

Episode 69: Summary

Episode name: Pushing Reset: Navigating Strategic Complexities as Risk Averse In-House Lawyers
Guest(s): Danielle Keyes

What area(s) of law does this episode consider?

Working strategically and commercially as in-house counsel.

Why is this topic relevant?

Traditionally, in-house counsel have operated as the final gatekeepers of new products or services, brought in at the end of a development cycle to give the stamp of approval - this approach has sometimes led to the perception of legal as the “*Department of No*”.

Increasingly however, legal departments are working hand-in-glove with the rest of the business, from an early stage of the cycle of product development. Strategising, planning, and enabling new products or services.

This new way of working presents new challenges and different issues for practitioners, especially maintaining the balance in their responsibility to the court and the administration of justice as a whole and their responsibility to their clients.

What are the main points?

- Strategic thinking involves the ability to understand motivations, the direction of the business and anticipate future issues in order to address them early.
- This is a structural change to the role of in-house counsel. Which now requires an understanding of what drives the business and its components, as well as the ability to think legally, strategically and commercially about issues relevant to internal clients.
- In-house lawyers have the same ethical obligations as lawyers in private practice. This can sometimes be difficult to balance with their strategic role in the business. When the business proposes doing something that isn't perfect, determine the risk and if the business has an appetite for it.
- As Danielle says, “*we're lawyers first and we're employee second*”.

What are the practical takeaways?

- Being an in-house counsel requires effective communication. This involves listening to your business associates, as well as talking in a way that they understand.
- One technique is to use reflective listening. This is a form of active listening where information is reflected back to the speaker.
- This extends to written communication too, where you should strive to provide advice succinctly and to only explain what is necessary for the recipient.
- When giving advice or an opinion, consider the practical application and any options the business could take.
- It can be tough to find ethics advice as in-house counsel. If you have an ethical concern as an in-house lawyer, consult widely among the profession. You can

also look to external resources, mentors or have a discussion with the Law Society.

- In Danielle's words, be "*ruthless*" when it comes to the ethical issues which may present themselves.

How to:

How to provide effective written advice when working as an in-house counsel:

1. *Talk the talk.* Include and correctly use terms that are familiar to business colleagues, such as established acronyms, industry terms and common commercial and financial terms.
2. *Keep it simple.* Tailor your communications to your audience and include short but informative summaries, such as advice and recommendations. An example of this is keeping run-on sentences to a minimum.
3. *Keep it brief.* Ensure your communications are as brief as possible but do not sacrifice completeness or accuracy.
4. *Write well.* Carefully follow the rules of good writing and editing, including carefully choosing words, logically formatting your sentences and paragraphs, and using proper tense, grammar, and punctuation.