



# Using data to enhance your corporate legal department's DEI strategy

SPECIAL REPORT

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## Introduction

As guardians of their organization's legal identity and culture, sophisticated general counsel and their legal departments do much more than provide legal advice. They are proactive, core business advisors who must consider what is legal, strategic, and right. Recognizing the importance of their role, as well as the pace of external change driven by profound global events, legal departments have begun to identify the need to implement diversity, equity, and inclusion (DEI) programs that reflect their values, ethics, and strategic goals.

These programs are crucially important from both a human and business perspective and can contribute enormously to the success of any legal department. However, they can seem hollow and nebulous without any real data or metrics to help track progress that will show if the departments have reached their milestones.

Some law departments have addressed this issue by utilizing legal operations management technology, such as Thomson Reuters® Legal Tracker, to track and measure the diversity of their outside counsel and use that data as a factor in outside law firm selection and pricing decisions. Not only does this encourage their law firm partners to ensure that their own DEI strategies are working, but it helps the law departments hold themselves accountable as they implement and evolve their own DEI strategy.



## Values, ethics, and strategic goals

Adopting a DEI strategy is no longer the work of progressive law departments. Today, it's an expected thread in the fabric of any organization's culture but getting it right — where it's authentic and real — takes perseverance, safety, vulnerability, and an unwavering commitment from everyone in the organization.

In recent years, companies and their legal departments have come under increased pressure, from investors, consumers, clients, and employees, to take tangible actions that increase workplace DEI. Many organizations have made welcome commitments to DEI through noble statements of solidarity. Ensuring that you back up these commitments and statements with a data-driven strategy aided by real metrics to track the progress made can truly enhance your DEI initiatives and ensure sustainable progress.

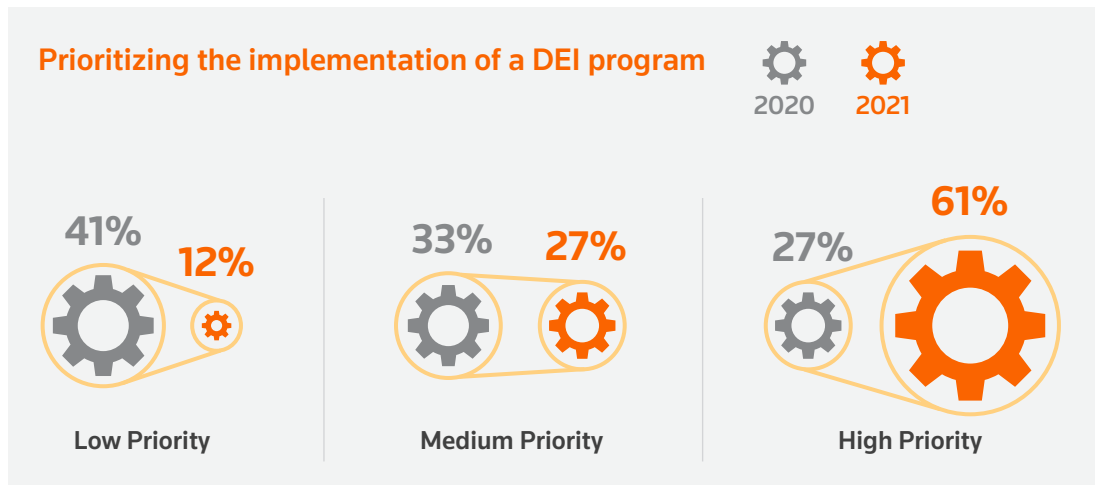
By all measures, having a more diverse legal department and wider organization is a benefit. Having a more diverse and inclusive workforce has long been seen as a powerful enabler of business, as well as a critical differentiator for companies and its employees. Investing time and resources into a robust DEI strategy for your legal department can not only help your department achieve its objectives, but also influence DEI strategies in the wider legal industry and maximize opportunities for diverse lawyers and firms.



