



Technology supports a more strategic role for the legal department

The crisis and disruption of the past two years was transformative for businesses of all types and sizes. And for their in-house legal departments, the pandemic offered a once-in-a-career opportunity to reinvent their position in the organization and elevate their standing to a more strategic role. No longer the order takers and contract reviewers in a business-as-usual flow of events, in-house attorneys became the gateway to what’s possible as business operations needed to quickly shift.

Many in-house lawyers found that they enjoyed this wider purview — and that they were more effective when they took on a more expansive view of issues and opportunities.

So, what are legal departments doing to move successfully into the post-COVID era? Embracing legal technology is a big part of the answer. In fact, the recent Thomson Reuters® [2021 State of Corporate Law Departments Report](#), found that “Any gaps in the industry’s modernity have been laid bare.... Forward-thinking law departments will be using this time to invest in the technology, processes, and smart resourcing required to optimize value and effectiveness from their current budgets.”

That’s because this year’s report shows that 30% of law departments are increasing their spend on technology, compared with only 11% decreasing spend. An even stronger trend, identified in the 2021 Thomson Reuters Legal Department Operations (LDO) Index, is that more departments are making better use of existing technologies, with 52% of departments saying they were increasing their use of technology tools while none reported a decrease.

Legal department leaders understand that despite initial costs, investing in technology and tools can help them manage an increasing and evolving workload; better manage outside counsel, adapt to external changes; and safeguard their organizations, ultimately elevating the role of the in-house legal department as trusted advisor and business guardian.



Most important technologies for corporate law departments

The top five most important technologies cited by corporate law departments, according to the LDO survey¹, were:

- E-billing/spend and matter management
- Contract management
- Legal research
- Document management
- Legal hold

The five most common technology solutions that law departments said they don’t currently have but are looking to procure include:

- Legal business intelligence
- Contract management
- Document management
- Legal workflow automation
- Contract AI for analysis, risk assessment, or due diligence

Law departments should not blindly follow trends, though. Each law department needs to scope its own most urgent needs, which may be e-billing or may be knowledge management, and plan a timeline for transformation.

¹ Thomson Reuters Legal Department Operations(LDO) index 2021

Increasing workload and evolving expectations

Law department workload intensified in 2020, with eight times as many law departments reporting a surge in workload as those experiencing a dip. Work didn't really return to business-as-usual levels, and even when it did, those levels were already unsustainable.

According to one in-house attorney, "We're three lawyers and are overworked, so who has time to do research in the moment?" The workload has grown bigger and more expansive. During the pandemic, general counsel helped companies understand how to comply with COVID-19 mandates, establish remote working procedures, maximize operations, and minimize risk. As U.S. businesses attempt to regain some element of normalcy, they're contending with new challenges and opportunities, such as re-tuning hybrid work policies and establishing vaccine policies.

The workload continues to grow and shift, and employee retention is growing as an issue. In early 2021, U.S. job openings hit a record high, as did the "quits rate." According to the Bureau of Labor Statistics, nearly 4 million people voluntarily left their jobs in April 2021. Professional services was in the top three categories of jobs people were leaving. Legal talent certainly looks to be on trend here: almost 80% of lawyers have said they want to maintain the changes they've experienced during remote working, according to an Acritas report on the future of legal work. Further, 20% said they would leave their current firm if it won't accommodate greater flexibility. If your department isn't keeping up with employee demands, you risk losing staff. Conversely, if you can offer law firm alums more control of where and when they work, it could give you a unique opportunity to bolster your in-house team with talent from law firms across the country.

Employees have new expectations about the way they want to work and the degree of inefficiency and overwork they're willing to tolerate.

Many companies are evolving their mental health policies and collaboration tools as part of the solution. But there are also function-specific tools and technologies that are crucial to make legal work sustainable and rewarding.

