



Ashurst Reach

ACC Roundtable Insights

**Surviving and thriving
through recessionary
headwinds**

Outpacing change

Ashurst Reach – together with the Association of Corporate Counsel Australia (ACC) – recently ran the second of our national roundtable series exploring how in-house legal teams can survive and thrive through recessionary headwinds.

The global economy continues to reel from pandemic-related measures, geopolitical instability and high inflation. These issues, and the resulting tightening of financial controls, are heavily impacting economies in the US, the UK and China. Australia is also feeling the pinch and has been facing recession speculation, on and off, for months.

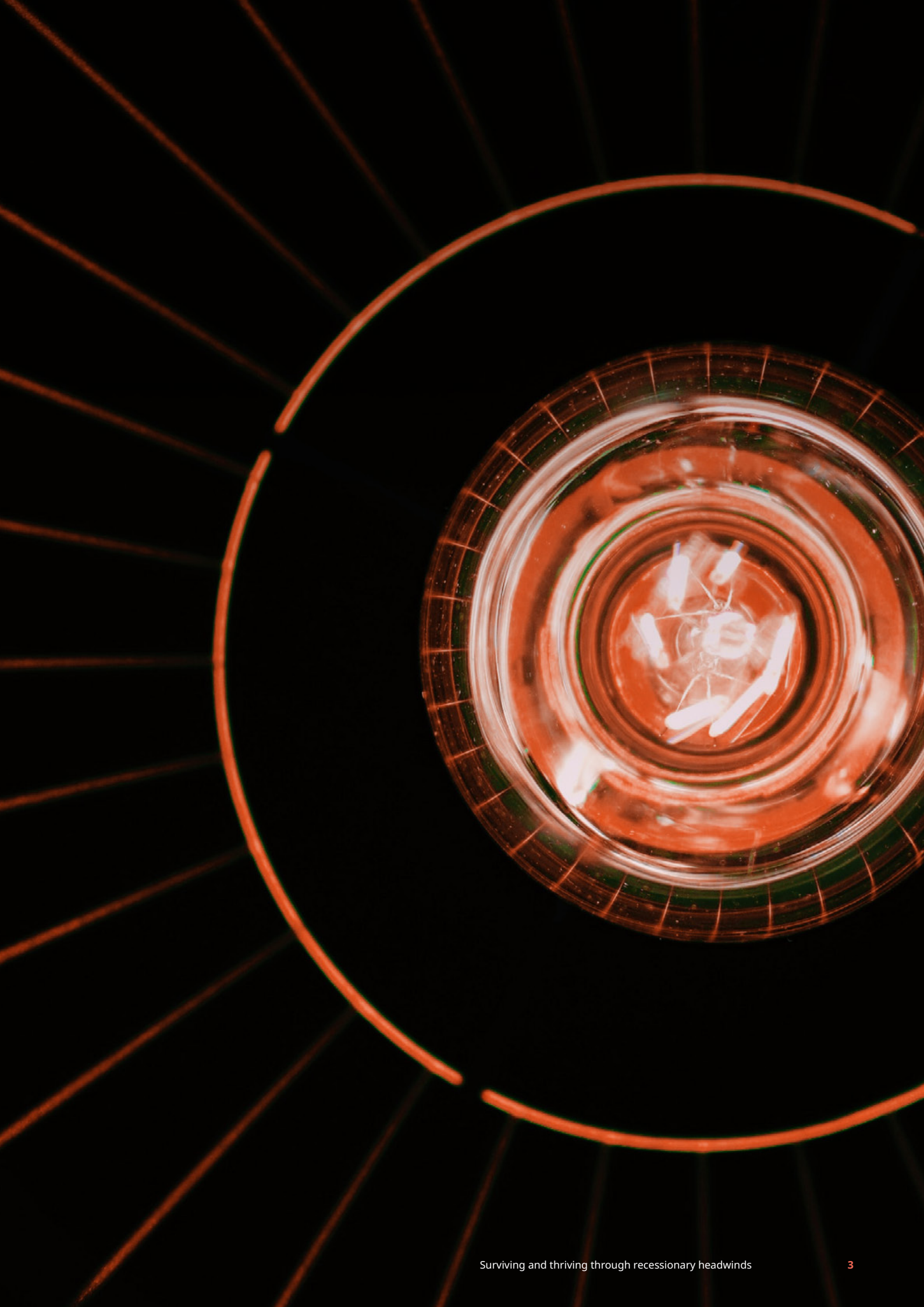
Regardless of whether Australia heads into recession, Australian businesses continue to weather increased costs across capital and energy, as well as those associated with supply chain issues and skills shortages.