## DEI: Top of the agenda

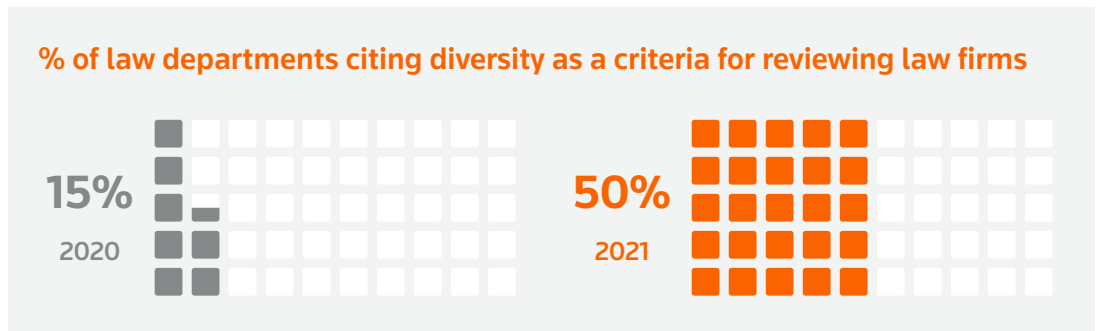
Legal departments are recognizing that they have the power to drive change in their organizations. Along with a growing acceptance of the business case for DEI, corporate legal departments have been spurred into action as a result of regulatory pressure, media scrutiny, and powerful social justice demands.

In the last 12 months, implementing a DEI program has skyrocketed to the top of legal department priorities. In 2021, the Corporate Legal Operations Consortium (CLOC) published their annual [State of the Industry](#) survey findings. Implementing a DEI program was a top-ranked priority, with 61% of legal departments identifying it as a high priority. This is in stark contrast to the [2020 results](#), in which only 27% of respondents deemed it a high priority, where it placed fifth (of seven) issues.



Source: CLOC State of the Industry Survey 2021

The CLOC study also asked the legal departments, including legal operations functions, that conduct formal reviews of their law firms to list the topics for review. In 2021, 50% of respondents listed diversity as criteria for review. This was another significant increase on the 2020 figures, in which only 15% of respondents considered diversity when conducting formal reviews of their law firms.



Source: CLOC State of the Industry Survey 2021

This data represents a clear shift in the way that corporate law departments are thinking about DEI initiatives, both within their organization, and in their dealings with outside counsel. Helping to safeguard their organization through the implementation of a DEI strategy demonstrates the growing acceptance of both the business and human case for more having a more diverse, equitable, and inclusive organization.

