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Issue 2 | June 2015

# Insight

**What's new?**

Meet the new partner pack

**Scotland's go-to dealmakers**

Top ranking in Business Insider's deals tables

**Spotlight on**

Student accommodation

**Mediation**

Looking for a solution to manage conflict?



Issue 2 | June 2015

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# Welcome

to our **second** issue of Insight

Insight is designed with you in mind. It is our opportunity to share with you insights on value and efficiency, as well as focus on key industries.

In this edition we cover our recent Business Insider deals success and share with you a few of the deals that helped us get there. We put the spotlight on student accommodation - this is a fast growing area and the firm

really enjoys being at the forefront of it.

I hope you find Insight interesting and please do let me know what you think of this issue by emailing me at [insight@cms-cmck.com](mailto:insight@cms-cmck.com).

**Laurence Ward**  
Senior Partner, Scotland

# What's new?

## Let's meet the new partner pack

We have just promoted six solicitors to partner across our three Scottish offices. These promotions are among the 10 announced in the UK and 39 announced globally by CMS. Women account for over 46% (18/39) of the firm's global promotions, with seven in the UK.



**Valerie Allan**

Aberdeen

Energy Disputes

Who is your greatest inspiration?  
My fifth year history teacher  
Favourite food?  
This week, Lebanese –  
courtesy of my latest recipe book!  
Unusual fact about yourself?  
I once spent the night on an oilrig



**Alison Gow**

Edinburgh

Dispute Resolution

Describe CMS in three words?  
Dynamic, Diverse, Driven  
Favourite film?  
Some Like it Hot  
Favourite music?  
Prokofiev, Romeo and Juliet



**Gillian MacLellan**

Glasgow

Employment

Favourite film?  
Carlito's Way  
Unusual fact?  
I was christened by  
Gordon Brown's father  
Favourite album?  
Neil Young, Harvest



**Angus MacRae**

Edinburgh

Real Estate

Describe CMS in three words?  
Global but local  
Unusual fact?  
I have survived a plane crash  
(on take-off) in remote southern Africa  
Favourite album?  
The Cure, Greatest Hits



**Chris Rae**

Glasgow

Real Estate

Unusual fact?  
I've worked in Nepal  
11 years in a row  
Inspiration?  
My Grandparents!  
Favourite album?  
Chicane, Giants



**Christine Worthington**

Glasgow

Construction

Favourite food?  
Mediterranean lamb  
Favourite film?  
Any bank robbery film - Quick Change  
Holiday?  
Ardeche, France

We also welcome Pieter, Shona and Ian who have joined CMS to support the increase in activity driven by client demand.



# It's official...we are Scotland's go-to dealmakers

**CMS Scotland** has finished at the top of all three of **Business Insider's** annual Scottish deals tables. The firm's 98 transactions during 2014 were worth an aggregate total of **£7.72bn**, placing CMS significantly ahead of competitor firms in both the number and value of deals. CMS also headed the table of deal initiators, instigating 16 transactions worth over **£268m** – more than the combined value of all other firms on the list.

In addition to topping the Scottish deals tables CMS has been able to work with many Scotland based businesses as they export their services to the rest of the UK and internationally with support from our offices in Rio, Dubai, Muscat and Amsterdam, among many others.

*'These deal figures highlight the success of last May's combination between CMS and Dundas & Wilson. We have seen a smooth bedding-in period with a marked rise in client work across key practice areas including corporate finance which is underlined by these deals figures.'*

**Stephen Millar**, CMS' Executive Partner for Scotland

**Q4 DEALS: ANALYSIS**

**TOP PERFORMERS**

Rank	Firm	No. of deals	Value
1	CMS	98	>£7.72bn
2	Burness Paull	62	>£4.55bn
3	Mazars	55	>£4.49bn
4	Brodies	33	>£3.82bn
5	Grant Thornton	22	>£3.82bn