With bottom line pressures at play, many executives have been preparing for the worst. Nearly half (46%) of the Australian CEOs surveyed by J.P. Morgan in January 2023 thought recession was likely¹. For global companies, the outlook seems more dire. According to an EY survey earlier this year, 98% of CEO respondents were “bracing for an economic downturn characterized by geopolitical tensions, supply chain disruption and ongoing COVID-19-related uncertainty.”²

More than 40 participants attended roundtable sessions in Perth, Melbourne, Sydney and Brisbane. They came from in-house teams in organisations of varying sizes and operating across a vast array of industries - banking & finance, technology, oil & gas, mining, retail, industrial, government, property, transport & logistics, tourism, not-for-profit, education, health and professional services sectors. While our roundtable topic involved the possibility of recessionary economic conditions, many participants expressed their familiarity with the pressure to do more with less, most of the time, regardless of market conditions.

1 <https://www.jpmorgan.com/insights/outlook/business-leaders-outlook/australia-business-leaders-outlook>

2 https://www.ey.com/en_au/news/2023/01/majority-of-ceos-fear-recession-could-be-worse-than-the-financial-crisis

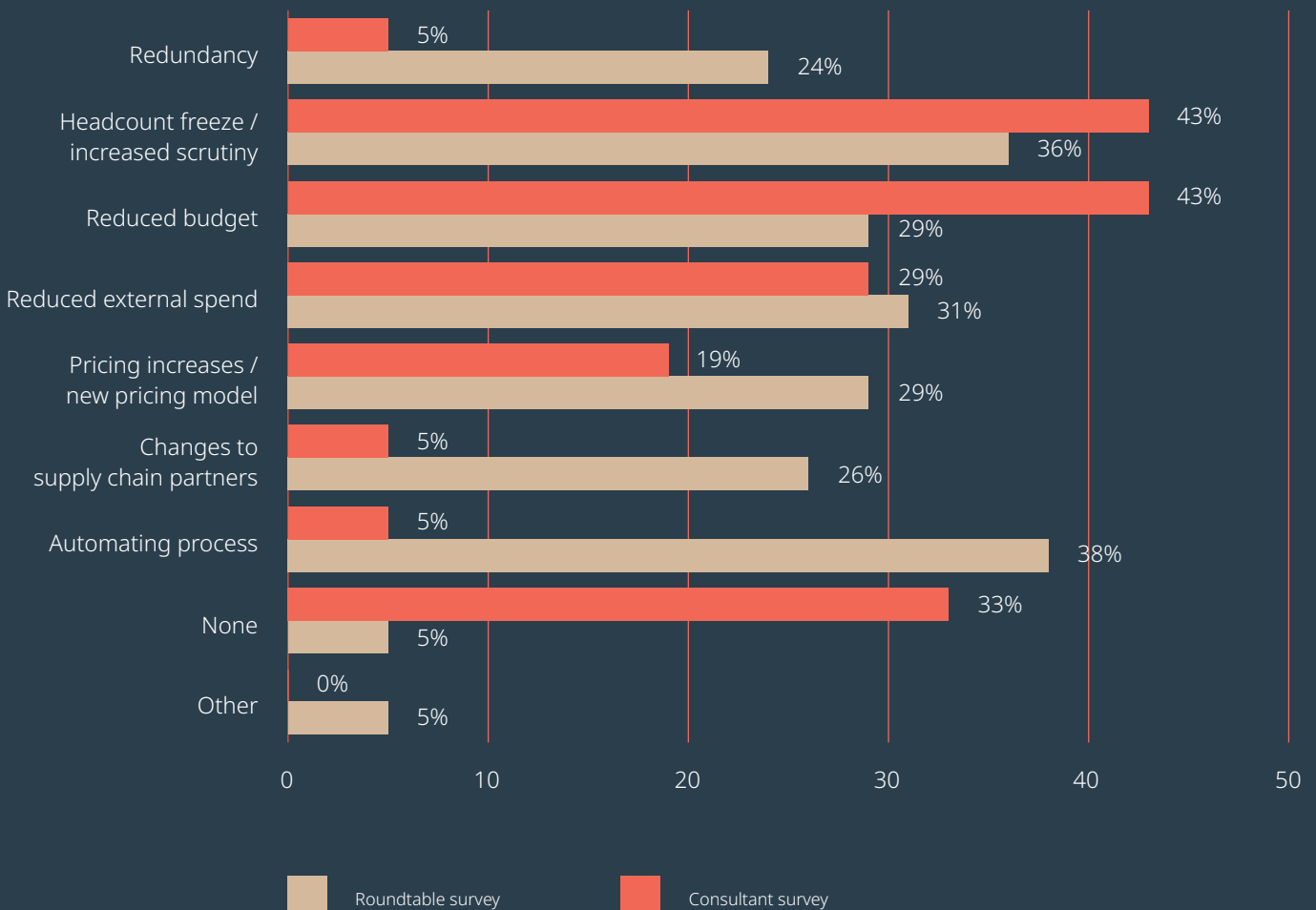


Setting the scene

In August 2023, we surveyed over 100 Reach consultants for their insights into new measures organisations have been embracing, legal efficiency opportunities and the success factors impacting them. These consultants are lawyers who are generally top-tier trained with deep in-house experience across various industries and sectors.

A third of the respondents had not experienced any new measures being introduced into an organisation they had worked with recently. Of those who had, 43% said reduced budgets and headcount freezes or increased scrutiny on recruitment were the most common measures taken, followed by reduced external spend (29%) and pricing increases or new pricing models (19%).

At each of the roundtable sessions, we asked the participants the same question about the organisations they work in. The most common measures were automating processes (38%) and headcount freezes (36%), followed by reduced external spend (31%). Two participants also reported recent funding and M&A activities.

