

# A year of big change - how businesses are creating new trends in 2020



# The Future of the U.S. corporation:

Has the pandemic driven in-house legal teams to focus on regaining normality and profit success, or has it shifted the spotlight onto in-house legal teams becoming guardians of their business?

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# Proving resilient through change

Survival has been the foremost concern for U.S. businesses during COVID-19. As the pandemic continues, companies are now turning from preservation mode to long-term business proofing and working on strategies to ensure a post-pandemic return.

This September, we invited a group of New York-based clients to join us for a discussion on how in-house legal departments are working to adjust to the post-COVID world. Our virtual roundtable revisited some themes that emerged from our June session and investigated how clients have been facing the realities of the current environment and the impact on their business and employees.

This roundtable was part of Reed Smith's wider "Reed Smith 2020 across the globe" series designed to create a platform for senior business leaders, general counsel, and senior management representatives to share experiences, discuss live issues, and explore solutions for the future. Our aim is to foster a collaborative peer-to-peer learning environment, allowing clients to participate in informative discussions of real-time and current events in an informal setting.

As our virtual and in-person roundtable events are held under the Chatham House Rule, we have confined this report to themes without specific reference to the participants. Where relevant, we have included "lessons learned" that seem to be highlighted and that seemed to emerge during the discussion.

As we continue to explore some of the critical issues on the "to-do lists" of in-house legal teams, we are grateful to our clients for their participation and open conversation. We look forward to continuing the dialogue with them as we all move together into our global "new normal."

**Please note:** Throughout this report quotes in "*blue italics*" are direct quotes from the session



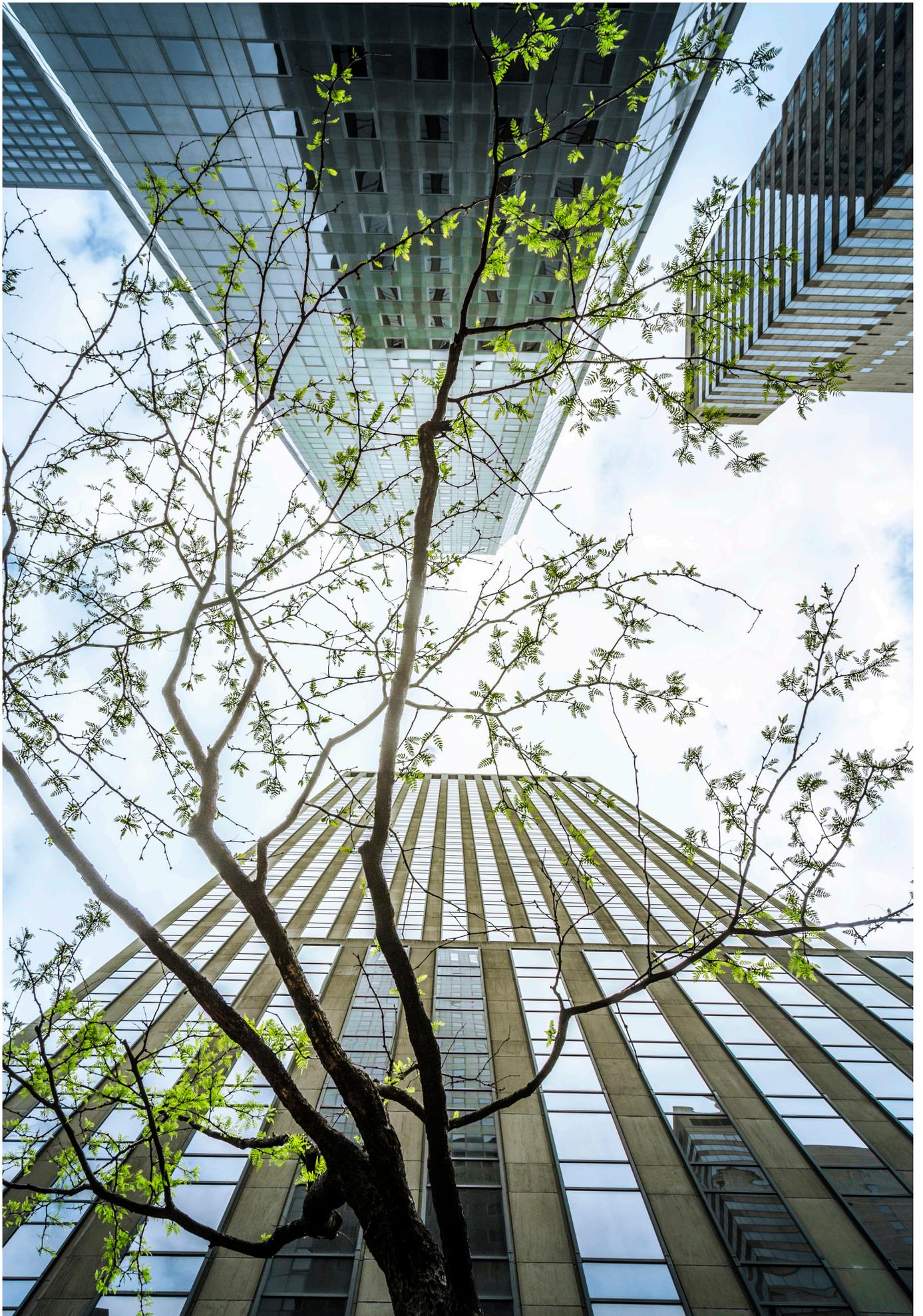
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# Reshaping the role of general counsel (GC)