**LAWYERS:**

Rank	Firm	No. of deals	Value
1	CMS	98	>£7.72bn
2	Burness Paull	62	>£4.55bn
3	Mazars	55	>£4.49bn
4	Brodies	33	>£3.82bn
5	Grant Thornton	22	>£3.82bn

**DEAL INITIATORS:**

Rank	Firm	No. of deals	Value
1	CMS	16	>£268m
2	Anderson Anderson & Brown	42	>£1.2bn
3	Maven Capital Partners	22	>£1.2bn
4	Simmons & Co International	17	>£1.2bn
5	Haines Watts	15	>£1.2bn

**SECTOR BREAKDOWN:**

Sector	No. of deals	Value
Banking & finance	22	>£98.93m
Construction	15	>£156m
Distribution & wholesales	13	>£11.45m
Drinks	12	>£14.31m
Electronics/IT	12	>£6.2m
Engineering	11	>£604.67m
Food & farming	10	>£15.98m
Hotel & leisure	10	>£4.44m
Industry/manufacturing	7	>£17.72m
Marketing & media	6	>£17.72m
Motor	5	>£14.2m
Offshore	5	>£0.2m
Paper/packaging	4	>£2.6m
Property development	4	>£0.5m
Retail	4	>£0.2m
Services	4	>£0.2m
Textiles	3	>£4.5m
Transport	3	>£4.5m

# Deals in detail

We know it is interesting to read a list of credentials, but sometimes you might think 'so what'?

What you really want to know is the detail. We understand this and when it comes to deals the interesting part is finding out about the approach and what was done to get the job completed on time.

We asked Wendy Colquhoun, Douglas Crawford and Kenny Rose, Corporate Partners based in our Aberdeen and Edinburgh offices to do just this and share with us some key facts and client feedback about the deals they have worked on.

## Working with key financial services clients on their reorganisation and growth

Wendy Colquhoun shares with us two deals in the Financial Services sector which have been keeping her team busy.

### Ashcourt Rowan plc on its recent takeover by Towry Finance Company Limited (consideration in excess of £123m)



We started acting for London-based Ashcourt Rowan around 3 years ago shortly after Jonathan Polin and his new management team were introduced to effect a challenging programme of reorganisation and change. One of the early steps Jonathan undertook was to run a tender exercise to appoint specialist FS legal advisers to support their regulated wealth management and advisory businesses - at a sensible cost. Our sector expertise and unique pricing proposition, which incorporated lower cost Edinburgh-based resource, proved attractive and secured our appointment.

Since our appointment, we have worked closely with the company through this period of exciting and rapid change which has involved us working on several acquisitions, a cash box placing, various strategic outsourcing arrangements, a group reorganisation and providing day to day commercial, regulatory, employment and litigation advice throughout.

The recent acquisition of the company by Towry under a Companies Act scheme of arrangement was a challenging but very interesting deal. The use of a scheme, and the need to revise it to take account of Towry's increased offer, gave rise to some tricky technical legal issues. There is no doubt that CMS' ability to call on our UK-wide specialists to advise, for example, on share schemes and tax, enhanced our offering and assisted in achieving an excellent outcome for the company's shareholders.

#### So how did we do?

Jonathan Polin, former Group Chief Executive, Ashcourt Rowan plc, was quick to thank us for our work saying:

**' Thank you and bravo for the quality of advice, the razor-sharp judgement and overall good nature of you and your team. A pleasure to work with and the engine of our success.'**

### Scottish Friendly Assurance Society Limited on its acquisition of Marine and General Mutual Life Assurance Society

We were really pleased to support Scottish Friendly with their largest takeover to date, which will double their assets to around £2bn. The acquisition, which completed on 1 June, was effected by an insurance business transfer scheme under Part VII of the Financial Services and Markets Act 2000.

As Scotland's largest financial mutual, Scottish Friendly is a very exciting client, for whom we have acted for a number of years. As well as completing various acquisitions and strategic distribution arrangements, we also assisted them with the original development of their outsourced wrap proposition and the subsequent sale of that business to Citibank.

