

COVID-19

The in-house response: react, reflect and rebuild

The **Asia** perspective



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How have businesses reacted and reflected, and how are they now rebuilding their approach, post COVID-19?

As businesses and governments in Asia are advancing their way to post-COVID-19 recovery and restarting the economy, we invited a group of general counsel from our key clients in the region to join us for a virtual roundtable. We had a lively discussion on the current issues, themes, trends and critical areas their legal teams have encountered during the pandemic and how they are adapting to the post-COVID-19 world.

This was the first virtual roundtable session that we hosted for clients from the Asia region. While some countries in the region are now past the lockdown period, it was interesting to hear the issues, challenges and dilemmas that in-house legal teams have faced and are currently facing. We enjoyed a fascinating and lively dialogue.

Our in-person and virtual roundtable events are part of a series we have developed, designed to create a platform for senior business leaders, general counsel, legal and business teams and senior management representatives to share relevant business experiences, discuss live issues and explore ideas for the future of legal service delivery. Through this established roundtable programme, we aim to foster a real peer-to-peer learning environment for our clients to ensure they are able to discuss real and current issues in an informal but informative setting.

These roundtable events, in their virtual and in-person formats, are held under Chatham House rules. Therefore, as always with our follow-up thought leadership reports, we have not provided specific names or examples and have kept this report confined to themes. This report outlines the key themes that emerged from our discussion, and some of the 'now and the next' areas, which seemed to be highlighted during the conversation with our clients.

As we continue to explore some of the critical issues in-house legal teams are dealing with, we are grateful to the participants for their honesty and candour and we will ensure to continue the dialogue with them as the world moves into the post-COVID-19 era.



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Please note: Throughout this report quotes in *“red italics”* are direct quotes from the session



Steep learning curve:

Reaction: how have in-house legal teams reacted to the crisis?

With increased use of technology in a remote work setting, in-house legal teams have reacted positively and have been able to provide around-the-clock support and guidance to their organisations and internal clients. The new environment has also led them to reconsider and improve some of their existing internal practices and processes.

- During the pandemic, much to their own surprise, some clients said they *“worked very well remotely”* and that *“getting work done was not an issue”* in the new environment.
- Clients noticed *“paradoxical changes”*, resulting in their teams becoming *“more productive and proactive”*. However, they also noted *“a tendency to work a little bit more”* because of the lack of clear physical boundaries between work and personal life.
- In-house legal teams were able to provide *“24 hour service to our internal clients”* because of the increased use of technology and the advantage of having team members based in different time zones around the world – *“there has been a better use of time zones”*. At one time *“we had 1,500 team members globally online at the same time,”* commented one client.
- The pandemic has also led to a more efficient *“delegation of authority and trust”* within in-house legal teams, with one general counsel noting that he felt more at ease to delegate to his subordinates because of the increased volume of work.
- Remote working has also led to the adoption of some new internal practices and processes, which were previously questioned and generally avoided, such as the use of e-signatures. However, the longer this new setting of remote working continues, there will be an increased risk of the *“degrading of culture”*, said one client (see below).

The now and the next

- Notwithstanding the challenges, businesses have reacted positively in embracing a new normal by using technology and maintaining a ‘business as usual’ environment as much as possible.
- Clients acknowledge the overall success of remote working and the ‘positives’ it has delivered for their teams, e.g., the adoption of more innovative and efficient processes and internal practices.
- The success of working remotely is now forcing businesses to consider the best way for their teams to work together and collaborate in the future, thereby striking a revised balance between working in the office and working from home.
- Because of lean teams and increased work volumes, some in-house teams have needed to rely more on external counsel.