There are several types of tools and technology that can help the in-house legal department deliver the scale the business needs and the sustainability that employees demand. Here are some of the pressures that employees feel, and how technology can solve inefficiencies and challenges:

More complex business issues

Rapidly changing laws and business needs mean that in-house attorneys are called on to understand and offer guidance on a wide range of legal questions. Attorneys need tools that help them get grounded in an issue, assess the implications of a proposed project, and offer clear guidance back to the business. Traditional legal research and know-how tools can provide important context.

Sometimes the business needs help on a new type of legal matter, the person who typically handles such matters is unavailable, or in our new hybrid work environments, colleagues are no longer down the hall for a quick question. In those cases, the assigned attorney will benefit from a legal solution that spells out the steps and considerations for such a matter.

There are also times when the business wants to know the answer to a very specific question. Consider the question, "Does California specify when a private employer must respond to a current or former employee's request to access his personnel file?" It may seem like a simple yes-or-no question. In reality, it has enough nuance to keep even a seasoned researcher busy for hours. In cases like these, a legal know-how solution delivers specific answers quickly and reliably, giving attorneys confidence in matters known and unknown.

As one in-house attorney told us, "I want content that's easier to digest, use, and present. I want the background and want to know what the research is based on. But if I can get a chart with just check boxes and X's to present — that's what ultimately helps me get rid of a lot of the busy work."

Of course, tools alone don't solve the problem — they have to be put to use. Some teams struggle with having tool overload — many and varied tools, but they are used inconsistently and not to their full potential. Adopting a standard approach to routine matters can help with training and makes it possible for specialists to help each other when workloads shift. It can also ensure that people are taking the most efficient route to finding the answers they need, and that they are making good use of the time-saving tools available to them.

Legal department needs to deliver more value to the business

Legal Mosaic CEO Mark Cohen argues², “To better serve business and collaborate in its value creation, the legal function must become proficient in business language, processes, risk management, data analytics, agility, speed, talent acquisition and management, risks, competition, and customer service. This is a far cry from a legal remit to produce self-proclaimed ‘excellent legal work.’”

This is a tall order for usually lean teams. And let’s not forget that they do still need to deliver “excellent legal work.” Cohen is certainly onto something, though. Legal departments must integrate with the problems and processes of business, rather than sitting separately as an in-house law firm or, worse, being seen as a bottleneck or obstacle.

Sound technology investments can help in-house attorneys be better strategic partners, make better use of their time, put their work in an overall business context, and deliver the excellent legal work and guidance the business needs.

For instance, tools exist that help you compare data sets across jurisdictions with a simple query, rather than compiling data manually. This includes trends in transactional and litigation agreements, as well as state- or country-specific regulations. Businesses often need comparison data like this to inform investment or other business decisions. When the technology automatically creates data visualizations like graphs and charts, you can give clearer guidance on contract negotiations, more readily advise on multijurisdictional issues, and get a head start when you’re working with outside counsel.

Visualizations can help in-house attorneys connect with business partners more effectively. People learn and are moved by stories and images. Every data point has its unique set of stories, of course. Attorneys have been collecting these stories, trading them with colleagues, and repeating them to business partners for generations. New data visualization tools make it easy to show how their anecdotes and earned wisdom look from a more strategic vantage point, putting them into perspective against overall market practices and driving more effective strategy for the business. The use of visualizations can help make the stories and advice more accessible to people who didn’t go to law school, building more trust and a stronger relationship between in-house attorneys and their business partners.

Adding greater business value is much easier when attorneys have tools that take the busy work out of finding the law, freeing them up to spend time advising business partners and working through the nuance of different situations. They are well served by tools that help them put legal realities into business context and communicate risks simply and clearly.

Aligning legal work with team capabilities

In-house attorneys are under pressure to reply quickly and accurately to queries from the business. Sometimes these queries cover high-value strategic matters and, sometimes they cover more tactical “fire drills” that eat up a lot of time but don’t add significant value to the business.

