



Managing risk as an in-house lawyer

At a glance:



Shift from risk avoidance to risk engagement: Effective general counsel take an active role in understanding and managing risks rather than avoiding them.



Educate in ethical practices: Establishing a culture of ethical behaviour can prevent unnecessary risks.



Understand risk appetite and business goals: Aligning legal strategy with the organisation's risk tolerance and objectives is essential.



Think holistically about risk: Proactive risk management involves multidisciplinary planning and creativity.



Leverage external expertise and tools: Engage outside counsel and invest in technology to support proactive risk management.

The evolving role of general counsel in risk management

Managing risk has become integral to the role of general counsel, moving beyond legal advisement to influencing business strategy. To position themselves as leaders, general counsel must be comfortable not only identifying risks but also determining which ones are acceptable and which are avoidable. A reactive approach is no longer sufficient in today's fast-paced business environment, where risk is constantly evolving.

Why risk is on the rise

Risk levels and repercussions have been steadily increasing across industries due to several key factors:

- **Speed of change:** Rapid innovation and technological shifts can make it difficult for legal teams to keep pace.
- **Heightened regulation and oversight:** New regulations demand greater compliance across all business areas.
- **Third-party and supply chain risks:** Dependence on third parties introduces new layers of complexity.
- **Cultural and social governance:** Companies are held accountable for environmental, social, and governance (ESG) standards.

General counsel as central to risk strategy

Today's general counsel are indispensable in shaping how companies handle risk. They are moving from merely managing existing risks to taking proactive steps to anticipate and mitigate future threats. This involves big-picture thinking, such as trend-spotting and analysing potential risks before they materialise.

Creative, cross-disciplinary thinking for risk

Effective risk management requires legal teams to think beyond case law and precedent, particularly in the digital age. Risks are rarely isolated; an incident can have far-reaching impacts across legal, operational, financial, and reputational areas. Planning for risk requires a multi-disciplinary approach, where different departments collaborate to ensure risks are addressed holistically.

Becoming comfortable with risk

For legal teams, understanding and embracing risk is crucial. This approach demonstrates value and solidifies their position as trusted advisors. Here are key strategies for legal teams to navigate risk effectively:

- **Identify top risks:** Can you and your team name the top ten risks currently facing the business?
- **Know your company's risk appetite:** Familiarity with the organisation's tolerance for risk helps shape the response.

Building a proactive, risk-aware culture

A proactive approach to risk management often involves shifting company culture. Here are steps for general counsel to cultivate a risk-conscious culture within the organisation:

- **Engage with business challenges actively:** Understand the business from the inside out to avoid being seen as a "department of no."
- **Align with business objectives:** Assess how company goals can be achieved with minimal risk.
- **Educate on ethical best practices:** Foster a culture that avoids unnecessary risk by promoting ethical behaviour across the organisation.

Leveraging strategic tools and external expertise

Legal teams often face the challenge of handling more responsibilities with limited resources. This makes a compelling case for investing in tools and external expertise to support proactive risk management:

- **Invest in technology for risk analysis:** Strategic tools can aid in tracking and analysing potential risk events.
- **Ask for innovative risk mapping from outside counsel:** Engaging external advisors for industry-specific risk insights can lead to a deeper understanding of the risk landscape.

Encouraging diversity of thought to combat groupthink

Diversity in perspectives and thought can prevent groupthink, a frequent contributor to risk exposure. General counsel should actively promote diversity within their teams, among leadership, and with external advisors to ensure a broad range of insights are considered when assessing risk.

Personal liability for legal officers

It's also essential for legal officers to be aware of personal liability implications. Reviewing liability insurance policies and understanding potential legal exposure is necessary to protect individuals in leadership positions, especially in cases where legal actions target specific company officials.

Based on an article written by Dr. Catherine McGregor, Strategic Consultant for the DLA Piper WIN Programme.