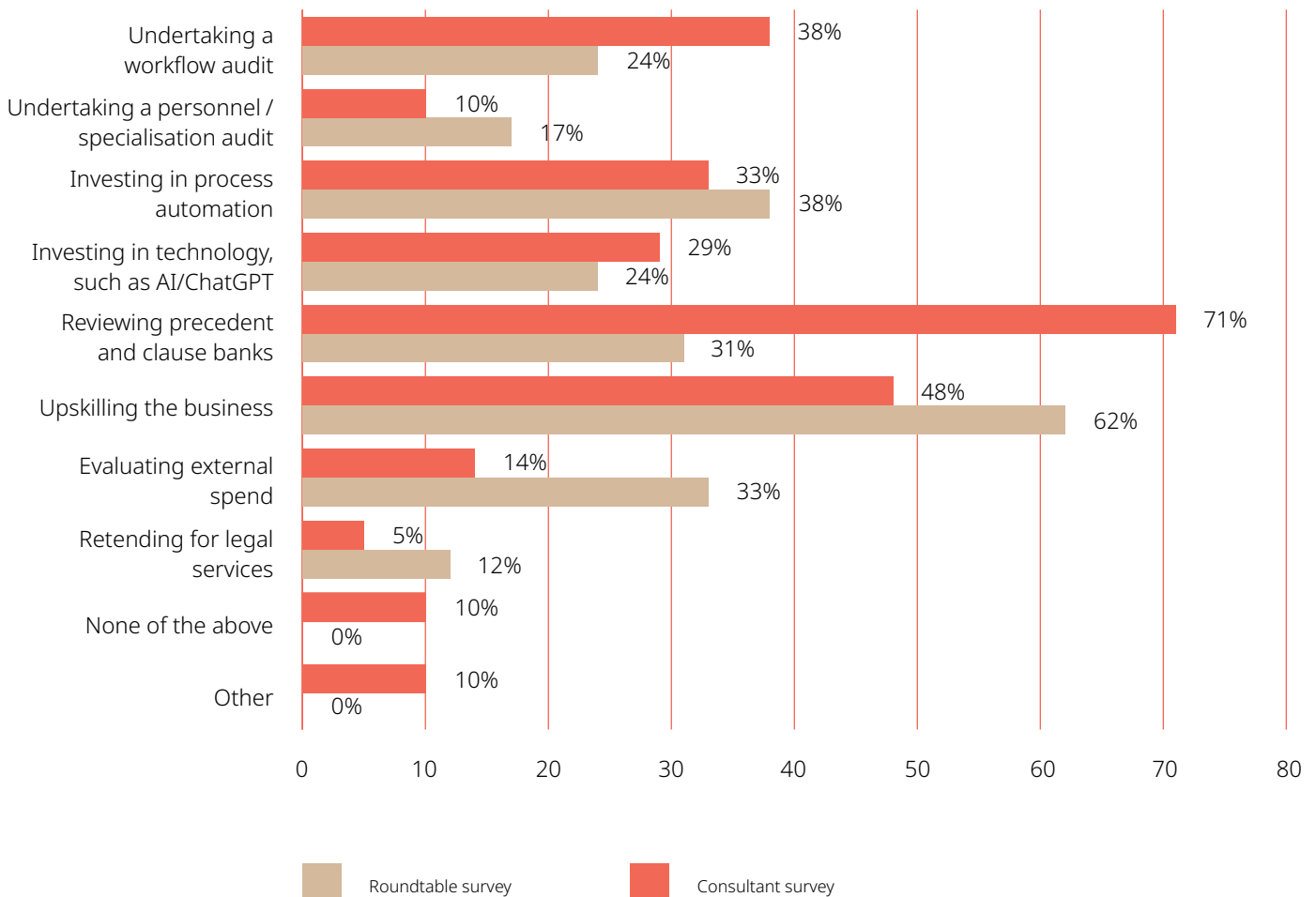


We asked the Reach consultants to think about the top three things that would improve the organisation's legal efficiency. The clear leader in the survey results was reviewing precedent and clause banks (71%). Other popular suggestions included upskilling the business (48%), undertaking a workflow audit (38%), investing in process automation (33%) and investing in technology, such as artificial intelligence (29%).

The roundtable participants highlighted similar success factors, although placed a different emphasis on them. Most participants thought that upskilling the business (62%) was the most important success factor, followed by process automation (38%) and evaluating external spend (33%). They also rated precedent clause bank reviews (31%) and workflow audits (24%) quite high.

Our final survey question asked consultant respondents to think about an efficiency project they had been part of recently and what had impacted its success.

Most Reach consultant respondents (48%) said understanding the pain points within the legal team and engaging with stakeholders outside of the legal team to better understand strategic drivers were the two main factors. A fifth of respondents also thought that receiving buy-in from the executive was very important.



Key measures to help in-house legal teams survive and thrive

During the roundtables, we asked participants to share their insights about the range of the measures that had been implemented to help in-house legal teams survive and thrive in the recent challenging market conditions.

Reviewing precedent and clause banks

Reviewing precedent and clause banks is something one participant described as being “always on the to-do list, rarely on the done list”. To address this issue, roundtable participants shared some valuable suggestions.

For example, one organisation uses an ‘efficiency blitz’ between two and four times a year. It involves the whole team dedicating an afternoon to a self-nominated task that will benefit the team’s efficiency. The blitz task must be bite-sized, completed within the afternoon and presented to the team, including what was done and why. Through this initiative the team is striving for improvement, not perfection.