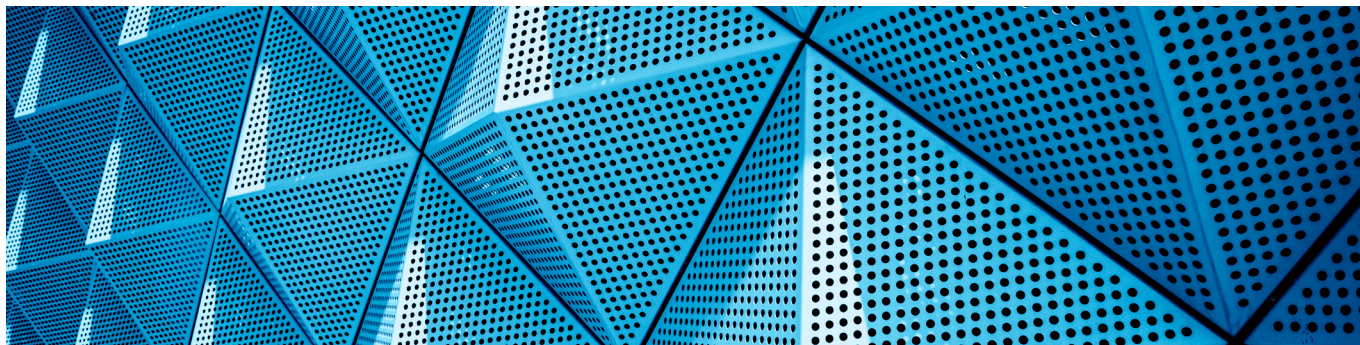
Reflection:

Firefighting to recovery – how has the pandemic impacted in-house legal teams?

On reflection, COVID-19 has been “transformative” for many organisations and in-house legal teams admit to having been asked to show more flexibility and resilience in the way they provide value to their internal stakeholders.

- When reflecting on how the pandemic impacted their business, clients admitted that it has brought about a lot of uncertainty and they went into *“firefighting mode”* as a result of ongoing disruptions to their companies’ supply chains, the global financial markets, etc.
- Internally, clients generally feel that they are now more deeply involved in their business and have now become more visible on *“the front line”* with more involvement *“in the trenches”*. For example, general counsel have been integral in helping to devise a business focused response to the crisis, with an increasing trend of in-house lawyers forming part of newly created COVID-19 response task forces.
- As the crisis developed, in-house legal teams felt they became closer to the business frontline and that *“the work that was coming into legal was quite rapid and high stress”*. In-house legal teams believe that they ***“have absorbed a lot more than what we would normally do in terms of the business”***.





- Among the clients, the reflection stage has demonstrated that the pandemic has brought in some new and emerging legal risks. They commented that the new environment has led them to become *“force majeure and insolvency experts”*, with insolvency law, in particular, changing significantly in a number of jurisdictions, requiring in-house legal teams to seek more guidance from their external counsel.
- Clients recognise that some areas within their business have *“slowed down”*, for example, investment management, with one client sharing that the focus for them has shifted from acquiring new companies to actually helping *“the companies we bought within the past few years to get through the crisis”*. Also, they are increasingly supporting their internal clients more with board issues.
- Clients also now expect to see *“a real tail of disputes and liquidity issues related to COVID”*, although *“companies with big balance sheets will continue to look for opportunities for growth”* – to protect the core business and to grow elsewhere.

The now and the next

- During the reflection stage, clients came to the view that, as the current economic climate is uncertain and volatile, the future will remain unpredictable.
- As we slowly move into the rebuild stage in the post-COVID-19 world, many in-house legal teams are dealing with the aftermath of the chaos that the pandemic has provoked, with one client stating that *“we are looking at another 6 months until trends start to regularise”*.
- Clients are of the view that *“some organisations will be a lot more cautious”* and expect that *“most of us will be facing budget pressures”*, meaning that in-house legal teams will be asked to do *“more with less”*.



Rebuilding:

A new priority for businesses – learning and development, mental health and wellbeing

As in-house legal teams move into the rebuilding stage, they are continuing to adapt to the current realities and preparing for the future. A key issue for general counsel is how to maintain the balance between business continuity and the wellbeing of their teams.

