

# Roundtable Report

The Ultimate Wingman

Experiences of Deputy & Divisional General Counsel

May 2016

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## Welcome

Welcome to the May 2016 Mahlab Roundtable Report.

The structure of a company's legal team often depends on its size, geographical reach and diversity of service offering. Divisional General Counsel are often part of a larger and more structured organisation and are responsible for overseeing the legal matters for a particular business unit or specialist area. Their role is often the equivalent of a General Counsel role in another, perhaps smaller organisation, however as division heads, they report to the General Counsel. Similarly, a Deputy General Counsel typically reports to the General Counsel who is responsible for the legal matters for the entire business, and is often referred to as his/her direct '2IC'.

The challenges, attractions and practicalities of the role of a Divisional General Counsel and a Deputy General Counsel are explored in this edition of Mahlab's Roundtable Report.

All Roundtables are conducted under Chatham House Rules.

We thank all participants for their eager involvement, undoubtedly readers will benefit from their candid reflections.

You can join the conversation online via #MahlabRound, follow @MahlabLegal on Twitter and connect with us on LinkedIn.

Sincerely,



A handwritten signature in black ink that reads "Lisa Gazis".

Lisa Gazis  
Mahlab Managing Director  
NSW



A handwritten signature in black ink that reads "Katherine Sampson".

Katherine Sampson  
Mahlab Managing Director  
VIC

## Rewards

### **Influencing and driving outcomes**

All Deputy and Divisional General Counsel (DGC) who attended the Roundtables expressed general contentment with their roles.

A key reward of the DGC role is the opportunity to be involved in the strategic decisions of the business and to influence and drive outcomes. DGCs often work close enough to the coalface to be able to play a key role in decision-making on behalf of the business, which can be more engaging than exclusively drafting legal documents and providing detailed legal advice.

The diversity of a DGC-level role appeals to many senior lawyers. In addition to decision-making responsibilities, access to a broader spread of legal work and the opportunity to undertake management responsibilities make these roles very appealing.

### **Valued aspects of the role**

DGCs reported on the satisfaction of being able to manage team members (both legal and non-legal staff) as well as different parts of the business they are responsible for overseeing. Many embrace the level of people management involved in their roles and enjoy forging cohesive relationships within the business at all levels.

DGCs value the importance of working with a General Counsel who is strongly encouraging and supportive of flexible work practices and work/life balance. Generally coming out of a law firm environment, this aspect of working in-house is often appealing (although not always on offer).

Due to the senior level of these roles, DGCs can at times have access to intercompany moves. This is often the case for larger organisations that require multiple DGCs or have a large national or global presence.

Some DGCs note the downside of being a senior member of a global organisation is the complex reporting line that often causes messages to be misunderstood when reporting up. The differences in time can also mean having to juggle timeframes and being available at times outside normal working hours in Australia.

## People management

### **Mentoring and guiding team members**

The management responsibilities of a DGC are extensive. It is often the DGC's role to guide team members around task prioritisation and assist the team in building its own profile and presence within the business.

Although enjoyable and rewarding, management responsibilities and training of team members can also present challenges. Most lawyers reporting to a DGC have either had very little or no previous exposure to working in an in-house environment. DGCs find that they therefore need to spend time encouraging their team to exercise independent judgement and learn not to become too fixated on the detail that may have been required in a law firm. Sometimes 'close enough is good enough' in an in-house environment – some matters do not need to be pursued to the nth degree. Many DGCs have spent years perfecting these skills and exercising commercial judgement, and it can be a great challenge imparting this knowledge to less-experienced practitioners or those lacking previous in-house experience.

DGCs find educating team members on risk management to be a challenge. Understanding and applying your businesses risk appetite extends beyond legal risk. Teaching lawyers about commercial risks and reputational risks is something that involves time and sound guidance.

DGCs also acknowledged that junior lawyers understandably require more 'hands on' management than some of their senior counterparts or colleagues who have benefitted from previous in-house experience. Junior lawyers require a greater level of oversight than the prescribed one-hour weekly meeting in order to develop their skills.

### **Learning how to manage people**

The majority of DGCs have not received formal training from their employers in people management, however it was noted that some companies require their senior recruits to undertake personality testing as part of their recruitment process into their role. They emphasised the use of this testing as a valuable means in understanding management style.

Some companies support senior lawyers at this level by encouraging them to undertake further studies, e.g. an MBA which is often funded by the company. One of the most valuable experiences to develop these skills was a situation where the DGC spent an extended period working in the Human Resources division of the organisation. The skills developed through this path proved valuable in their role as DGC.

### **Useful tips for DGCs**

Often DGCs will ask their juniors to copy them into all correspondence on a particular matter. This is valuable in tracking progress on particular tasks. It can also unveil a myriad of issues that would not be apparent from a weekly meeting, such as the juniors' capabilities in instructing external lawyers, their ability to communicate to people within the business who may not have a legal background, and an inappropriate flow of emails on a particular matter.

Email correspondence gives the DGC an opportunity to raise any issues and train juniors in appropriate communication, time and matter management in the commercial space. Some DGCs will also perform random checks on their junior practitioners' written work.

Open plan offices are becoming increasingly popular and can assist DGCs with their management of a team as it allows them to tackle an issue in real time, rather than refer to hypotheticals in meetings or appraisals, when the incident may be forgotten. Open-plan seating can also allow managers the forum to make suggestions in a manner that is less threatening and more informal than a formal meeting.

