 8. Brand power of firm 9. Knowledge, skills and abilities - skill set
Understands Needs	To know our business and the market within which it operates (identifies and applies learning).	<ol style="list-style-type: none"> 1. Must be prepared to build a relationship with us 2. Track record 3. Industry / Sector expertise 4. Good listeners 5. Strategic understanding of our business – they know what our priorities are 6. Be able to inform and proactively apply learning 7. Demonstrate knowledge transfer within the firm
Access	To the right people in the law firm at any time	<ol style="list-style-type: none"> 1. Escalation 2. Confident that they can help 3. Contingency planning 4. Availability of key individuals (24/7 if required) 5. Continuity of team 6. Systems compatibility 7. Clear process and contact mechanism – out of hours 8. Location
Professionalism	This includes such elements as follow-through (delivering on promised actions), business acumen and integrity	<ol style="list-style-type: none"> 1. Act with integrity 2. Identify and manage conflicts and potential conflicts 3. Manage complaints well 4. Support staff and processes 5. Effective processes for handling confidential information - data protection 6. Respecting lines of communication 7. Helping with governance of the relationship
Documentation	Clarity and focus of advice in plain English (clearly structured and understandable by non lawyers)	<ol style="list-style-type: none"> 1. Accuracy and completeness 2. Excellent presentation 3. Appropriate to audience 4. Change control - highlights changes to documents 5. Executive summaries 6. Speed of delivery 7. Standards where required 8. Data management - storage and retrieval



Previous publications

- “Why don’t law firms listen?” published in November 2006
- “How much - over priced, over paid and over budget?” published in October 2007

Both are available at www.law-now.com

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Research

As part of our research we carried out an online survey with our clients. Fifty senior legal decision makers responded and their feedback has been used to help shape this guide.

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