

Managing Legal Costs in Claims

– data overload



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Caroline O'Grady (Chief Operating Officer)



Yerra Solutions Ltd

+44 (0)20 3728 6920

www.yerrasolutions.com | Strategy, Operations & Technology for Legal & IP

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Introduction

Insurers are keen to ensure **effective management of legal spend** to deliver a healthy loss ratio and general client satisfaction; both the insurer and the insured client share this interest.

Managing this legal spend in the insurance claims market is not straight-forward:

- there are varying terms of the underlying insurance policies controlling the provision of the legal service;
- the control of the case is often split between the insurer and the demands of the Insured client; and
- unlike many in-house legal departments (who usually “own” the instruction of external lawyers), these legal instructions can come from, in many cases, hundreds of different claims professionals within any one organisation with varying levels of experience in dealing with managing lawyers.

To effectively understand your legal spend you need to understand if you’re getting value for money i.e. the best price for the best advice / service. Measuring the quality of advice is not easy – the measurement of “success” is multi-faceted.*

These issues are not only considered by claims managers, but also underwriters wanting to understand how these costs impact on the bottom line, and procurement colleagues wanting to demonstrate prudent buying of legal services. Each organisation has its own approach to grappling with the task of managing legal spend, but all parties concerned tend to agree that data is the key (or at least a big piece of the puzzle).

*To Demonstrate

You spend **£500,000** in defence of a piece of litigation against an Insured. The suit against the Insured is pleaded at **£20m**. The case is settled at **£1m**. Questions:

Is £500,000 in legal costs good value for money – arguably the law firm has saved you £19m?

Is £500,000 reasonable? Could another firm have achieved the same result for, say, £300,000?

How did the actions of the other side (or other external factors) impact on your legal costs?

Did your lawyer get the right result i.e. is £1m the right settlement amount?

Further you need to consider pure service issues – how user-friendly was the lawyer? How commercial was the advice? How speedy was their response to your request?

Data

Most claims or operations managers know they should manage legal spend – this is not in question – but this task is often on top of their “day jobs”. They are busy senior members of an insurance organisation trying to work with numerous internal systems just to understand what the legal spend figures are, never mind obtaining meaningful analysis. If you are pulling your hair out thinking, “it shouldn’t be this difficult to understand who we spend with and from which line of business”, you are certainly not alone.

Many insurers, for a variety of reasons, have less than satisfactory data (country differences in systems, legacy systems, manual entry errors, data coding errors – the list goes on). To counter this issue, insurers turn to their law firms for data – law firms now find themselves drowning in data and “MI” requests from insurers, which are often lengthy spreadsheets with numerous fields of data. Most law firms now have their own MI / data teams just to deal with these queries.

Is this helping?

From experience, much of this very helpful and diligently provided data sits in inboxes, received month after month, at best glanced over, at worst not even opened. And this is the issue: data alone does nothing. Like all real change, effort and time is required to turn this data into anything meaningful, for example:



None of this can be derived from hourly rate comparison alone and requires a deeper data analysis.

The bigger picture:



Plan



Collect



Review
/ Analyse



Action

Plan

Before embarking on a data collection project, carefully consider what are you trying to achieve. If it's just how much you spend with each firm on a quarterly basis, don't be tempted to ask reams of additional questions which *could* be of interest but in reality won't be used.

Many people fall into the trap of thinking they should ask law firms everything in one hit "just in case" they need the information or because they can potentially see a use for it. The reality is most organisations don't have capacity to do a "belt and braces" review of all data to a satisfactory level and the data collected is simply out of date by the time anyone gets a chance to do something with it.

Collect & Review

The burden of collecting and reviewing the data cannot be underestimated, and this is on both sides. The message here is less is more – data is king but quality, not quantity. The key is to understand your immediate objectives and request as little data as possible to achieve that objective.

For example, if you are interested in who the most efficient firm is from a speed and cost perspective (ignoring the fact indemnity result needs to be factored here) you may want to simply ask for the following:

In respect of closed claims in 2015 please provide the following data:

- Claim Number (or your reference number)
- Line of business
- Claim type
- Date opened
- Date closed
- Your fees
- Amount claimed
- Outcome (set list of responses)
- Stage of litigation instructed
- Stage of litigation resolved (pre-action, proceedings, trial)

From the above you could ascertain, for example, that despite being the cheapest by hourly rate, one Casualty firm (who is always instructed pre-action) settles claims once proceedings have been served in 90% of cases (therefore increasing all-round cost) and their average fee is 50% higher than another firm, who is more expensive on a comparison purely based on hourly rates.

This can all be extremely powerful (despite not fully factoring in the indemnity result which cannot be ignored) when negotiating with law firms and, most importantly, when determining who gives you true value for money. It means you no longer have to focus on hourly rate negotiations and opens meaningful discussion around use of Alternative Fee Arrangements (e.g. fixed fees, success fees etc.) in litigation.

Obviously this kind of analysis can be more complex depending on the line of business but it is achievable.

Action

Many companies go so far as to invest in dedicated analytics teams to try and drive some of the above analysis but there are few organisations who have the capacity to drive efficiencies as a result of the data analysis.

If this analysis can be undertaken before a panel review, for example, you are uniquely placed to have real evidence of value (and not just cost). Further, you are also better placed to demonstrate internally why your decisions are (on a more objective basis) the correct decisions.

Next steps

Once you have the above sorted, you need to step back and think “ok, I know what we spent and who we want to spend with, what next?” – how can you work with these firms to proactively drive efficiencies through technology, alternating staffing models, alternative service providers? There is real innovation in the legal market if you have the time to look around. While there is a real divide between the optimists and pessimists vis-à-vis technology in the legal space, there is no doubt it is a debate worthy of your review and discussion, in conjunction with the law firms with whom you have chosen to work.

Summary

Most insurers just don't have the luxury of dedicating an entire project team to legal spend management. That aside, even on a small scale, all insurers can benefit from the above when considering attempting to streamline their data collection.

About Yerra Solutions

Yerra Solutions specialises in the legal sector and focuses on delivering solutions to claims, procurement and in-house legal departments. Our team of experts includes senior lawyers, patent attorneys, legal spend management experts and legal technology specialists.

Our team has decades of experience in legal and procurement, and provides consultancy, managed services and technology products to Fortune 500 Companies.

Yerra Solutions focuses on Europe and APAC, although many of its clients are leading global organisations. We work together with clients to drive efficiency and maximise results.



Contact Us:

By Telephone: +44 (0)20 3728 6920

Visit Our Website: www.yerrasolutions.com

By Email: caroline.ogrady@yerrasolutions.com



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