

GOING IN-HOUSE

Dal Bhathal

As a recruiter, there are days when it seems every lawyer you meet wants to explore a career as in-house counsel. The reasons follow predictable themes: a desire to escape long and varied hours, an interest in moving away from the pressures of billing and business development, the fear of being pigeon-holed into a narrow practice scope if they remain in private practice and the uncertain future of law firms. In addition, many private practice lawyers want the opportunity to play the role of strategic business advisor — being part of the decision-making process rather than being involved only in specific, defined legal matters.

While some of these objectives may be achieved by going in-house, the transition can also introduce new challenges those in private practice may not fully appreciate. What follows are a few key issues to consider when exploring the possibility of an in-house career.

In-house does not always mean less hours

It is a myth that in-house practice always offers excellent work life balance and more flexible working arrangements. Law is still a service industry, whether the client is external or just down the hall. In-house lawyers are often under heavy pressure to hit tight deadlines to fit the needs of their non-lawyer colleagues, who may not appreciate the time required to understand and advise on a complex legal issue. There are few in-house lawyers out there whose hearts do not sink when they hear the words “can you just take a very quick look at this...”

That said, time management is generally more achievable in-house. This is because the in-house lawyer is frequently able to see what is coming down the pipeline, sometimes weeks or months in advance, and plan accordingly. In con-

trast, lawyers in private practice are often only instructed once a transaction becomes live, sometimes without the benefit of reasonable prior notice. In addition, in-house counsel may have the ability to add legal help to meet tight deadlines through the use of external counsel. The resolution of a complex legal issue on a Friday afternoon for a Monday response can be made possible for those in-house through the assistance of those in private practice.

Business development by another name

Private practice lawyers are often intimidated by the need to undertake business development, preferring the practice of law over the business of law. These lawyers often perceive in-house careers as having the luxury of practice with a captive and willing client, who has already acknowledged (by employing them) their need for legal services.

The reality is, to be effective, an in-house lawyer must know, connect with, and be respected by their non-lawyer colleagues throughout the organization. Why? The switch from private practice to in-house counsel turns a lawyer from an “earner,” contributing directly to their



firm's bottom line, to a "burner," a cost to the organization that must be justified as a necessary, effective resource for the business.

In addition, if the company perceives their in-house legal team as a barrier to rather than a facilitator of the company's business interests, or if counsel is perceived to make transactions more burdensome (for example, due to protracted contract negotiations over relatively minor points), there can be a tendency to simply work around (or effectively ignore) the lawyers. Left unchecked, this can eventually lead to a "right-sizing" of the legal department.

As such, an integral part of in-house practice is the need to effectively conduct "business development" within the company. Networking internally is not only key to better understanding one's employer, but plays an integral role in building a reputation for being a trusted and valued team member. In many cases, in-house practice requires more, not less, personal interaction with clients, who can (and will) just wander down the hall to find their lawyer, or alternatively "forget" to run things past legal.

One practice area vs. one client

In-house is often seen as a draw for lawyers who feel they are not able to expand the scope of their practice, often due to constraints of firm structures that encourage lawyers to specialize within the framework of a narrowly defined practice group.

There are certainly great possibilities in-house to deal with a huge variety of legal issues, arising from the breadth of business interests and legal needs. However, variety can also be unsettling, particularly when a private practice lawyer is used to the relative comfort of having access to resources, research, and other specialist lawyers that a law firm environment provides.

In addition, private practice lawyers often trade one kind of specialization (practice area) for another, namely the industry or business area of the organization they join. Although the transferable skills gained in-house are extremely valuable, it is not always straightforward for an in-house lawyer to jump from industry to industry, for example from retail to technology. While the nature of specialization may change from private practice to

in-house, the likelihood of escaping some form of specialization altogether is relatively low.

Strategic adviser vs. lawyer

Moving from being an external adviser to an integral part of an organization should be one of the key reasons for a private practice lawyer to switch to in-house. Legal advice is always most practical and effective when the lawyer knows every aspect of how it will impact their organization.

However, being on the inside also means joining business colleagues on the firing line: the in-house lawyer does not have the luxury of simply advising and then stepping back and letting their client make a decision. They are expected to be a full part of the decision-making and the (often more difficult) implementation process.

One example is the acquisition of a company: external counsel “papers” the deal whereas in-house counsel is usually involved in the process from the strategic decision to acquire through to post-acquisition integration of the new company over the ensuing months, years and beyond.

Does it make cents?

Most large law firms have similar compensation structures for their associates. In comparison, in-house compensation can vary widely depending on the size of the company, the size of the legal department, the importance the law department receives within the company, etc. Generally, base salaries are lower in-house but are often offset by bonuses, long-term incentive programs, stock-option plans, RRSP contributions, flex days, and great benefit plans. Not surprisingly, there is a large difference between in-house salaries across the provinces. Alberta and Ontario have the highest base salaries while Atlantic Canada has the lowest. Publicly Quoted Companies tend to pay the most whereas government and not-for-profits pay the least. Some industries like oil and gas, energy and mining pay more than others.

In the end, practising as in-house counsel can offer a career path that is as challenging and rewarding as any found in private practice. The key to knowing which is important to individual lawyers in defining a successful career, and assessing it against a frank, honest, and informed view of what an in-house role might look like as compared to those found in private practice.



Dal Bhatnal is a managing partner with The Counsel Network, a national lawyer recruitment and career consulting firm. Contact Dal at 416.364.6654 or dal@thecounselnetwork.com



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