



Apperio



Getting ahead of the invoice

7 contemporary tips for controlling legal spend



presented by:

Apperio in partnership with The O Shaped Lawyer

Introduction

Ask a GC at a large company how much they spent with outside counsel last year, and you are likely to get one of two answers:

a) "I don't know"

- or -

b) an estimate such as "between \$12 and \$20 million."

The fact is gaining command of **legal spend** is a vexing challenge.

Many in-house teams rely on law firm invoices – tallying the total cost over a given period in spreadsheets – to inform them of how much they spent.

This means the legal department doesn't know if the cost of legal work exceeded an estimate until after the fact.

Certainly, legal operations and in-house counsel enforce discounts from their law firms as a result. However, this tends to occur months after the work was completed and can become a contentious process. This creates friction with outside service providers in a profession where relationships are everything.

Finally, it does little to solve the larger issue: the need for a data-driven valuation of what legal projects should realistically cost.

Dan Kayne spent seven years as the General Counsel for one such large organisation, Network Rail. They developed systems, processes and relationships to improve legal spend management in a collaborative way and, as part of that approach, worked with **Apperio**. He has since taken his experience as a corporate legal department leader and founded the **O Shaped Lawyer**, an educational and leadership development consultancy, to drive positive, purpose-led change across the legal sector.



Mindset



Skills



Behaviours

The O Shaped Framework focuses on the mindset, skills and behaviours of legal and business professionals to create a better legal profession. Central to this is the need to improve relationships between clients and their external advisers to foster a more collaborative, one-team approach that best serves the end user. The one team approach enables in-house lawyers to more effectively and transparently navigate the tensions that can arise in any relationship, including managing legal spend.

He's sharing some of those ideas in this eBook.



TIP 1

Get a handle on your legal spend data

Getting a handle on the financial data has traditionally been easier said than done. Dan notes the legal department can start by asking their finance department or their law firms for the data. However, the problem of reconciliation remains. Even with both data sets in hand, the numbers rarely match.

His legal department used to develop “**data packs**” to analyse the spend data. These were essentially a collection of spreadsheets aimed at piecing together how much budget his team had already committed to legal services.

Once a pack was built, several team members would gather for a monthly meeting. They would review as many as 250 matters in a typical meeting to ensure consistency with estimates and billing guidelines. Where there were discrepancies, they would then challenge the invoices with their law firms.

There were many drawbacks with this approach:



it was a time-consuming task;



the in-house team didn't feel they were adding the value their roles required;



engaging with law firms on fee discrepancies felt uncomfortable;



it would create mistrust between the in-house teams and law firms.

When **Dentons** (who Dan worked closely with), introduced his team to Apperio, he could immediately see the benefits it would have. He could look at the legal spend dashboard and that would tell him exactly what his organisation was spending on legal services in real time.

Whether it's with Apperio or another technology, legal departments must get a better handle on legal spend data before they are capable of controlling costs.



TIP 2

Start recording time internally

For the in-house community this is a controversial one and needs to be handled sensitively. Some lawyers move in-house to get away from needing to record small units of time – itself a time-consuming and tedious exercise. However, Dan found recording time internally gave his legal team a wider perspective of legal spend data. They didn't require logging time in six-minute intervals like a law firm though. They just needed a reasonably accurate sense of how the in-house lawyers were spending their time so they could best focus their internal efforts on the areas that made a difference to the organisation and outsource those that didn't.

As these internal time entries accumulated, Apperio began breaking down legal work across the entire organisation into categories. This allowed the team to see how time spent on internal work matched up with external work. This exercise identified areas of potential duplication, overspend, and categories of work that were taking up too much internal time.

Dan offers one under-recognised benefit of Apperio and time entries, (known as the Hawthorne effect). When the external lawyers know that their client can see real-time time entries, the accuracy and timeliness of those records improve - to the benefit of both the law firm and the in-house team.



TIP 3



Develop KPIs that both drive accountability and build relationships



The new-found visibility into legal spend caused Dan and his team to re-think their outside counsels' key performance indicators (KPIs). They wanted to hold the law firms they chose to partner with accountable – but in a way that would emphasise the one-team approach and not detract from the relationship.

One metric they focused on was the predictability of costs. For example, how often do law firm invoices exceed the price estimate? He estimates from conversations with peers that across in-house teams, this happens about 50% of the time, even under fixed-fee arrangements. It's "painful" in his words, for the in-house legal team to have to go back to the business and ask for another purchase order to cover the unexpected cost.

Putting that KPI in place helped Network Rail to bring the number of overspends down dramatically. Certainly, having the metric helped, but Apperio added two important details:

-  Tactically, they got a look at spend in real-time. This enabled the Legal Operations team to proactively triage matters and spend as it happened – and get ahead of an invoice – rather than wait to be surprised later.
-  Strategically, the [legal spend management](#) tool enabled them to accurately model costs. This meant they could scope legal projects with greater precision rather than guesswork (or estimation).

While the KPIs were aimed at accuracy and accountability, they were not intended to ‘nickel and dime’ law firms. Instead, these KPIs fostered open discussions about fees in exchange for a great service based on data. Firms were incentivised to achieve the targets meaning that they would be held accountable in a way that could benefit both parties to the partnership.



TIP 4

Incentivise your law firms



Metrics alone won't drive behavioural change. As indicated above, the metrics must be tied to an incentive. Dan highly valued the relationships with his outside counsel, and so his incentives were designed around positive reinforcement of the partnership principles they had agreed at the outset of their relationship.