“I often worry that my team is not working at the ‘top of their licenses’ or that they’re getting burned out and I can’t see it,” one general counsel told us. “I need to get a better understanding of what they’re working on and create better controls to manage workflow and value-add.”

More and more legal department leaders turn to technology to help them see how their teams spend their time and find opportunities to streamline processes. This ultimately frees people up to work on more strategic matters and helps deliver a more predictable experience to business partners.

² <https://www.forbes.com/sites/markcohen1/2021/02/02/how-does-the-legal-function-demonstrate-value-to-business/?sh=4f24488a138c>

Shifting demand for external support

GCs are slower to give high priority, valuable projects to outside counsel. They know their teams are best positioned to respond to the business, so outsourcing strategic work isn't necessarily the best option.

Law firms certainly felt a market shift in 2020. In fact, YOY demand fell 2.9% in 2020, compared to 2019, according to Peer Monitor data reported in the Thomson Reuters 2021 State of Corporate Law Departments Report. This data represents the flipside of overworked in-house attorneys: in an Acritas survey of U.S. senior in-house counsel, a substantial majority reported a surge in workload resulting from the pandemic.

Much of this work involved novel issues that had to be handled by in-house counsel themselves as it required an in-depth knowledge of their businesses and a very quick turnaround. As a result, some of the "business as usual" legal work of their departments — including many transactions and litigation matters — had to be put on hold. This contributed to the drop in demand for law firms.

As in-house teams shift out of pandemic and crisis-response mode, they will take stock of how they engage with outside counsel. This is partly to control costs, and partly as a way to own their place as strategic business partners.

"We used to take every new problem or question to outside counsel to ask for guidance," one general counsel told us. "We found that that drove up our law firm costs, of course. It was also not a great message to send to the team or the business about what we are capable of. We have the same legal training and experience as our outside counsel — many of us are even alums of those same firms. And we have sophisticated knowledge of the business."

In-house legal leaders like this one need the time and tools to assess new matters and advise the business on how to proceed. From there, they can bring in outside counsel to execute. "We need information to instruct outside counsel, rather than always asking for guidance," she said.

Of course, large law firms have access to expertise in many

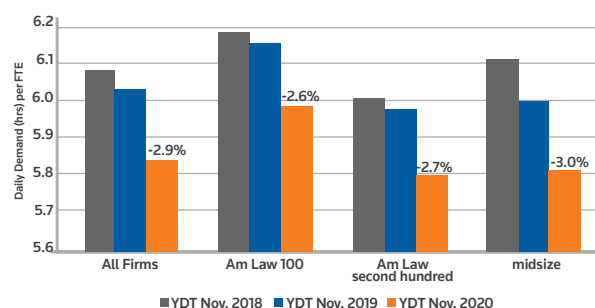
different areas of law and an army of associates to chase down answers that aren't readily available. Technology and tools can help shrink the gap in time and resources. They can help a legal professional understand an issue or trend quickly and decide an appropriate course of action.

For instance, the ABA's Business Law Section produces the M&A Deal Points Study³ to help attorneys understand trends in mergers and acquisitions. Thomson Reuters Practical Law Dynamic Tool Set, a premium add-on to [top-selling legal know how tool, Practical Law](#), also provides actionable data on market practices that can help attorneys decide how to approach a matter and how hard to negotiate specific points in an agreement.

As in-house attorneys look to instruct rather than simply outsource matters, they also want to manage spend and collaborate effectively. Technology can take the manual effort and guesswork out of relationships with outside counsel.

"Notwithstanding, legal technology can help get the balance of value and cost right," according to an April 2021 report from EY⁴. "Appropriate data-driven technology can save an in-house procurement team significant effort in managing work in progress, invoices, and services. Issues and questions are flagged automatically, and early. With a better decision-making basis, smarter choices can also be made about which firms to work with when external counsel is needed and what can be shifted."

