

LAWYERS MUST HAVE GOOD SUCCESS RATES - AXA PORTUGAL

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Axa Portugal is reducing the number of lawyers and firms on its panel because its legal spend has been cut dramatically in recent years, says general counsel Luciana Silva

How does AXA Portugal measure the success of its external legal advisers? The approach is clear and simple. "Our [external] lawyers work mostly in claims and when we go through an assessment we have success rates," says AXA Portugal general counsel Luciana Silva.

She adds that AXA Portugal retains external lawyers that have good success rates for claims and litigation. In practice this means those that secure the biggest percentage of reimbursements or those that ensure the company pays only what is owed in claims damages. However, when it comes to consultancy work, AXA Portugal looks for firms that have "specific expertise", according to Silva. In general, AXA Portugal only outsources litigation. It handles real estate, HR, products and marketing-related matters, for example, in house. That said, the company will go to external firms for advice on specific issues such as complex matters relating to real estate and tax. AXA Portugal has a

panel of 19 law firms and lawyers that it uses for litigious matters.

However, the panel is shrinking in size as the number of external law firms and lawyers the company uses has diminished as a result of the economic climate. "We're not hiring new lawyers, in fact we're letting some go because litigation has diminished," Silva says. She adds that the bulk of the litigation AXA is involved in relates to disputes in which a client or a third party objects to the company's decision to decline a claim – as a result of the economic crisis and, consequently, the reduction in demand for insurance in certain lines, there are fewer claims-related disputes that have to be dealt with. That said, there are some types of litigation which are on the rise. "Debt actions and criminal actions relating to fraud are increasing," Silva says.

Less car use means fewer claims

To illustrate the point, Silva points out that 60 per cent of AXA Portugal's business is car insurance, adding that, due to the economic conditions, car use has decreased, which has resulted in a decline in the number of claims that the company handles. Another impact of the wider economic situation has been a cut in AXA Portugal's legal spend. "In the last two years, our legal spend has reduced by two-thirds," she says.

AXA Portugal's legal department, which consists of nine people, is also responsible for compliance issues; one member of the team is "100 per cent focused on compliance" although other staff in the department are also involved in such work. "Compliance is a growing area," Silva says. "As we're part of an international group, we also have demands from jurisdictions such as the US and the UK, so there is a lot of work related to compliance."

Silva says the work of AXA Portugal's legal department has increased substantially. "We're having to analyse new risks and new legal frameworks," says Silva, who adds that these risks and frameworks may relate to new financial products being offered by the company, for example.

So what is currently keeping AXA's legal department busy? Silva explains that the company's policy is that the wording of every type of contract AXA Portugal enters into needs to be approved by the legal team, which means that the department is involved in 2,000 written consultations each year. Silva says the biggest challenge facing the legal team is helping the different parts of the business find "compliant ways to do what they want to do".

Meanwhile, there are a number of regulations that are currently having a significant impact on the work of the legal department. These include: Solvency II (an EU directive to harmonise insurance regulation), compliance, new EU data protection rules, anti-money laundering regulations and consumer protection laws. With regard to the new data protection rules, the legal department is currently working on a project within the AXA Group that aims to create a compliant process that will enable the company to not have to seek permission from the local regulators each time it creates a database. Silva says: "The aim of this project is that each time the firm has a new database or a data transfer, communication or authorisation from the regulator wouldn't be needed."

Luciana Silva is general counsel at AXA Portugal