As with Ashcourt Rowan, we really value the strong client relationship with Scottish Friendly and the direct access CMS is given to Fiona McBain, Chief Executive and her deputy, Jim Galbraith. This has allowed us to really understand the company and its aims and ambitions. Being trusted with this strategic insight enables us to provide much more informed and relevant advice.

#### So how did we do?

Jim Galbraith said:

**' We were delighted with the support provided by CMS in this transaction, which continues a very successful working relationship built on our confidence in the advice they provide.'**



## The Ferguson Group shareholder exit

Douglas Crawford talks about working with **The Ferguson Group** on their sale to Brambles Holdings (UK) Ltd



We were delighted to be involved in this transaction which turned out to be one of the largest ever single shareholder exits in Scottish corporate history.

The firm's oilfield services "OFS" sector expertise positioned us well to win the mandate. Our OFS specialist Aberdeen-based corporate team ran the deal from our London office with backing from various other UK-wide CMS specialist groups as and when required.

The transaction was negotiated and closed over a short time frame.

Of special note was the involvement of the CMS competition group who were able to report on specific notification, filing and consent requirements in respect of 50+ countries in a matter of days.



So how did we do?

Steven Ferguson, Chairman, The Ferguson Group

***' I was delighted with the work carried out by CMS who acted as our legal advisers in the sale of the business to Brambles PLC.'***

***' From the outset, I gained a high level of confidence that Doug and his team had the experience and the track record to take us through the process and this along with a well thought out plan proposed at the beginning, made the choice of legal advisor an easy one.'***

Simmons & Company International

***' Simmons & Company International had enjoyed working with Doug Crawford and Helen Machin many times in the past and were very comfortable introducing them to the owner of The Ferguson Group. Doug, Helen and the wider CMS support team were very responsive throughout the transaction. Their commercial approach helped eliminate unnecessary work and protracted negotiations whilst still protecting their client. They also helped engender a positive atmosphere amongst the wider advisory team.'***

## Supporting Alliance Trust Savings with their strategic growth in the platform market

Kenny Rose talks us through the recent acquisition by **Alliance Trust Savings (ATS)** of share trading platform business Stocktrade from Brewin Dolphin Holdings plc for £14m that was announced on 14 May 2015



ATS is an award winning provider of SIPPs, ISAs and Sharedealing Accounts and is a subsidiary of Alliance Trust PLC, a FTSE 250 company headquartered in Dundee, which has grown to become one of the largest general investment trusts in the UK by market value. Based in Edinburgh, Stocktrade is an execution-only division of Brewin Dolphin, which had assets under administration of £4.3bn as of September 2014.

Although we were well known to a number of the talented people at Alliance Trust PLC this was the first time that CMS has acted for the group in such a strategically important transaction. We were therefore delighted to be appointed by ATS in this major strategic acquisition which is a significant step in its stated mission to achieve scale and profitability in the platform market and further builds on its impressive market profile. The deal will increase ATS' assets under administration from £4.6bn to £11.8bn and nearly double its total customers to 105,000 as well as opening up opportunities for ATS to build new corporate partnerships and alliances.

Our appointment recognised our impressive track record in M&A activity in the financial services sector (both north and south of the Border) as well as our specialist experience with investment platform businesses. The deal allowed us to demonstrate our all-round capabilities for deals of this type, and deliver the deal within very tight timelines. There were some unique aspects to the deal requiring us to take a truly innovative approach.

So how did we do?

Patrick Mill, Managing Director, Alliance Trust Savings

***' It was really helpful having the CMS team support us on this important deal. We were really impressed with the sound advice they provided and their client friendly approach. It certainly helped us meet the tight timescales we were working to.'***





**MPF Awards  
For Management  
Excellence  
2015**

**Winner**  
Best Provision  
of Know-how



# RegZone

[www.cms-lawnow.com/regzone](http://www.cms-lawnow.com/regzone)

'Our job is to keep clients informed. The RegZone platform does this and provides the financial services regulatory information clients need to know in the way that they want. We can then advise them directly on what the regulation actually means for them.'



