

Deloitte.



Resilient leadership:
Chief legal officers and COVID-19
Survey data illuminates the path forward



Chief legal officers (CLOs) are under immense pressure and working long hours to lead their businesses through the changes wrought by the coronavirus pandemic.¹ A recent Deloitte survey of 131 legal executives found that legal department workloads have increased, budgets have been cut, and headcounts have been trimmed. Seventy-eight percent of legal executives surveyed said their organization's legal department workloads have increased because of COVID-19. They also report that two out of three organizations (**66%**) have implemented cost-containment measures. And, more than half of organizations (**54%**) have undergone workforce reductions.²

In the face of these challenges, how can CLOs help their organizations respond, recover, and thrive amid ongoing pandemic conditions? Based on analysis of responses from the Deloitte survey, a laser focus in three areas may be a good start: continued or increased commitment to technology investments, expanding relationships with alternative legal service providers (ALSPs), and undertaking actions to further plan for the safety and well-being of employees.

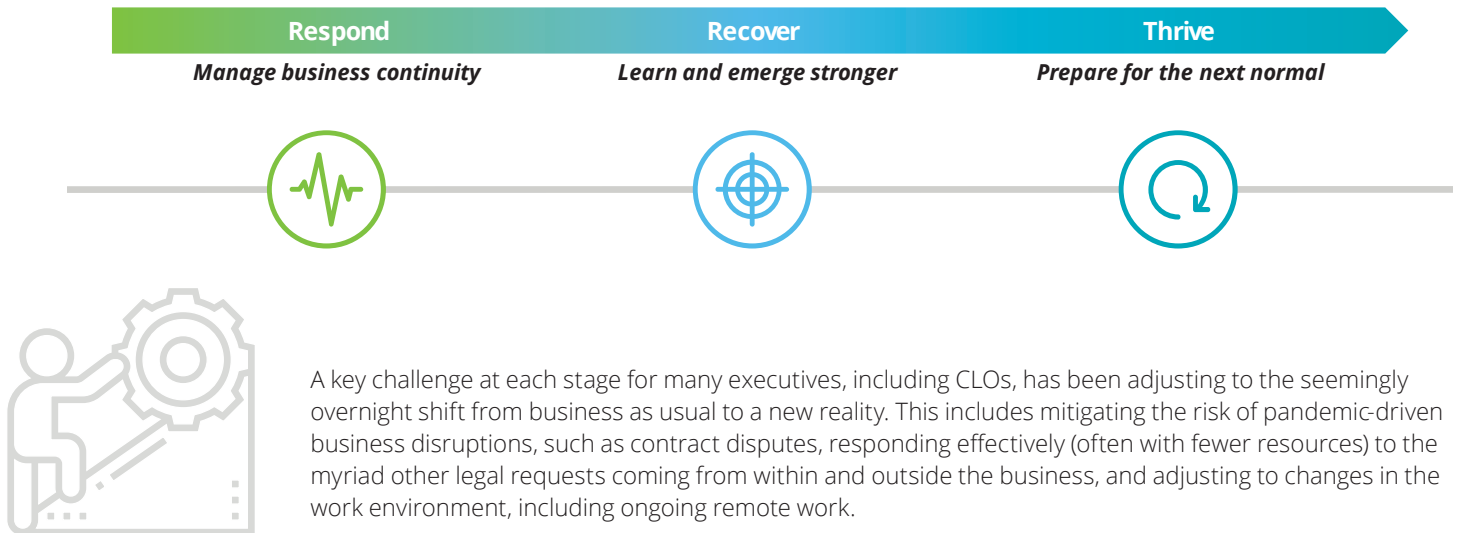
Heightened attention to these areas may help legal departments more ably navigate the demands of the pandemic and could also help CLOs build resilience into their legal operations going forward. Over time, that resilience can translate into operational and cost efficiencies, risk mitigation, and being a more effective partner to the business.