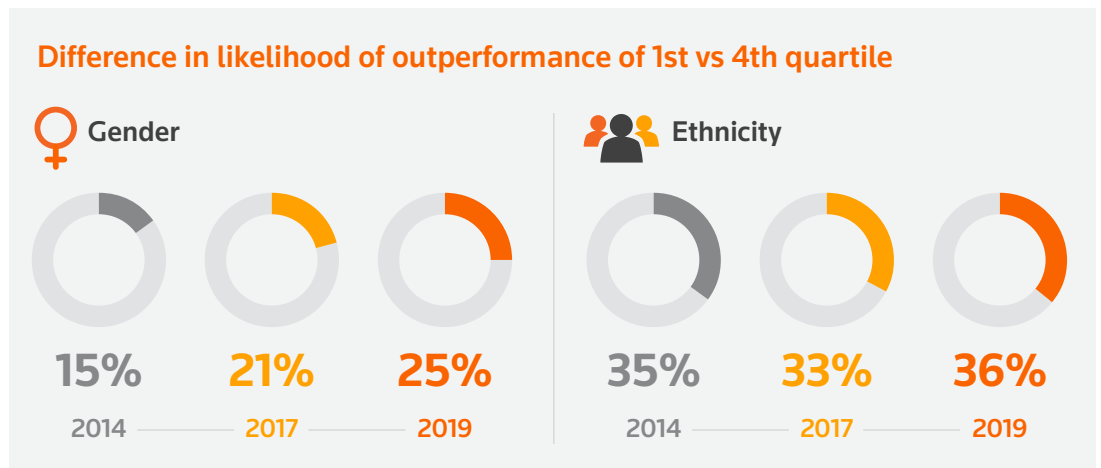


### Making the case for DEI

There is a significant body of research to show that diversity brings many advantages to an organization. Among them are increased profitability and innovation, stronger governance, and improved problem-solving abilities. A diverse workforce brings a wider range of perspectives, ideas, and experiences, which enables organizations to be more resilient, more effective, and better equipped to outperform those who do not invest in diversity.

Findings from [McKinsey](#) demonstrate that not only has the business case for increased diversity remained robust over recent years, but also that the relationship between diversity and the likelihood of financial outperformance has strengthened over time.

Their research found that companies in the top quartile for gender diversity on executive teams were 25% more likely to have above-average profitability than companies in the fourth quartile — up from 21% in 2017 and 15% in 2014. In the case of ethnic and cultural diversity, McKinsey's findings are equally compelling: in 2019, top-quartile companies outperformed those in the fourth one by 36% in profitability, slightly up from 33% in 2017 and 35% in 2014.



Source: McKinsey, *Diversity wins: How inclusion matters 2021*

While this research shows a strong correlation between diversity and financial performance, it should be recognized that being a more diverse company doesn't automatically translate into bigger profits. Further, over-emphasizing the economic benefits of your DEI strategy can be counter-productive to your objectives; it can convey a sense of disingenuity, and if the financial gains do not materialize, you may lose credibility and support. Implementing a DEI strategy in your legal department should be anchored to your people.

*“For better outcomes in diversity and inclusion in the legal sector we would benefit from fewer black history month breakfasts and more hiring and promotion of black lawyers.”*

**Daniel Winterfeldt**,  
General Counsel for  
EMEA and Asia at  
Jefferies International  
Ltd., and founder of  
the [InterLaw Diversity  
Forum](#).

DEI is ultimately about confronting harsh facts and navigating sensitive issues with heart. Affirming the agency and dignity of any group of human beings should not require an economic rationale. While the business case for being more diverse may be demonstrative of good intentions, investing in your people is a positive goal in and of itself. Recruiting and retaining more people from underrepresented groups, while also tapping into their identity-related knowledge and experiences sends the message that your organization values varied points of view and encourages teams to rethink how to perform its core work better.

Although diverse hiring practices are critical toward any DEI strategy, your efforts to attract new candidates from different backgrounds, races, and ethnicities may fall short without a successful commitment to engage them. Holding networking functions and other activities geared toward specific groups are common engagement initiatives since they are effective opportunities to help individuals with common interests and backgrounds connect. Establishing an authentic culture that supports diversity requires a thorough assessment of your recruiting and retention efforts.