**Simon Morris**

Partner

E [simon.morris@cms-cmck.com](mailto:simon.morris@cms-cmck.com)



**Karagh Gilliatt**

Partner

E [karagh.gilliatt@cms-cmck.com](mailto:karagh.gilliatt@cms-cmck.com)



**Aidan Campbell**

Partner

E [aidan.campbell@cms-cmck.com](mailto:aidan.campbell@cms-cmck.com)

All organisations in the financial services sector must manage and understand the huge amount of legal updates, market changes and reforms. CMS has risen to this challenge by delivering RegZone.

Awarded the 'Best Provision of Know-How' award at the Managing Partners Forum Awards 2015, RegZone offers an unrivalled one-stop-shop of European financial institution regulation information. It keeps busy professionals in the sector on top of key developments and changes as they happen. Launched in May 2014, it now has over 6,000 subscribers receiving regular updates and digest emails.

RegZone's flexible and free email service allows subscribers to personalise their alerts and only receive the news and reports they are interested in, when they want it.

So sign up now! <http://www.cms-lawnow.com/regzone>

You can download it to your mobile and check out the toolkit which includes a reform tracker, calendar of important future dates and jargon buster.

For more information, please contact the RegZone team on 020 7367 3333.

# Spotlight on: student accommodation



## From Grime to Prime

Readers over the age of 40 will probably recall student accommodation as a somewhat grim experience – either halls of residence filled with endless corridors and cheap linoleum, or low-grade flats last renovated in the 60s.

*So far in 2015 we have seen more student accommodation transactions than in 2014.*

JLL

Today's student accommodation is a world apart. Many students expect the full accoutrements of modern living – dishwashers, high-speed broadband, WiFi, big-screen televisions, satellite channels, pool tables, heating and even fortnightly cleaning are often all included in the rent. Students – they have never had it so good, to misquote Harold Macmillan. UK student accommodation has become a high-performing property asset class of its own, attracting investment from around the world.

### How it happened

The shift began in the late 1990s. Entrepreneurs such as brothers James and William Forde, backed by venture capitalist Cabot Square, spotted a gap in the market for high-quality student accommodation, which they sought to fill with their UniLodge concept. This allowed universities to direct funding resources towards education and accommodation was supplied as a stand-alone fully financed service. This set the demand for high-spec studio flats or cluster flats as we know them today.

### The major players

Today, there are five main types of player in the UK student accommodation sector. Firstly, there are the owners and managers of the accommodation, such as Unite Students who lead the market. Secondly, there are investors, such as German fund Bouwfonds, which buy property or invest in student accommodation real estate funds (such as Unite's £1.5bn UK student accommodation fund). They appoint a third type of player – student accommodation management experts like Fresh Student Living and CRM Students – to manage their properties. Fourthly, of course, are the banks. And lastly, universities remain closely involved in the student accommodation field.

### The future for student accommodation

The industry faces a number of challenges in the years ahead. The Scottish government is currently consulting on a new form of private sector tenancy. Its primary aim is a clearer and simpler system. In England, the Labour Party has been calling for the introduction of three-year tenancies with a ceiling on rent increases.



As for student numbers, although they fell following the introduction of higher tuition fees in England in 2012, they have recovered since. 2014 saw a record intake for UK universities. The Westminster government has also predicted that the removal of the student numbers cap in England, with effect from the 2015-16 academic year, will mean that the number of students entering higher education each year will increase by 60,000. Universities in Scotland remain attractive to Scottish and overseas students owing to the absence of tuition fees for them.