As the world continues to adjust to the current situation and to fallout from government lockdown orders, curfews, and general socialization restrictions, there seems to be a commonality in the fluidity of roles that legal teams have assumed at different junctures of this pandemic.

In the first three to four months of the pandemic, Management looked to Legal for guidance on *“how to navigate change and steer the ship.”* GCs directed focus to ensure a continuity of core business operations, playing *“traffic cop”* with stakeholders to reach decisions quickly – including leading the charge on protecting the health of employees in compliance with state and local regulations and stay-at-home laws. GCs have found themselves wearing multiple hats, including serving as *“crisis managers,”* which *“has taken on a new meaning and significance for the in-house lawyer.”*

Once the new normal became *“a normal operation”* for businesses, Legal shifted its focus to consideration of the *“cultural aspects”* of this crisis – and how the pandemic has impacted the culture of organizations – through an HR lens to *“balance the wants of the principals, management, and employees.”*

## Lessons learned



To help bridge the gap, participants commented that Legal is *“becoming more integrated and taking more ownership in the business”* – engaging with employees informally (*“monitoring [employee mindset] ‘off the books’”*) to gauge their comfort levels in the new remote-working environment and *“conducting due diligence to make sure everyone feels good.”* In this sense, clients have found themselves deeply integrated in the decision-making processes concerning employees.



Clients noted that they found themselves *“on the front lines of change”* with an *“elevated importance.”* *“The legal HR role, in particular, is much more appreciated”* and is *“seen more than ever as essential aspects of the business”* – *“more than a good-to-have [function].”* *“HR [employees] are essential workers now.”*

# Evolution of the senior management role

With virtually every aspect of our lives touched by COVID-19 – from economic uncertainty to the conflict between home and work life – now could be a great time for management to ensure they are *“build[ing] loyalty”* by *“using this time to show care and concern for [their] people.”* *“For any leader, there is a lot to absorb.”*

The role of senior management has become increasingly important in different ways, and participants at the roundtable identified a number of ways in which they can demonstrate stronger leadership.