To make it work, the law firms held back a percentage of fee income in escrow and if they met the agreed KPIs, they would keep it. If they missed the KPI, they would return it. Choosing the right level of incentive is key. It needed to be sufficiently achievable to encourage the law firms to meet the goals, but challenging enough to ensure that the outcome of the KPIs reflected the improvements they were designed to achieve.

It's worth pointing out here the KPIs included both financial metrics and general management metrics. Dan was also keen on ensuring his firms were "commercial" and understood his business. He developed an education program and metrics to support this effort.



TIP 5

Let your new KPIs help you choose your law firms

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Although KPIs in law firm/client relationships are much more common now, selecting performance measures that are specific and with a clear outcome in mind is essential. It can mean that when you broach the topic of such KPIs with law firms you could get some pushback. However, law firms are increasingly recognising the financial constraints their clients are under and are more amenable to KPIs that challenge them, provided the incentives are fair.

How collaborative law firms are to agreeing KPIs is also a good indicator of how progressive your relationship will be. It's essential that the KPIs are driving jointly agreed goals, not imposing some unnecessary valueless burden on the firms.

Dan also acknowledges it can be hard to introduce new and meaningful KPIs, particularly in the middle of a relationship (although implementing a tool like legal spend management can be a trigger for that conversation). He suggests purpose-led KPIs should be part of the selection process in tendering for [strategic partnerships with law firms](#). In other words, meaningful and mutually beneficial KPIs ought to be a core part of the relationship from the get-go.



TIP 6

Fixed fees can work but are not a panacea

There are benefits and drawbacks to fixed fees. Corporate legal departments can become over-reliant on fixed fees because in theory these promise to bring predictability to legal spending – an attractive proposition when setting budgets. The problem is these fees often need to be renegotiated as work progresses.

Dan's first-hand experience corroborates this. Whether it is through scope creep by clients or caveats and exclusions from the initial proposal from law firms, fixed fees are often exceeded, devaluing the purpose that they were intended to achieve.

Fixed fees certainly have a place in the overall legal spend management portfolio though. They are eminently sensible ways of pricing high-volume, low-value work or "commoditised" legal projects such as insurance claims, routine contracts and NDAs.

Depending on the strength of the law firm/client relationship, fixed fees can also be an effective control mechanism when it comes to more complex matters. However, this will only work if clients and law firms take a longer term view, trust each other and are prepared to take a leap of faith. This means sticking to budgets agreed at the outset regardless of the ups and downs that might occur in the short term.



TIP 7

Transparency is a two-way street



The purpose behind these actions, for Dan, was to create a collaborative partnership with the law firms that would best serve the business' requirements. Gaining buy-in to the process from all stakeholders demands genuine, open and transparent (and sometimes difficult) conversations. This means both parties putting all their cards on the table early and highlighting the common ground – the fact that both the corporate legal team and outside counsel are ultimately one team supporting the same end customer.

Tactically, the selection of technologies can make a difference too. With a legal spend management tool like Apperio, law firms have access to the same view of the data. It literally **puts law firms on the same page** with the in-house team.

The result means data is not used as a weapon to squeeze law firms. This two-sided transparency eliminates unproductive haggling over small amounts of money, delays in payment, and communication issues that end up in a zero-sum game.

Conclusion

There are few things more frustrating for an in-house team than receiving an invoice from a law firm that, without warning, **exceeds the agreed estimate**. It's a difficult position to be in, since relying on an invoice to inform spending means the legal department is always reactionary.

Getting ahead of the invoice begins with gathering data – and ends with collaborative metrics that eliminate the asymmetry. A legal spend management tool facilitates the entire process, leads to data-driven decisions, and creates a shared understanding between in-house teams and their law firms.

GCs like Dan that have used these tools know exactly how much they spent, who they spent it with and on what matters: in real-time. It's a long way from guessing a range or asking a law firm for the data.



About Dan Kayne, GC and founder of The O Shaped Lawyer

As General Counsel for the Regions team at Network Rail, Dan led a talented team committed to delivering an excellent service to the business. Central to their commitment to exceeding customers' expectations was a fundamental understanding that leaders should put people first, always.

It is this pursuit of excellence through the well-being and engagement of the team that led him to form the [O Shaped Lawyer](#). Whilst the legal profession has always been known for its technical excellence, it is seldom seen as a profession that places the same level of importance on the engagement and development of its people.

That is why the 'O' came about – to recognise that success requires a holistic approach. More rounded and engaged lawyers make for better lawyers and ultimately a profession which better serves its customers. Dan wants the 'O' to be the driving force to make this happen.

To learn more visit [Oshapedlawyer.com](https://oshapedlawyer.com) or join the conversation on the O Shaped [Linkedin page](#).

About Apperio

Apperio's legal spend management software provides analytics and real-time visibility on external legal matters. This empowers in-house counsel to control and optimise their spend with law firms, ahead of the invoice.

Rather than accumulating legal bills, Apperio works by aggregating data directly from the sources of truth - law firms' time recording systems. As a result, a greater level of granularity and analysis is possible, weeks before an invoice is received.

In-house teams can therefore work proactively with this data and gain confidence from an accurate picture of their spending. In turn, such insights can also improve the forecasting, budgeting and efficiency of the legal department.

Currently, Apperio is used daily by more than 50 in-house legal teams including [Epiris](#), [EQT](#), [Network Rail](#), [Royal London](#) and [Cornerstone](#).

Apperio is based in London, England. For more information, please visit [Apperio.com](https://www.apperio.com) or follow Apperio on [LinkedIn](#) or [Twitter](#).

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