Why a focus on resilience is so important

An organization's reaction to a pandemic may be understood using a Respond, Recover, Thrive framework (figure 1). As they transition from one phase to the next, resilient leaders are defined by who they are, what they do, and specific actions they take.

Figure 1. Respond, Recover, Thrive framework



This rapid shift emphasizes how important it is that CLOs prepare their legal departments for a more resilient future—one in which there could be continued shocks from health crises, natural disasters, or other disruptions that their organizations may encounter. This operational resilience, and the three focus areas for CLOs mentioned earlier (technology, ALSPs, and employee safety), can be important drivers of such resilience going forward.



Focus area 1: Increasing technology investments

Prior to the pandemic, many CLOs were already engaged in efforts to increase legal department efficiency. According to the 2020 ACC Chief Legal Officers Survey, conducted in late 2019,

50% of respondents had increased the use of legal technology solutions.³

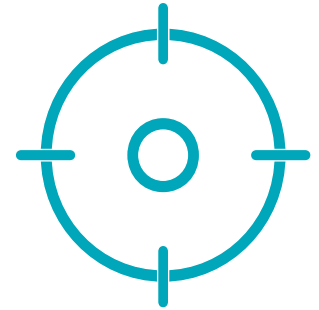
With the pandemic well underway, CLOs appear to be even more committed to making technology investments. The Deloitte CLO survey, conducted during the summer of 2020, found that

62% of participating legal executives expect their legal departments to increase investment in digital technologies.⁴

This emphasis on technology investment comes despite the cost-containment efforts driven by the pandemic-induced global economic downturn.



Where to focus first: If technology investment is a priority for the legal function, a good place to start is with a defined digital strategy. If one exists in the legal function, it's important to revisit it to confirm that it addresses the new COVID-19-induced dynamics the department faces, that stakeholders remain committed to the strategy, and that those responsible for implementation continue to be aligned with the plan. If a digital strategy doesn't exist yet or is nascent, consider developing a digital strategy that identifies high-priority opportunities for technology use and establishes an implementation road map. Deloitte's *Tech Bytes Part I: Start at the Beginning* is a helpful high-level resource for CLOs who are charting the course for digital transformation of their legal departments.



When reviewing or building a digital strategy, be sure to consider budget. While expressed commitment to digital transformation is encouraging, progress on that strategy may be difficult if there isn't sufficient budget allocation. In separate in-depth, one-on-one interviews, many executives responsible for the operational side of legal functions noted a profound disconnect between words and actions. They acknowledged that although their leadership said they backed modernization plans, when it came to actual budgeting and authority to spend, that support sometimes wavered or even vanished.⁵ It's important for CLOs to "walk the talk" by both evangelizing the technology strategy and carrying through with actual investments, especially in the midst of other cost-containment efforts that may exist.

Insight: Contracts—A hidden opportunity awaits?

More than half (55%) of respondents to Deloitte's CLO survey that are facing COVID-19-related contractual and supply chain disruptions said they have started analyzing contracts potentially affected by pandemic-driven business interruptions. With 63% of companies using some form contract management solution to help navigate COVID-19-related impact analysis and 76% indicating that they are "very likely" or "extremely likely" to enhance their CLM tools in the next 12 months,⁶ this is an area ripe for resilience-building through *Intelligent CLM*.

Intelligent CLM can help legal departments understand and more effectively use features of their CLM technology and processes that are often overlooked or misunderstood. By improving CLM performance, organizations can speed up the contractual process and negotiate, or renegotiate, contacts with fewer resources. Intelligent CLM can also increase visibility into contract terms and conditions to potentially improve compliance. And, an Intelligent CLM approach can streamline CLM processes and increase efficiency to unlock additional value from contracts.