One of the more recently introduced office organisation systems that is considered to be in alignment with a flexible workplace is 'hot-desking'. This involves multiple workers using a single physical workstation or surface during different time periods – a genuine adjustment for most lawyers given the amount of files they tend to carry. However hot-desking is being well received by lawyers at the DGC level due to the emphasis it puts on team cohesion and working relationships.

Another valuable way of monitoring performance and effectively coaching junior lawyers in-house is to arrange for the legal team to catch up once a fortnight to discuss how they are going about building relationships internally with the relevant people within the business. The focus is on interactions within the business, as opposed to tackling legal issues.

### **Recruiting team members**

When it comes to recruiting members for their team, many DGCs prefer to undertake their own reference checks. This allows the company to probe in great detail the various 'pressure points' of a candidate. Moreover, this gives DGCs an opportunity to tailor their questions and focus on questions and answers that are not necessarily pertinent to the role of legal counsel.

Before conducting reference checks, some DGCs invite the potentially successful candidate to meet existing team members. This is a selection technique favoured by many as it allows the candidate to meet his/her future colleagues and gain a better insight into the organisation culture and the team. It also allows the existing team members to have some buy-in to the process and provide what may be a very different take on the candidate. The feedback from the existing team members can often provide further insight into the candidate.

The jury is out as to whether to involve non-lawyers, i.e. members of the business arm, in the interview process. Sometimes the organisation insists on line managers being involved, often for very good reasons e.g. the candidate will be dealing directly with them as a 'client' and therefore the line managers need to be able to respect and get along with the prospective hire. The opposing school of thought is that the commercial managers will not be able to critically assess the candidate's legal skills or fit within the immediate legal team and therefore should not be involved in this process.

Some DGCs recommend the use of psychometric, competency and technical testing. One testing that comes highly recommended is Herrmann Brain Dominance testing.

## Challenges

### **Advocating the role within the organisation**

A significant challenge for DGCs is managing the relationship between the legal team and the business clients.

Some DGCs find that achieving visibility in the business can be problematic, and they are regularly teaching their commercial managers about their specific role as a lawyer and what the legal function can and cannot do for them.

Many DGCs recommend implementing internal policies to determine which matters require legal sign-off. The establishment of such policies allows the legal division to focus on what is critical to the business, rather than have a team of lawyers drowning in contracts that do not require approval. This allows the legal division to be a time and cost-effective function.

There is a unanimous agreement amongst DGCs about the importance of educating commercial staff to engage with the legal team early on in a transaction. However some DGCs noted that increased visibility and interaction with the business can be a 'poisoned chalice' as although it may lead to more contact with senior management and the Board, it can lead to increased out-of-hours work and the requirement to be constantly 'on call'.

## Career progression

### **Where to next?**

Although most lawyers are naturally very ambitious, DGCs on the whole are not necessarily seeking the General Counsel role within their own organisation as their next step. Roundtable discussions found that some DGCs are very comfortable with the level of responsibility and challenges that exist in their current role. They enjoy the heavy legal component of their role and the fact that they are not as involved with the politics in the organisation.

However, depending on what they are seeking, other DGCs see the step up to the General Counsel role as the natural career path. Within some organisations, this role would involve broader and more varied responsibilities, access to the Board, more involvement in decision making for the business, possibly more travel, and increased management responsibilities. It also usually means less time 'on the tools' undertaking the legal work and more involvement with any politics.

### **Skilling up to step up**

It is generally recognised that openings at the senior end in-house are few and far between, and there is a very narrow pool of roles that would entice DGCs out of their current roles. Acting General Counsel roles, while prima facie appealing, are often offered only on a contract basis that may involve taking a step down at the end of the contract.

Sometimes there is no definite career path for a DGC at their organisation, beyond what they are currently doing, as the company may not view their role as a stepping-stone to General Counsel.

The company may wish to go to market to secure the best candidate for the role who immediately offers the experience they need.

Depending on the makeup of the company, if it is looking to appoint a new General Counsel, it is often searching for demonstrated leadership skills, management experience, exposure to a Board and Executive members, corporate governance and company secretarial experience. Without this specific experience, DGCs may find that their skills do not match such a role.

In such a case, if the DGC wants to achieve that title, exposure and standing, they may need to go outside the company to acquire the requisite skills, for example undertaking a corporate governance course (such as the AICD course) or making the move to a senior role within a smaller organisation that can offer a greater breadth of work, providing DGCs the experience required to step up.

### **Succession planning**

Some organisations are good at succession planning and training their DGCs so that they are ready to take on extended responsibilities if required. These DGCs are included where possible at Board and management level to increase their exposure, giving the DGC responsibility for a particular committee or subsidiary, delegating a component of the risk management, company secretarial or governance work to the DGC, or allowing them to act as General Counsel during times of absences from the office. By doing this, they are ensuring that they have a clear succession plan in place to accommodate the departure of the GC. Some companies also encourage their lawyers to undertake relevant courses with, for example, the Governance Institute of Australia, to allow them to add to their skillset on a technical front.

For those DGCs who truly enjoy the technical side of their role and undertaking legal work (depending on the company), moving into a General Counsel role can come with the challenge of having to 'let go' and delegate this aspect of their role, to free themselves up to undertake the balance of their responsibilities. This is a new skill they may need to develop.

The DGC role is certainly not a limiting role. In fact, having experience as a DGC often opens doors for lawyers. When lawyers are considering roles as a DGC with a company, they need to be aware of the scope and responsibilities of the particular position and the organisation, to determine whether they will be satisfied in the longer term.



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