- Clients admitted that while *“a lot of people were pleasantly surprised how well [remote work] has worked”*, they also recognised the *“negative side”*, i.e., the toll the crisis and remote working have had on their staff’s wellbeing.
- It was commonly recognised that *“connectivity and culture”* have been impacted due to *“the lack of [personal] connection”* and because *“work is at home now”*.
- As part of their rebuilding strategy, some clients ran internal surveys to find out how their personnel were responding to the crisis and the changing work environment.
- A common observation was that *“stress has increased”*. Legal departments within companies are generally seen as the *“problem solvers for the business”* and the pandemic has led to higher volumes of work and, with it, heightened stress levels.
- Clients also noted the difficulties that new and less experienced team members have encountered during the pandemic. They recognised that joining a new team or company in a virtual environment has its own challenges, where *“no matter how many Zoom meetings or telephone calls you have, you cannot replace the in-person interaction”*, which has led to new team members having difficulties *“assimilating [knowledge] quickly and effectively”*.

- On the other hand, general counsel are also thinking about ways to exercise effective leadership in a remote work environment, with some clients asking themselves

“How do you tap people on the back remotely? How do you give feedback? How do you know how well your team is doing?”

The now and the next

- A common theme among the clients was that the crisis has brought in heightened levels of stress and a *“degradation of culture, particularly when people leave and come in”*.
- It was recognised that new and less experienced team members need to interact with their *“role models”* in the office to ensure that they learn and progress in the future.
- As we move into the rebuild stage, clients are increasingly mindful of the wellbeing of their teams and companies’ personnel, with some noting that *“the wellbeing [of our people] has extended beyond the office – this is a real challenge for leadership”*.
- As part of the rebuilding strategy, in-house legal teams are now increasingly looking to invest more resources in learning and development sessions for their people, which are tailored to a remote work setting. Going forward, more wellbeing sessions will be required.



React, reflect and rebuild – what does the changing landscape look like for external counsel in the new normal?

As businesses have reacted and reflected, and are now rebuilding their focus and strategies for the post-COVID-19 era, the importance of the role of external lawyers has become more apparent. In an increasingly dynamic work environment, in-house legal teams have experienced new pressures and have sought expert guidance from their external counsel on new issues and matters. Notwithstanding the current climate, clients continue to be eager to develop and nurture the relationships with their legal advisors but admit to having seen an insufficient number of firms “reaching out” in the form of personal calls, etc.





- The increased work levels in new areas and in a wider number of jurisdictions due to the pandemic have led in-house legal teams to *“rely heavily on external counsel”*, especially where in-house teams are lean, with limited resources.
- There is an increased emphasis on the importance of trust between in-house legal teams and external counsel, where clients note that ***“competency is a given, but next in line is trust”***
- Clients admit that *“in this period of physical distancing, it is difficult to nurture the relationship”* with their external counsel and therefore, they expect to see their law firms finding and developing new and innovative ways to stay in touch, for example, through inviting them to subject matter-focused webinars and virtual roundtables.
- It was commonly acknowledged that external counsel should try to *“be more visible and try to develop new connections with the clients”*. This is especially relevant as the legal needs of the in-house legal teams become more complex and unpredictable and external guidance could be crucial in helping them to navigate the numerous and differing challenges brought about by the crisis.

The now and the next

- While clients report that they have seen an obvious *“lack of personal reaching out”* from some external counsel, they strongly advocated that *“it is always a good time to build trust and reaching out is never wasted”*.
- The current pandemic has led to in-house legal teams to expect law firms to be proactive in their efforts to connect with them in a meaningful way because *“there are a lot less barriers to pick up the phone and speak to your clients”*.
- The increased spectrum of responsibilities for in-house legal teams internally will drive a need for law firms to *“play the trusted advisor role”* and deliver value in a different way.
- Clients will continue to rely more heavily on law firms and expect to see *“a tendency [for law firms] to become more specialized, not less”* in order to be able to better respond to their needs – *“I’ve noticed internal clients looking for more and more advice on specialised areas”* – and this is likely to lead to an increased need for more specialisms from law firms.
- There was an emphasis on the need for law firms to spend more time investing in their clients and understanding their organisation, where they want to put forward tailored and well considered offerings.

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