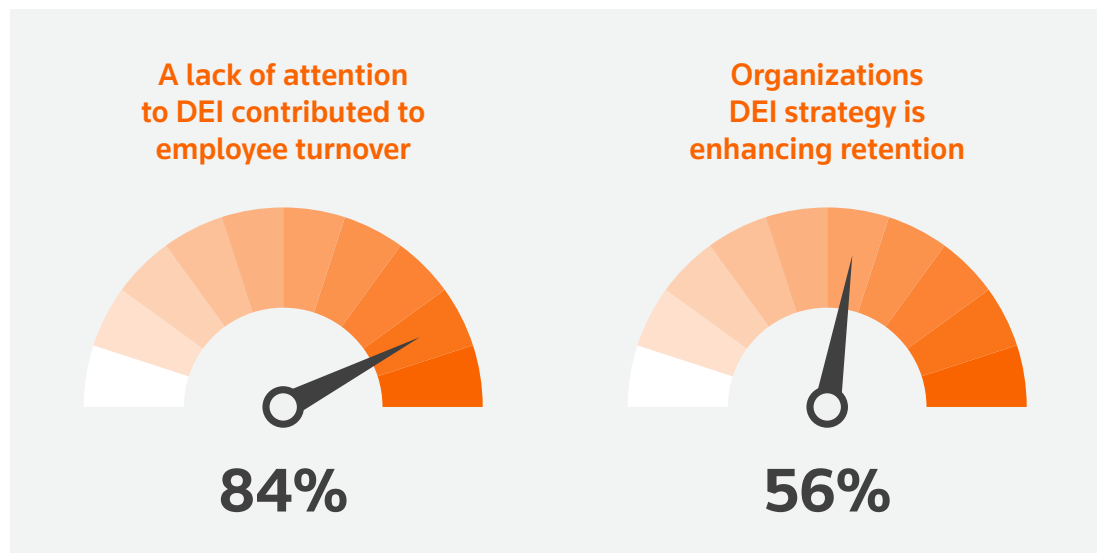
Strong recruiting efforts of underrepresented groups without equitable and inclusive opportunities to retain them will lead to high attrition rates in these groups. Alternatively, creating inclusive and equitable career opportunities without advancing your diverse recruiting efforts leads to a lot of activities for a small representative of people.

Instead, an effective DEI strategy involves ensuring that employees feel engaged and respected at work, have equal opportunities for advancement, and are visible in leadership roles. Reaching a truly DEI-friendly culture requires listening to underrepresented employees, taking their concerns seriously, and working to address them. When employees experience change as a result of sharing their voices, you've demonstrated that your commitment to change is real.

*Corporate legal departments can play a critical role in executing an effective DEI program.*

Some of the practical approaches to activating meaningful change include:

- Creating safe spaces for dialogue. Turnover rates are a good measure of how effective a law department's DEI strategy is at engaging underrepresented employees. If an in-house team has increased its percentage of diverse hires but also sees growing attrition rates among its diverse employee population, it's a strong indicator that employees are not feeling valued. A study by [Korn Ferry](#) in 2015 found that a large majority of respondents (84%) agreed that a lack of attention to diversity and inclusion contributed to employee turnover. Only 56% believed their organization's diversity programs were enhancing employee retention.



Source: Korn Ferry 2015

- Rethinking mentorship. Good mentorship programs also make establishing a diverse culture more sustainable. A study in the *American Sociological Review* found that [mentoring increased minority representation among managers](#) in the workplace by roughly 9% to 24%. Traditional mentoring methods — where a veteran lawyer serves as the “ruling party” in the relationship — may alienate those from diverse backgrounds. Consider alternative mentorship structures to offer a more equitable give and take between mentor and mentee.
- Review career advancement and project assignments. Perhaps the most substantial way to have DEI efforts take root is to ensure that minority employees get access to high-visibility projects, are promoted at the same rates as their non-minority counterparts, and that a law department's leadership reflects the level of diversity that it claims to want in its staff. “For better outcomes in diversity and inclusion in the legal sector we would benefit from fewer black history month breakfasts and more hiring and promotion of black lawyers.” Daniel Winterfeldt, General Counsel for EMEA and Asia at Jefferies International Ltd., and founder of the [InterLaw Diversity Forum](#).

For your legal department, creating a more diverse, equitable, and inclusive team, including the outside counsel that you work with, means that your team is representative of the customers that your wider organization serves. We are at our best when we enable equal opportunity, and we are falling far short of our potential when we leave people and communities behind. Your diverse team will be better able to make decisions with fewer blind spots and bring more varied thinking to innovative problem-solving.





