

KIAH  
CONSULTING

# TO GET A BETTER ANSWER, ASK A BETTER QUESTION (THE ART OF MANAGING CONSULTANTS AND LAWYERS)

Throughout our work we engage a variety of management consulting and legal services, either directly or through our client. Regularly we are handed the results of previous engagements, too often accompanied with statements like: 'this is OK but not as useful as we had hoped', or 'doesn't quite answer the question'.

We confine our observations to the engagement of these services in support of the work we do and they are clearly opinions, drawn from our experiences. They do not apply equally to every firm or individual. Recognise them as generalisations, but then they are provided as warning signs. Not everyone will agree - the beauty of opinions!

## They are not all the same

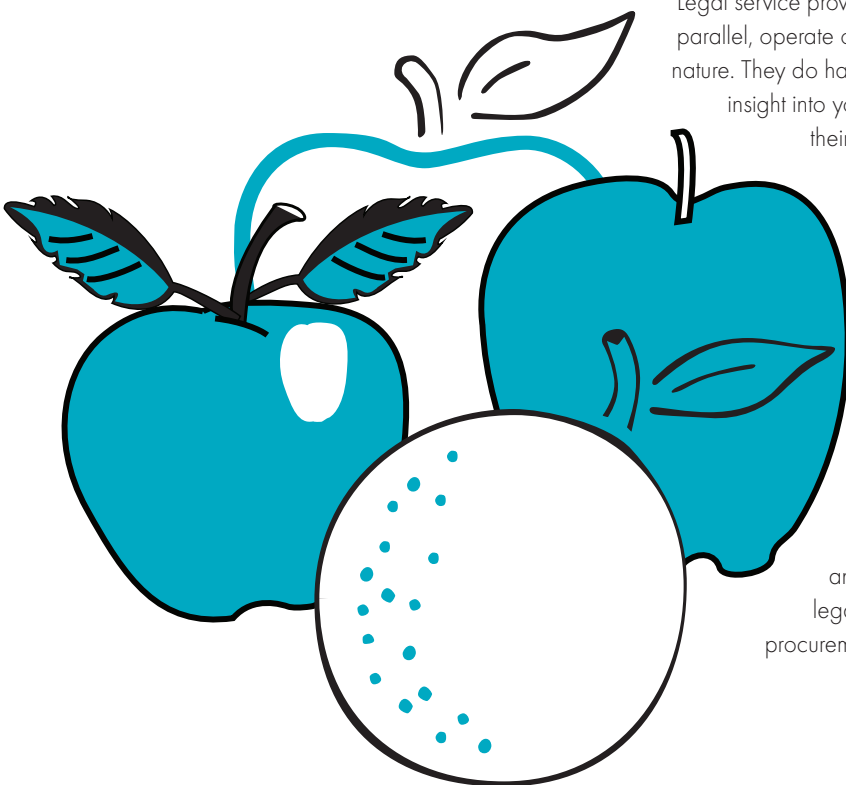
Firstly law firms and consulting firms have diametrically opposed ethos and business models.

Our best experiences with consulting firms have been with those who seek a high level of engagement and onsite delivery for significant elements of their work. They focus on your problem 100 per cent of the time, while they are engaged by you.

Legal service providers rarely do this. They manage multiple matters in parallel, operate out of their own offices and are very transactional in nature. They do have high knowledge of legal issues but typically low insight into your business and, in our experience, prefer to stay in their domain of expertise.

What is common is that the tenor of the engagement is set by the Partner. It is a mistake to choose a provider of these services simply by comparing technical capability and price. This is as much about individuals as it is about firms, about trust and working relationships, empathy and understanding. It is about how you engage as much as it is about what they deliver.

If you are engaging these providers to support an urgent, complex or stressed program then the choice should be made at the senior executive level and not handed off to junior staff in the procurement or legal services group. This is a leadership choice not a procurement activity.



There is no  
excuse for  
mediocrity and  
any report that  
only regurgitates  
facts and  
discovery  
ought not to  
be accepted.

## Insist on advice and opinion

If employed properly, consultants should add marked value to your outcomes and certainly should deliver more benefit than they cost. Legal firms are a necessary cost of doing business but tend to be focussed on reflecting the terms and conditions of the arrangement into some contractual form. They deal with what happens when things go wrong but often fail to address the things necessary to make things go right. They are a necessary cost of doing business but rarely contribute to the value proposition unless properly engaged.

In both cases do not allow equivocation in their recommendations. Consultants provide advice, lawyers provide opinions: make sure that this is what they deliver. Consultants should be providing substantiated advice on courses of actions, developing their arguments on which course is best. They should, as far as possible, deliver a fact based argument. Where facts are in short supply then they should deliver a sensitivity analysis. The choice is yours, but the advice and recommendation is theirs.

Lawyers, too often, deliver an equivocation of alternatives without offering a suggestion on a way forward and the acceptability of possible pathways. They tend to address the legal but not the business impacts of an agreement. They should provide positive advice, a way ahead, as well as advice on what not to do. It will necessarily be caveated by their understanding of all the business issues but they should not resile from providing a legal perspective. They should be properly briefed on your expectation as a client, and then they should too should provide appropriate insight and advice.