Student accommodation has been recognised as a distinct property asset class in the UK for many years now – and with the ongoing drive by the Westminster and Holyrood governments to increase student numbers, growth in the sector looks set to continue.\*

## At a glance

*We are well placed to advise on the diverse issues which can and do arise, as our lawyers act not only on behalf of operators/providers but also on behalf of universities as end users. This gives us the ability to see the whole picture and understand the drivers and risk profiles of all stakeholders.*

*Our clients operating in Scotland include UNITE Students, Knightsbridge, iQ, M&G, Curlew Student Trust, Bouwfonds, Fresh Student Living, Ziggurat, The University of Glasgow, Strathclyde University, Glasgow Caledonian University, Heriot-Watt University, Aberdeen University, Dundee University and The University of Edinburgh.*

*The law and practice affecting operators and end users/students differs on both sides of the border, and we offer specialist advice from dual qualified lawyers on key issues which strike at investment value and are peculiar to Scotland, such as HMO licensing, direct-let short assured tenancy agreements, tenancy deposit & landlord registration requirements, the recent “outlawing” of booking fees and uncertainty in relation to water rates charges.*

Student Accommodation team:

**Margaret McLean**

Partner

E [margaret.mclean@cms-cmck.com](mailto:margaret.mclean@cms-cmck.com)

**Darina Kerr**

Partner

E [darina.kerr@cms-cmck.com](mailto:darina.kerr@cms-cmck.com)

**Roland Smyth**

Senior Associate

E [roland.smyth@cms-cmck.com](mailto:roland.smyth@cms-cmck.com)

\* Abstract from Estates Gazette 2015

# CMS and IPF talk student accommodation



Given the importance of this growth area it's not surprising that CMS is at the forefront of the debate on investment in student accommodation and hosted the Investment Property Forum (IPF) to discuss this matter.

On 7 May, CMS teamed up with the IPF to host a seminar on **"Investment in Student Accommodation – a land of opportunity and pitfall"**.

Stuart Tait, CMS Property Partner and member of the Scottish Board of the IPF, chaired the panel of guest speakers comprising Colin Anderson (Maven Capital Partners), Richard Marshall (Standard Life Investments) and Stuart Heslop (The Royal Bank of Scotland) and their discussion on the opportunities and risks associated with one of the real estate market's hottest asset classes with an audience of lenders, investors and advisors in the sector. Here are the headlines:-

*119 universities  
in the UK.*

*The Guardian*

## Opportunities

- Growing internationalisation of investment into student accommodation.
- Removal of cap on student numbers in England – presents the possibility of a greater need for accommodation.
- Location is important but the institution is key. Colin Anderson used Dundee as an example – whilst the city itself may not be regarded as prime a location as somewhere like Edinburgh, its top-rated medical and art schools make it an attractive place to invest.

## Risks

- Recovery in the wider real estate market may mean that funding initially earmarked for things like student accommodation might shift back towards more traditional types of investment – e.g. office or retail.
- Government immigration policies – a tightening up on these policies could well have an impact on the number of foreign students studying in the UK.
- Funders want to back people with experience and a track record. Developments are time-critical and must be ready in time for the start of an academic year.

## What does the future hold?

- There was unanimous agreement that the market is maturing. With the amount of equity chasing the market and secondary yields now close to primary, some felt that the levels of rental and capital growth seen to date may start to level off.
- There will be a refurbishment of older stock to bring rental values up to a level comparable with new stock.
- A greater focus on common areas (with high-spec gyms and the like beginning to feature) and developing USPs for each development. The panellists predicted that the UK will start looking to emulate what student accommodation providers in the United States are able to offer.

### Stuart Tait

Partner

E [stuart.tait@cms-cmck.com](mailto:stuart.tait@cms-cmck.com)

*'...it is refreshing to work with a firm who are prepared to see the bigger picture...'*

*Nick Hayes,  
Acquisition and Development Director at UNITE Group plc*

# Teaming together

As part of our **Corporate Social Responsibility (CSR)** activity we enjoy working with our clients on community projects - it makes a difference from drafting and reviewing documents round the table.

## Murals and raised beds...I thought you were lawyers?

Our SSE key account team joined their SSE counterparts to brighten up the North Muirton Primary School which is close to SSE's head office in Perth. The team painted several murals in the school gardens and playground, and also built raised beds and a seated area in the conservation area. The children were thrilled with the new look. This is the sixth CSR event we have held with SSE.