## Lessons learned



**Double down on values.** Organizations have the opportunity to *“prove the substance behind their values, which might even mean more in a time of crisis.”* Clients noted that *“people are going to remember how they were treated”* and how businesses responded to the “Black Lives Matter” and Diversity and Inclusion movements. *“Workers are looking for organizations that have a purpose in this space.”*



**Give proper recognition.** Balance the demands of staff – particularly those who were deemed to be an essential part of the business given their roles or the products they produced. *“It was great for the business, but the workers were working hard to meet demands.”* Management across businesses have amplified programs around worker safety, advanced screenings and education (to show they were taking necessary precautions), enhanced sick leave provisions, and more reasonable or fairer profit sharing and bonuses to reward the extra staff effort. *“Anything that we could think of to show proper recognition was top of mind.”*



**Invest and trust.** Companies are learning that they need to be more flexible and less rigid and to demonstrate their versatility by considering individual circumstances. *“Invest in HR,”* which typically falls to the wayside in budget planning. *“Attempts to bring people together seems to come from the HR team.”*



**Be transparent in communication.** Have an open dialogue with employees and seek out their thoughts, particularly on policies or procedures affecting them. Legal is conducting these conversations across organizations, and they note that *“even if we don’t give everything employees want, we are transparent about it.”* *“Communication, transparency, and caring”* are powerful tools to help navigate any crisis.

These are challenging times for all – underscoring the importance of Legal HR.



**Invest in recruitment and retention.** Some clients are taking advantage of the current environment to bolster their professional recruitment, especially in the tech industry. Look for opportunities to show employees that you are invested in retaining talent. *“Many people are working remotely and may find it easier now to relocate.”*



*“The new normal is to focus on a holistic approach to our people and making sure they are taken care of – [this] has been the best outcome of this whole thing. Much more focus and involves a lot more of HR input.”*

*It is “time to invest in people and trust them to do their work. If not, they will go somewhere else – this is a major talent retention time.”*

*“If you have a good team, it shows more trust in your colleagues to work remotely.”*

# Accelerated change driving collaboration and increased communication

There have been some unexpected silver linings as a result of the pandemic – most notably, a marked improvement in internal communication, which has led to increased efficiency and trust across organizations: *“it has caused us to improve our communications... We have had more daily update calls, which we never had before, and people are talking on certain topics they wouldn’t have before... We’ve improved our efficiency and increased trust across the organization.” “This has been an accelerated change for the better. Without this catalyst, we wouldn’t have gotten to this point for a few years.”*

## Lessons learned



Videoconferencing, and the willingness to use it, has made a significant difference in the way clients connect internally as well as with external counsel. Companies are *“going the extra mile to maintain collaboration through team and line manager check-ins.”*



Post pandemic, *“the goal for in-house counsel moving forward is to continue building on the steps taken to improve communication and culture.”*



Communication has many different facets. Take more time on team calls. Work with your respective groups to discuss how they are, and engage in some non-work-related conversations – this helps enhance morale within the team and encourages team members to open up and discuss any issues they may be enduring.



Colleagues are also starting to ask different questions and share different perspectives about what they are looking for from their leaders.



# Productivity and remote working

Organizations without much “pre-COVID” experience of remote working were understandably nervous about maintaining productivity when “non-essential” offices were closed. However, management in some organisations have been pleasantly surprised by employee productivity and how it has in fact increased in a virtual environment, crediting a lack of commute and fewer office-related distractions. *“People are working a lot more while at home. Working harder, not less... It has been great for us... We’ve had our best year in 15 years.”*



## Lessons learned



To help drive engagement and *“focus on collaboration,”* companies have increased their investment in technology for employees (software and hardware).



With the increase in productivity, it was observed that there can be a *“tough distinction between home and work life”* as employees balance familial responsibilities.



Companies can leverage their Legal HR teams to seek out anyone who is struggling and, together, set individual expectations. *“More communication will continue to drive productivity.”*



In organizations or departments where remote working hasn't had much of a positive effect on focus and productivity, management can lead by example in working from the office (as local laws allow).