Another participant shared that their organisation puts together brainstorming sessions for small groups across specialities ahead of new legislation going live. In this way,

they can assess the organisation’s readiness, including across its precedent and clause banks, and hold ongoing check-ins to review and understand the impact of change.

Some participants also acknowledged pain points of reviewing precedent and clause banks and made suggestions for improvement. For example, a participant finds manually adding comments in templates is inefficient. They suggested using technology to manage specific decision trees in smaller businesses, but noted that solution would be less useful for large organisations, where playbooks are often used. Another person spoke of successfully using contractors to review precedents and clause bank material as the in-house team consistently does not have time to tackle the task.

Upskilling the business

Our survey results showed the roundtable participants thought upskilling the business was the most important factor in improving legal team efficiencies. In the roundtable discussions, this topic also proved the most explored around the themes of education and resourcing.

The comments made about upskilling the business in terms of education were directed at both business units and the legal teams. Some participants thought legal teams needed training to help them align legal and business strategies, to make it clear when they are providing commercial opinion and not legal advice, to speak the business' language, and to reframe their advice to make it readily understood.

Participants also felt it was important to educate business unit staff to understand what work should – and should not – be done by the legal team, to understand what work requires specialist legal advice, and to appreciate the potential legal implications of activities such as changing precedents, retaining document copies, cybersecurity and negotiating. One organisation had addressed this need by creating a playbook of the “10 golden rules”, which are 10 legal positions that should not be deviated from without executive-level approval. This playbook has reduced the legal workload involved with negotiating with business units.

A further suggestion was to hold, record and transcribe one hour, catered training sessions designed for both business unit staff and lawyers. For example, one participant suggested running a session on “reputational risk” rather than “modern slavery” or “AML”. The participant reported higher attendance and engagement when training sessions were framed in terms the business can also relate to.

To better manage risk, one organisation defines clear roles with their BUs on a project-by-project basis. For example, it clarifies whether legal is co-leading the deal or providing support. Another organisation had issued executive direction that business units must get legal approval on contracts, which were then audited and reported to the Board. To avoid being seen as a roadblock, this process had easy-to-follow, set procedures. The legal responses were made in clear language, sign-posted risk and summarised the contract, which also made them useful for Board reporting.

Of course taking an ‘everything goes through legal’ approach comes with resourcing challenges. Accordingly, many participants commented on the need to ensure the business understands that the legal team’s time is an important resource and to effectively allocate resources. One participant said their organisation was very strict about meetings and respecting time, so the legal team only accepted meeting invitations with the correct version of a full contract attached.

Educating the business on resourcing constraints and options can also involve thinking strategically about providers across a spectrum of in-house teams, law firms, alternative legal services providers, labour hire agencies and directly briefed barristers. One participant shared the example of an organisation that recently had over 600 products that needed to be reviewed in line with changes to unfair contract terms, so it outsourced the review work to a service that will have a representative integrated into the internal team before returning to act as a conduit on the ground. Another organisation had made business units responsible for their legal budget, which had resulted in an improved cultural shift and more care being taken in settling disputes.



Undertaking a workflow audit

Across survey respondents, there was general support for undertaking workflow audits. By identifying who is working on what, and who is responsible for what, these audits were seen to have the potential to reduce work silos, increase collaboration and better allocate resources.

Audits were also seen as a tool to help “calibrate [the in-house team’s] approach to the business’ risk appetite [so that the legal team] only cares as much as the business does”. For example, one participant shared that their team responds to the leadership’s direction that relationship management matters more than contractual arrangements. They maintained this ethos throughout the period of pandemic-related reliance on force majeure, which helped the business navigate issues by relying on strong relationships rather than contractual terms.