We also teamed up with Clydesdale Bank and spent a day at Aultmore Park Primary School, Easterhouse, Glasgow and worked on a number of murals throughout the school. The biggest one was in the gym hall and we hope that it will encourage the kids to enjoy their gym sessions even more. On the same day we ran an Enterprise workshop which is designed to improve pupils' awareness, aspirations, and attitude towards the world of work.

Here are some the pictures of the teams in action



Find out more about our CSR activities:



**Emily Catterwell**  
CSR Executive  
E [emily.catterwell@cms-cmck.com](mailto:emily.catterwell@cms-cmck.com)



**Sophie Breuil**  
CSR Executive  
E [sophie.breuil@cms-cmck.com](mailto:sophie.breuil@cms-cmck.com)



## Cutting the cost of conflict through mediation

With a recent CIPD research report highlighting a shift in the way employers are dealing with conflict, organisations are starting to consider mediation in the workplace. The previous government also championed mediation as a means of tackling relationship issues at work. Yet some employers remain sceptical about involving a mediator or investing in mediation processes.

We asked Anthony Fincham, Head of our Workplace Mediation Service to suggest when mediation should be used and how the process could help employers.

Most of us have, at some point in our working life, encountered a situation where an issue has escalated and become extremely difficult. That might be for a variety of reasons, but in most cases poor communication will be at the heart of the matter. As the conflict continues parties become polarised and adopt positions where any movement is seen as a concession. Workplace mediation can help to unravel this type of conflict, and can be very effective in resolving the issue and enabling employees to work together.

Formal workplace mediation is obviously not something that should be considered for every problem at work, and I am very much in favour of empowering managers to resolve issues locally. Good people managers will use a similar skillset to mediators when they are having these difficult conversations. I see mediation skills as an essential tool in the workplace - whether that means training managers or bringing in an external mediator for the more tricky situations.

### So how does a formal mediation work?

Before a formal mediation day I will have had discussions with the individuals concerned directly to build up trust and make sure that I have all the relevant people either present on the day or at the end of a telephone. I encourage them to be open and to put on the table candidly all the issues as they see them. Mediations are normally completed in a day, but may be tackled in a few hours. I prefer to have a neutral venue away from the workplace and different rooms for the parties. The format varies considerably, but I will typically have a series of confidential private meetings to understand the issues before bringing the parties together in a joint meeting to try to work towards solutions, and if possible reach an agreement.

### And why does mediation work?

*"...it's a form of facilitated negotiation".*

It works because the mediator can go beyond the positions adopted by the parties. Discovering shared interests or options to move forward may be the secret to breaking the deadlock. It can be hard work and require a lot of thinking on your feet, but essentially the mediator is managing the process between the parties. In other words it's a form of facilitated negotiation. I always explain that it's not my role to tell anyone what to do - it's up to the parties to work out a solution together. This ability to engage and empower employees in delivering their own solutions makes a lasting settlement more realistic. In order to help it's important to listen to the parties and try to understand and empathise with their concerns. In a workplace setting you also need to make sure that management views are factored in to any settlement agreement. There's no point two employees agreeing something that will not be sanctioned by senior management. In some situations mediation may result in one party leaving which might need to be dealt with by a formal settlement agreement, and in other cases the outcome may involve an agreement setting out how the parties will work together in the future. Solutions will vary depending on the issues and the parties, and mediation has the flexibility to respond to different circumstances. With success rates of between 70-80%, it is definitely an option worth considering.

To find out more about how the [CMS Workplace Mediation Service](#) can help you please contact;

#### Anthony Fincham

Partner

E [anthony.fincham@cms-cmck.com](mailto:anthony.fincham@cms-cmck.com)

#### Finlay McKay

Partner

E [finlay.mckay@cms-cmck.com](mailto:finlay.mckay@cms-cmck.com)

#### Gillian MacLellan

Partner

E [gillian.maclellan@cms-cmck.com](mailto:gillian.maclellan@cms-cmck.com)

#### Alison Woods

Partner

E [alison.woods@cms-cmck.com](mailto:alison.woods@cms-cmck.com)

# Engaging through social media

CMS Twitter account was ranked number one for quality of tweets\* and was in the top three for most retweeted accounts.