## The legal department's role in executing a DEI strategy

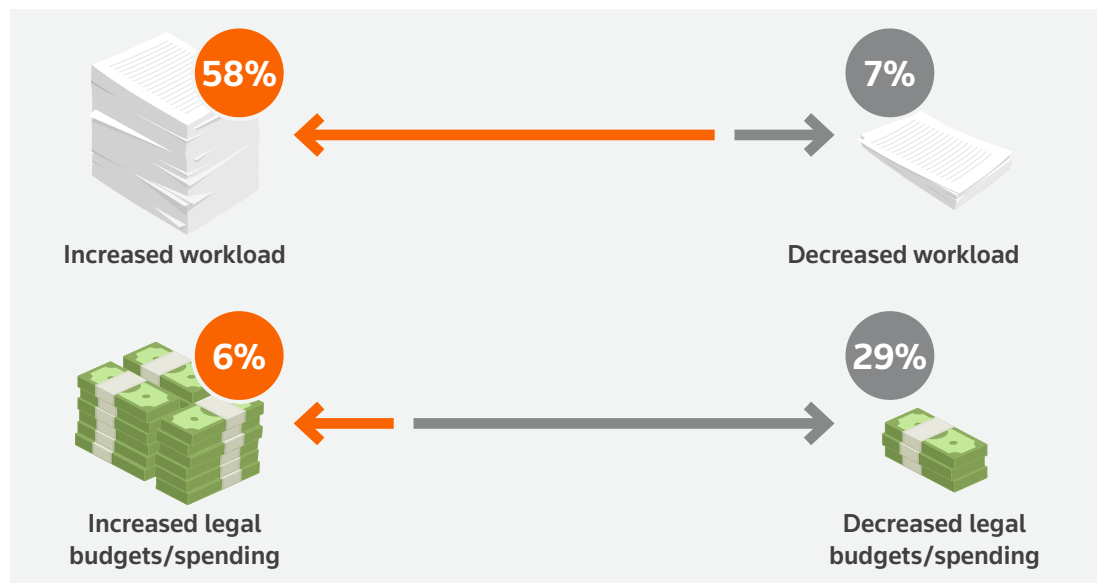
In recent years the role of the legal department has undergone significant evolution. From simply providing legal advice to the business, the legal department now has an enhanced role encompassing leadership, diplomacy, and more expansive governance covering social, ethical, and sustainability objectives. As a result, corporate legal departments can play a critical role in executing an effective DEI program. Many departments have made great strides in addressing the diversity of their internal legal and operations staff, as well as launching diversity initiatives around the selection of their external counsel. It is crucial, however, that these efforts don't occur in a vacuum and that you have a robust strategy underpinning your initiatives.

In building a DEI program, it's important for legal departments to prioritize the essential elements of an all-inclusive strategy, which includes:

- Developing a DEI policy and having it reviewed and approved by law department leadership
- Staying current on what peer companies are doing around DEI and the larger trends underway
- Gathering key metrics to measure the impact of their departments' DEI programs
- Creating guidance for department lawyers on how DEI can be used as a lever when selecting outside counsel

Legal departments not only face escalating and evolving workloads and business demands but, as a cost center within the business, they are particularly challenged on budget and spend. [Recent data from Acritas and Thomson Reuters](#) backs this up, highlighting that nearly 5 times as many law departments suffered budget cuts as saw budget increases in 2020, while eight times as many law departments experienced a surge in workload as experienced a dip.

*One of the most impactful ways in which legal departments can advance DEI, both for their organization and the wider legal industry, is through the selection of outside counsel.*



Source: Thomson Reuters State of Corporate Law Departments Report 2021

Despite these pressures, legal departments can be extremely effective at demonstrating the value of a DEI strategy. The legal department holds valuable intelligence about the organization, customers and partners thanks to their 360-degree visibility of the business. Harnessing this intelligence means that legal departments can naturally see the best opportunities to embed DEI into existing day-to-day operations, processes, and procedures, such as e-billing, matter management, and contract management. Further, by leading internally as a DEI champion and aggressively pursuing a DEI strategy, legal departments can change the perception of them being the 'department of no'.