Figure 3 – Average Daily Demand per Lawyer by Market Segment



Lawyers (contractors excluded)
Billable time type; non-contingent matters
Percentages represent percent change from YTD Nov 2019 to YTD Nov. 2020
Source: Thomson Reuters Peer Monitor

³ https://www.americanbar.org/groups/business_law/committees/ma/deal-points

⁴ https://www.ey.com/en_ch/managed-services/sustaining-innovation-and-safeguarding-value-in-the-legal-function

Safeguarding became a much higher priority for law departments

Corporations have always had to contend with external forces creating disputes and disrupting operations. Economic downturns often accelerate these disputes, while in times of prosperity, disputes decrease. In 2020, political, economic, civil, and health-related forces converged to create a spike in legal disputes.

Disputes and increased legal work also have resulted from heightened activation of force majeure contractual clauses that free parties from liability and obligations in the event of extraordinary events, including the pandemic. Economic difficulties were elevated due to business interruption that impacted employment, lending, housing, and spending. Additionally, pandemic-related corporate disputes are up in the insurance, regulatory, and cybersecurity areas.

Despite shrinking legal budgets, 40% of law departments predict their spending on disputes will be higher in the coming months than it was before the pandemic. And 40% also said they're implementing new dispute prevention measures.⁵

Companies also know that effective regulatory monitoring and analysis is also critical for safeguarding the organization. Increasing levels of state-level regulation and growing divergence of regulations between states have challenged in-house legal teams for years. With the pandemic, law departments have had to maintain an even higher level of monitoring to keep pace with the acceleration of regulatory changes in these crisis conditions.

"I think there's been a disproportionate increase in workload," a general counsel for a transportation company told us. "We have more consultations to understand what force majeure is, to understand the implications of the pandemic, what effects it can have, and, especially, the high degree of regulation which has been introduced in the country." Regulatory intelligence tools can help streamline work to monitor regulatory changes and mitigate risk.



MINIMIZING LEGAL RISKS POST-PANDEMIC:

The 2021 State of Corporate Law Departments report looked at ways corporations can minimize risks. The report encourages in-house legal departments to consider the following steps as they guide their companies through this challenging environment:

- Create and maintain a risk register that ranks all potential legal risks.
- Monitor and ensure compliance with new pandemic-related regulations across all jurisdictions in which the company operates.
- Stay engaged with business leaders to ensure all key meetings include a legal perspective, risks are identified early on, and corporate strategies and goals are proactively supported by the legal team.
- Encourage outside counsel to share risk mitigation ideas and best practices they gather from other clients.
- Ensure metrics, which typically cover the legal spend, are truly aligned with strategic objectives — including the mitigation of long-term risk.

⁵ Thomson Reuters 2021 State of Corporate Law Departments

Modern technology and practices correlate to success

Corporate legal departments have an opportunity to elevate their value to the businesses, but technology must be a part of their path to get there. As we noted in the 2021 State of Corporate Law Departments report, many traditional law departments fell behind during the crisis while their more modern counterparts were able to adapt to changing conditions much more quickly.

For instance, more flexible teams with modern tools were more creative about solving completely unforeseen challenges and circumstances — like sending entire organizations home to work indefinitely and having to review every customer and vendor contract. As the report noted, The departments that had a global mindset and relied on technology pre-pandemic were able to pivot quickly, deliver value to the business, and elevate their standing. One healthcare GC told us, “We are a department that is very used to working remotely. Furthermore, we are a department that provides services at a global level; the internal client is not always in our offices so communication is always remote with them.”

As corporate legal departments close out 2021 and look ahead to 2022 planning many do so from a position of strength. For all in-house teams, there are opportunities to continue elevating their role in the business. They must continuously reexamine what tools and mindsets they need to manage increased and evolved workload, better manage outside counsel, and safeguard their organizations. They work hard to adapt to external changes while supporting commercial success.

Even traditional departments have found their change agenda accelerated by the pandemic. GCs evaluating technology as part of their department’s evolution understand their team depends on it to successfully drive value and protect business interests.

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