We'd like to share a few of our tweets with you.

The collage features several tweets from CMS Scotland:

- Apr 21, 2015:** "Congratulations to our 6 Scottish partners who have been promoted: [bit.ly/1D9TLJH](http://bit.ly/1D9TLJH)"
- Apr 21, 2015:** "Following the #QueensSpeech at the #StateOpening of Parliament, what does the future hold for Scottish devolution?"
- Apr 21, 2015:** "Partner Michael McAuley was pleased to attend the 'ground breaking' ceremony today @HeriotWattUni on behalf of CMS. [bit.ly/1Mc0V18](http://bit.ly/1Mc0V18)"
- Apr 21, 2015:** "Interested in a career in #law? Our Bursary Scheme for aspiring #students opens in Scotland: [bit.ly/CMS\\_BC](http://bit.ly/CMS_BC)"
- Apr 21, 2015:** "The Glasgow office today was visited by #charity partner @WarChildUK who updated us on their work."
- Apr 21, 2015:** "Did you catch Finlay McKay in yesterday's @TheScotsman newspaper writing about obesity and #employment? [bit.ly/1GA02U1](http://bit.ly/1GA02U1) #ukemplaw"
- Apr 21, 2015:** "Today, we celebrate one year since our successful combination with Dundas & Wilson. Here are some highlights:"
- Jun 11, 2015:** "Managing Partner Duncan Weston comments today after strong #financial results are published."
- May 21, 2015:** "We have been shortlisted for Law Firm of the Year at the @EngagedInvestor Trustee Awards 2015: [bit.ly/1F03QKz](http://bit.ly/1F03QKz)"



Please also follow us on Twitter, LinkedIn and Google+.

\*study of 279 UK law firms by digital marketing agency Online Ventures Group, May 2015

# A hard sell – do procurement departments understand what in-house teams need?

If there ever was a time when general counsel appointed law firms over a second bottle of Bollinger at Lord's cricket ground, then those days are very much in the past. The process of winning an appointment to a corporate panel has become much more formal and transparent, thanks in part to the growing influence of corporate procurement departments.

Traditionally, procurement's control over expenditure covered indirect materials and routine services – laptops, office equipment, stationery, facilities management – as well as direct spend items such as raw materials or components.

In recent years, however, procurement departments have been expanding, with their responsibilities increasingly encompassing professional services, including legal services.

But is procurement achieving its aims? Is it contributing anything other than simply trying to drill down hourly rates? Or, worse, is it interfering with the working relationship between the general counsel (GC) and the law firms, to the detriment of both?

'The role of procurement in procuring legal services has changed considerably over the last five years or so,' says Geraint Evans, head of new business at CMS Cameron McKenna. 'Procurement sophistication has really moved on from when lawyers felt that they were just there to take 10% or 20% off your price.'

Evans contrasts that with 'two or three of the more frustrating pitches' where it has been the in-house legal

teams that have run the process, 'and they have struggled to maintain the momentum of a process that can take sometimes two, three, four months or so', he explains. 'The day job gets in the way and they are called into fire-fighting on projects internally. So the procurement teams are now able to apply that efficiency to the process.'


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“ procurement's role is that of behind the scenes enabler.”

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So far so good, as far as procurement's involvement is concerned. Particularly as the evidence suggests that procurement is taking a much more informed approach than simply scrutinising hourly rates.

One implication is that, for example, procurement departments are keen to know what part of their work will be handled by partners, what's going to be in associates' hands, what gets sent to teams of paralegals in low-cost centres that may or may not be outsourced – and what the costs are for each. 'Procurement teams understand in much more detail the complexity of being able to take what is essentially a relationship-based service but breaking it down into lots of constituent parts and putting them in the most efficient place,' adds Evans.