## Extending your DEI efforts more widely

Advancing DEI is more than implementing a policy. Because some of the biases that you're seeking to address are unconscious and systemic, companies need a plan for launching and measuring specific DEI actions and targets. The adage, what gets measured gets done, is very relevant for your DEI strategy. Tracking and measuring the right metrics enables you to identify any weak areas, prioritize actions, set targets and goals, assign accountability, and measure the impact of your actions.

One of the most impactful ways in which legal departments can advance DEI, both for their organization and the wider legal industry, is through the selection of outside counsel. In recent years, organizations have taken concrete steps towards advancing DEI by creating new standards when utilizing outside counsel for their corporate law matters. As more and more companies adopt this tactic it demonstrates that corporate law departments can be influential when it comes to pushing the needle on DEI in the legal sector. Many law department leaders are realizing that the best way to staff their legal matters is through actively requiring their law firms to staff matters with diverse teams.

The selection of your outside counsel can be a huge contribution to the creation of a best-in-class DEI program for your legal department, particularly as matter- and spend-management technology like [Legal Tracker](#) makes it easy to measure and track the diversity of your external partners. For many legal departments who see the advancement of DEI initiatives as a priority, the ability to back up those initiatives with data is crucial.

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*In 2020, 56% of respondents in the [Thomson Reuters Legal Department Operations Index](#) survey said it was a priority for them to use diversity data as a factor in outside law firm selection, while 30% said that they have a DEI initiative that requires law firms to provide diversity information.*

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Gathering data and tracking metrics are necessary components for measuring a company's progress on diversity. Data provide an objective lens through which employers can view and address DEI issues. By relying on the data, companies can make transparent and reasoned decisions to identify and address challenge areas and develop more equitable teams.

A system like Legal Tracker is critical in enabling your legal department to analyze your outside counsel staffing data and metrics and ensure that the law firms you work with reflect your companies' commitment to DEI. Some legal departments add language to their billing guidelines that express their department's commitment to DEI and their expectation that the law firm it engages also shares that commitment. This requirement can be detailed in RFPs and captures the law firm staffing data in Tracker confirming and enforcing those expectations.

Your e-billing and matter management system should allow legal department users to request law firms to provide comprehensive diversity and inclusion information when submitting their timekeeper rates. Legal departments can track the gender, ethnicity, disability, and LGBTQ+ status of their outside counsel, enabling them to ensure that their DEI efforts advance the needs of the business and its people. A system like Legal Tracker also enables users to capture and report on diversity data, providing their organization with comprehensive, data-driven insights into how the legal department is a champion of the organization's commitment to DEI. Having such insights on hand empowers your legal department to maximize opportunities for diverse law firms, while meeting your organizational DEI goals.

## Conclusion

The modern legal department needs to navigate a more complex organization, demonstrate strong leadership skills, and exhibit a deep understanding of strategic challenges. In recent years, it has had to dynamically evolve in response to several watershed moments. Ensuring — and indeed driving — good corporate governance, particularly around matters of diversity, equity, and inclusion has become an increasingly high priority for legal departments. The link between increased DEI and financial performance has been established in several studies, which show that a more diverse workforce is a more productive, innovative, and satisfied one.

For legal departments, creating a more diverse, equitable, and inclusive team, including the outside counsel that you work with, means that your team is representative of the customers that your wider organization serves. Given the evolution of their role, corporate legal departments are perfectly placed to play a critical role in executing an effective DEI program that advances the DEI cause for their internal organization as well as the wider legal industry through the selection of outside counsel.

Having the tools to measure and track your DEI program's progress is crucial to its success. An e-billing and matter management system such as Legal Tracker is perfectly placed to measure and analyze your outside counsel staffing data and metrics and ensure that the law firms you work with reflect your organization's commitment to DEI. Legal Tracker offers the ability to capture and report on diversity data, empowering your legal department to ensure that decisions are driven by data analytics. Not only does this help to keep your DEI initiatives on track, but also enhances the credibility of your legal department.

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To learn more about Thomson Reuters Legal Tracker, please visit [legaltracker.com](https://legaltracker.com).