One roundtable participant shared the experience of an organisation that used timesheet data to review workflow and resourcing requirements. This analysis led to the team growing from three to ten lawyers, low-level work being outsourced to agencies, and the use of technology to generate simple outputs like NDAs. The team was then able to support the business with higher-level project work. Another group highlighted that this sort of timesheet analysis can also demonstrate functional value, which can be a useful lever in the face of cost-cutting discussions.

There are a range of workflow management tools being used, ranging from bespoke technology solutions through the Excel spreadsheets. Timesheets have also been relied on as data sources, however, many in-house teams remain resistant to using them.



Investing in process automation and technology

Both Reach consultants and roundtable participants saw strong value in investing in process automation and data collection, particularly for low-value work.

The general sentiment was that a focus on process would make things easier and faster for both the legal team and the business units. One participant shared an example where they found two systems for the one process were being used simultaneously. Another participant expressed a concern that legal teams are seen as being gatekeepers, particularly when processes are too complex.

Across the different roundtable sessions there was strong support for an investment in technology, but many noted this was not without issue for in-house legal teams.

The benefits of artificial intelligence and technology for legal teams are widely acknowledged. One participant shared that their organisation implemented a machine learning tool to review invoices from external firms. The tool was taught billing guidelines in line with panel agreements, including volume and early payment discounts, as well as invoicing formats. The invoices were then passed through the machine learning system, which flagged potential issues that were reviewed by a team member who then educated the program on what was right or wrong. After 12 months, the organisation saved \$8m using this technology. It is now using a similar tool for the document review process.

Another participant shared the success of a chatbot that is plugged into matter management and other systems and can direct questions, check documents and report on data. The chatbot has not impacted headcount requirements, but helps the team keep up with current demands.

These sorts of technology solutions were generally found to take low-level tasks away from junior team members who were then given more meaningful tasks. Again, this did not affect headcount requirements but was anecdotally seen to boost perceived team value as well as retention rates among the junior cohort.

One issue raised by participants is that legal teams, particularly smaller teams, are not always resourced to keep up with changes in legal tech products. It was suggested in-house teams would be better off relying on outsourced partners who are the experts in their area or third party providers, such as Microsoft and Google.

Participants also raised the issue of the implementation process, which can take upwards of 6-12 months. Implementation was also seen to be problematic when there was a disconnect between provider, sales and development teams that caused products not to work as advertised.

More generally, there were comments that ChatGPT will change the way things in the business are handled, such as identifying what needs to be seen by legal and improving plain language drafting.

Making the most of the measures available to survive and thrive

Across our two surveys and the four roundtable sessions, there were common themes occurring around measures organisations can take to improve the efficiency of their legal teams during challenging economic conditions. These included tackling important – but often less urgent – tasks that deliver insights and efficiencies, such as audits, precedent and workflow reviews. They also include investment in ongoing education and technology.

Organisations that can successfully implement these changes, either with existing in-house teams or short-term resourcing solutions, are more likely to survive – and thrive – in the longer-term.





Ashurst Reach supports your in-house legal resourcing, as and when you need it. With their deep in-house experience and broad expertise, Reach Legal Consultants add value to legal teams on a short to medium term basis.

Ashurst Reach is part of our NewLaw division, Ashurst Advance. We leverage our deep experience across flexible resourcing with delivery, managed services, digital and legal operations to work seamlessly with our legal advisory and risk consulting teams. We provide fully integrated solutions that are tailored to your needs.

If you are interested in flexible legal resourcing for your in-house team, please contact reach@ashurst.com.

Ashurst Reach

This publication is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects of those referred to. Readers should take legal advice before applying the information contained in this publication to specific issues or transactions. For more information please contact us at aus.marketing@ashurst.com.

Ashurst Australia (ABN 75 304 286 095) is a general partnership constituted under the laws of the Australian Capital Territory and is part of the Ashurst Group. Further details about Ashurst can be found at www.ashurst.com.

No part of this publication may be reproduced by any process without prior written permission from Ashurst. Enquiries may be emailed to aus.marketing@ashurst.com.

© Ashurst 2023