Procurement is also scrutinising bills a lot more closely, and demanding more detailed breakdowns if they don't get the transparency they expect. 'Many law firms try to not obfuscate but they summarise their bill and hope you'll just pay it,' says Steve Hrubala, chief procurement officer at private equity company Carlyle Group. 'Nine-tenths of making sure that you are getting value out of your law firm is demonstrating to them that you are paying attention [to their billing] and thinking about it. That's actually having an impact on behaviour.'

Nasreen Suleman is a senior consultant at Strategic Sourcing Excellence who has held top procurement positions in organisations such as big four accountant EY, AstraZeneca and Britvic. She says that procurement's role is that of a behind-the-scenes 'enabler', providing market intelligence to the GC. This includes fee trends in the different practice areas and information about firms, such as their profits per equity partner or whether they're laying people off or outsourcing, so that the corporate has a framework to benchmark its legal costs against. 'Sometimes GCs don't know what they're paying,' Suleman points out.

### Leave it to the GC

The influence of procurement on the selection process is felt most in regulated industries – in particular financial services – where it is perhaps inevitable that transparency is crucial. It is also felt in some of the more commoditised or routine legal service offerings such as patents filing and real estate transactions – 'high-volume, low-value' processes may well be handled by law firms' cheaper-to-run service centres.

But for some of the most critical roles procurement often plays little or no part in influencing the GC's decision on which firms to use. 'When I was at AstraZeneca I used to say that by working with the legal department I was helping protect the crown jewels in terms of intellectual property and IP litigation,' says Suleman.

'The key thing about working with legal is that it's all about the stakeholder engagement with the GC and less about the law firms themselves, because typically the GCs all own the relationship with those firms. They

have that expertise, they have selected those firms and they work with those partners and associates every day.'


At Carlyle, key law firms play critical roles in private equity deals, finance and tax. 'We need to have access to really talented, deeply experienced people,' explains Hrubala. 'Anything that's core to the firm tends to be directly within the purview of the GC working together with whatever business units are going to be relying on those legal services.' There is, he says, 'a deeply personal aspect to these legal services. For procurement people, the tendency is always to say that, fundamentally, apples and oranges are all fruit. But there's more of a comfort level that needs to be developed and cultivated and it's very difficult to arrive at that kind of comfort level if you have done RFPs. We've tried to do it, but I think most smart procurement groups will bow to the inevitable and say, even though it's a huge area of spend, maybe we won't waste our energy fighting this battle.'

Sandy Duncan joined Lloyds Banking Group as senior sourcing manager for legal services late last year, just as the bank was concluding its recent panel review. 'The bank has had a pretty well-established legal sourcing team for about six years,' he says.

Lloyds has conducted three two-year panel reviews in that time and 'with every cycle we evolve into a slightly better place', Duncan comments. 'At the end of the day we are all trying to work towards a similar end result. We would ask for open and active engagement. We're starting to look in a much more rounded way at what the medium to long-term relationship should look like, and we're definitely at that point where it's getting slightly longer term and hopefully taking a more collegiate-type approach than would have been the case in the not too recent past.'

From whichever side you're looking at this – legal or procurement – things seem to be changing.

Abstract from Legal Week, 11 May 2015



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CMS Cameron McKenna LLP  
6 Queens Road  
Aberdeen  
AB15 4ZT

T +44 1224 622 002  
F +44 1224 622 066

CMS Cameron McKenna LLP  
Saltire Court, 20 Castle Terrace  
Edinburgh  
EH1 2EN

T +44 131 228 8000  
F +44 131 228 8888

CMS Cameron McKenna LLP  
191 West George Street  
Glasgow  
G2 2LD

T +44 141 222 2200  
F +44 141 222 2201

CMS Cameron McKenna LLP  
Mitre House  
160 Aldersgate Street  
London EC1A 4DD

T +44 (0)20 7367 3000  
F +44 (0)20 7367 2000

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