## Demand excellence, insight and synthesis

There is no excuse for mediocrity and any report that only regurgitates facts and discovery ought not to be accepted. The value of consultants in particular is the insight and analysis that they do, yet too often we see detailed and exhaustive reports that simply describe what is happening.

Be clear when engaging consultants that you expect insight and analysis and that it ought to be delivered in a concise rather than lengthy tome, though it may be substantiated with a detailed report. It is the analysis that you seek, not the process of discovery or an explanation on why the analysis may be wrong.

Of course legal services may be different and when they invoke *Discovery* they are seeking an exhaustive review of any issue that may have applicability to the matter under consideration. It is an expensive and exhausting process and, in our view, to be avoided if at all possible. It is part of the process that makes legal proceedings so very expensive and why we recommend maintaining matters in a commercial or program rather than legal framework.

There is no excuse for mediocrity and superficial findings when you are engaging experts—expect more.

## Be open-ended, but bounded

The dichotomy of too tightly constraining the exploration versus providing the opportunity for wasted effort is a perennial problem. Take care to define the no-go areas, or at least where they may operate with freedom and where they need to ask permission. In some instances this bounding will be driven by organisational, and potentially contractual, constraints. Conversely be wary of imposing constraints from preconceived ideas and organisational history. We have countless examples of pushing the boundaries only to discover highly relevant and valuable issues that have saved the client millions of dollars.

In our view the problem reflects the trust you have in the Partner and the level of involvement you are able to give. A good Partner will apply judgement in your interest. In fact it will be enlightened self-interest for if they act properly then you will gain more confidence and ultimately give more freedom. No matter how you bound the problem, provide the opportunity for the boundaries to be tested, listen to rational argument and be prepared to alter the boundaries, in either direction.

We would caution again, choosing consultant and legal support especially in critical, rapid or turn-around programs, relies on the people and not simply the corporate marketing and commercial issues. Spend time as a leader on the fundamentals and do not abrogate responsibility to junior staff and simplified procurement processes.

## Define how deep

We are fans of the Pareto Principle (80/20 rule) which posits that 80 per cent of the effects are controlled by 20 per cent of the inputs. It is not a literal split but more a principle that significant effort can be wasted in pursuit of understanding the long tail. We typically seek rapid, affordable exploration and analysis that will have maximum effect in negotiation and delivering efficiency dividends and performance outcomes. To that end we suggest great caution in pursuing the last detail. Of course that is where the most consulting effort lies, so the approach conflicts with the intent of business whose role is to sell staff effort (something that Kiah doesn't do).

It takes judgement to understand where the effort will outweigh the benefits. In a commercial negotiation or dispute resolution you only need enough information to either drive the negotiation in the direction you want or to ascertain if the options are generating best value for money. It is not necessary to have a perfect answer.

While the Pareto Principle is not always appropriate in consulting, and certainly not appropriate for legal work, it is a reasonable guideline in rapid investigative work where a commercial outcome is sought.

## Be engaged

Almost certainly the question you start with should not be the question you end up answering. You ought to learn during the process and as a consequence of knowing more, you should be able to direct the effort into more fruitful and targeted areas. We suggest starting with a broad question and as interim reports are produced hone the investigative process into more targeted areas.

The process ought to be incremental and collaborative. Engage the professional services firms to assist by recommending where their limited resources can best be expended. This steps outside of traditional procurement methods and takes a level of leadership. Be involved. Demand regular meetings and updates. Ensure that the sessions are conversational working sessions and not one way briefings or monologues. Test and challenge what is presented, demand explanation and justification of their work, the value it has provided and why you should follow their next steps.

## So remember ...

Engaging legal and consulting firms is not a simple task and has potentially significant effects in complex, high velocity programs. They are also costly and the best benefit needs to be sought from the effort and cost expended. We recommend senior executive involvement and that choice is not simply on capability and commercial grounds, but also on the ability to work with you and your team. You need to develop confidence in both your choice and in the recommendations you receive.

At Kiah we have developed relationships with legal and consulting firms, and in particular specific partners, who we know we can work with and will deliver sharp, insightful and appropriate recommendations.

If you wish to talk about how best to engage, please contact us for a confidential chat.

## Kiah Consulting

Kiah Consulting primarily provides support in the development of concepts and strategy, project initiation and the recovery of misaligned projects. Our focus is delivery in the public sector.

We work in the zone of ambiguity, providing our expertise to clearly articulate the concepts, define the outcomes and structure delivery. We undertake strategy development, concept definition, feasibility studies and business case development. We manage effective project execution through strong leadership and direction.

We provide the foundations for successful delivery through the establishment of project teams with appropriate contracts, resources, structure and processes.

With a mix of permanent staff and associates we can assure access to the right skills at the right time. Our model recognises that no one person or company has all the answers or skills, so we make it easy to access what is required.

Independence of contractors and suppliers, independence of internal organisations and politics allows us to offer untainted advice.