# What can businesses learn from 2020?



## Keep calm and carry on.

*"We have seen that sticking to what we normally do, and not to panic, has worked very well for us. [It is] proof that we know what we are doing in these kinds of markets..."*



## Expect remote working to be part of a natural progression.

*"We have learned that people can work remotely together, productively. This is the office of [the] future. The model of the future has to include remote working and take into account technology – just [as] other processes are updated using technology. Employees will be happier, and it is a good model going forward."*

*"There will be a hybrid model given the openness to remote working. Policies will be more widely embraced and liberalized."*



## Consider the effects remote working has on the culture of your business.

While there has been an institutional mindset shift and a consensus that *"employees could flourish working remotely,"* Management is closely monitoring any *"effect on culture"* to inform decisions on office space plans.

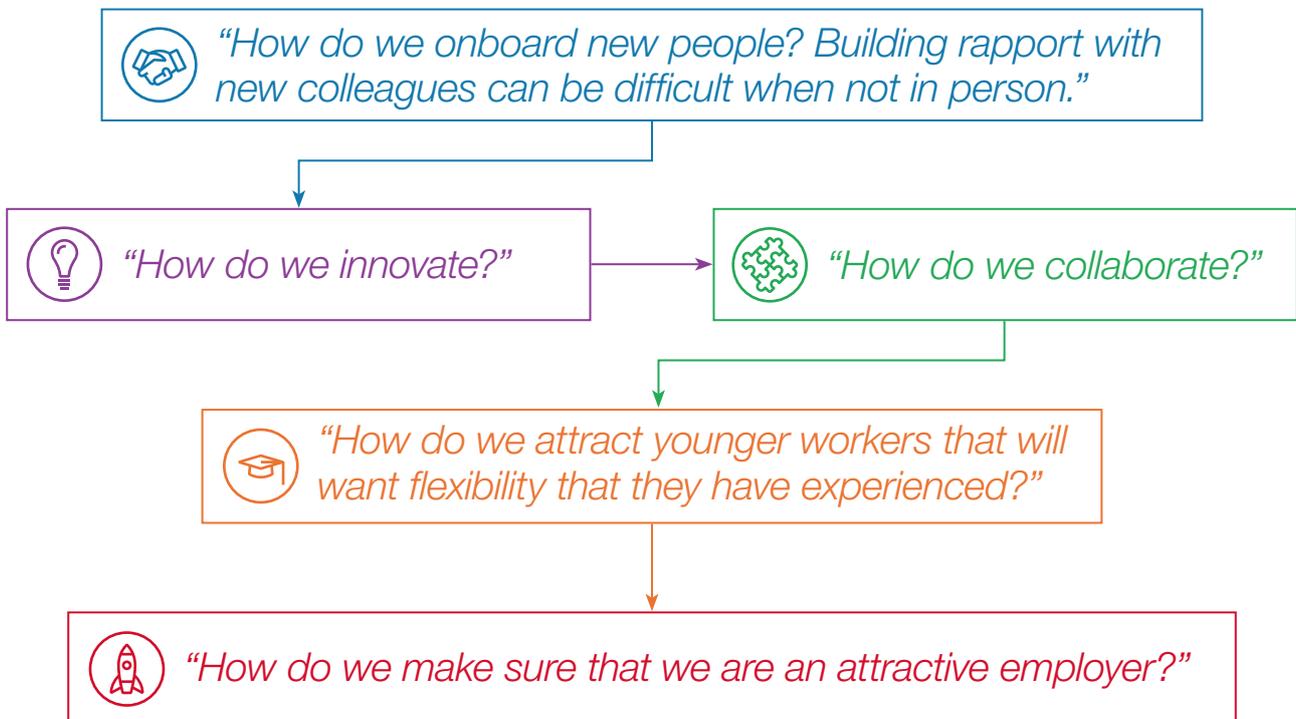


## Recognize the importance of Legal HR.

Businesses are learning to appreciate that in order to retain talent, they will need to implement strong retention *"strategies for [their] people"* alongside Management's wants. Legal HR professionals are *"noticing the focus and [have been] more integrated into these decisions."*



## Some commonly asked questions within businesses:



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