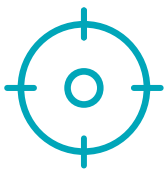


Focus area 2: Expanding use of ALSPs

Legal executives also appear to be planning expanded use of ALSPs in response to COVID-19–related workload increases and cost-containment measures:

74% of respondents to the Deloitte CLO survey indicated that they are likely to increase the use of ALSPs going forward;⁷ while in February 2020, the ACC General Counsel survey reported that

80% of CLO respondents indicated that ALSP utilization would remain level or even be reduced in 2020.⁸



Where to focus first: For CLOs who are considering expanded use of ALSPs, there could be a considerable opportunity to get “more bang for their buck” while simultaneously building greater resilience into their legal operations. By outsourcing selected legal operations processes, CLOs can seek to offload work that they consider

to be non-value-added; refocus the legal department on the most important priorities; and simultaneously take advantage of service providers who have made investments in people, processes, and technology to help modernize those processes that are outsourced. CLOs should consider ALSPs that have already invested in modernization and have a road map for future enhancements. Legal department functions that hold significant promise for selective outsourcing include eDiscovery (see “Insight: Enhancing the value of eDiscovery”), CLM, and overall legal operations.

Insight: Enhancing the value of eDiscovery

Even with widespread use of eDiscovery technologies, document review is still, in many cases, the most expensive part of a litigation or investigation outside of a trial. Given the large amounts of data involved, legal departments often outsource eDiscovery to a third party, addressing each legal matter in isolation. With each new litigation, investments in eDiscovery services multiply, and legal departments risk overcollection of data, redundant collection, inconsistencies between matters, lack of transparency, and data security issues.

Engage an eDiscovery managed services provider to conduct document collection, review, and production across multiple legal matters. Such an approach enables a legal department to leverage enterprise data more efficiently and *potentially develop AI models for specific purposes*. A basic example of this efficiency is a “privileged document” AI model, which can identify documents previously tagged as privileged and avoid potentially redundant review when new legal matters arise.

To take this one step further, once a legal department has made an investment in the indexing of data, the data can be used to deliver greater insight (and value) to the business—for example, by developing a phishing scheme identification model. Not only can such an approach help legal departments more effectively manage eDiscovery resources, costs, and efficiency across their litigation portfolio, but it may also be the first step in developing a content and contextual legal hold model.

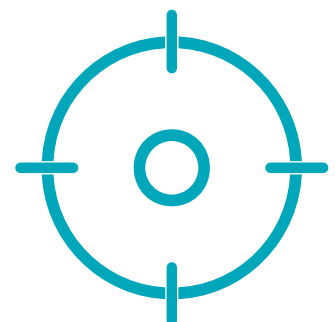


Focus area 3: Employee safety

Half of respondents in the Deloitte CLO survey (**51%**) expect their organizations to return to a normal level of operation in the first two calendar quarters of 2021. For more than two-thirds of organizations (**67%**), unsurprisingly, employee safety is expected to be one of the top legal issues impacting their organization going forward. Also unsurprisingly, “return-to-work policies” ranked as one of the top legal priorities in the coming months by nearly the same percentage (**66%**). This was especially true in larger organizations and organizations in the defense, security, manufacturing, and energy industries.⁹

Where to focus first: Recognizing potential positives coming out of the pandemic, innovative organizations across industries are exploring models for on-site, off-site, and hybrid working arrangements. This requires a shift from an “urgent now” focus to an emphasis on how to recover for tomorrow. Specifically, it means rebooting with a holistic approach that minimizes risk to workforce safety and maximizes worker productivity by:

- Defining the destination at the end of the Recover phase
- Articulating the destinations as stakeholder outcomes
- Defining the skill set needed by leaders assigned to manage the changes



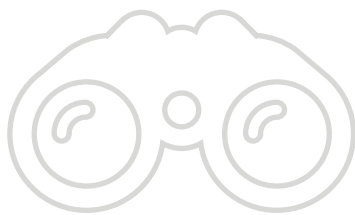
- Modeling different financial scenarios to align budgets to the ramp-up of post-pandemic operations
- Creating opportunities to energize and empower employees

Empowerment of workers is especially important for a successful post-COVID-19 work and workforce strategy. This can be accomplished by:

- Adopting or continuing to advance a human focus whereby the health and well-being of the workforce is paramount
- Approaching each challenge or issue with pragmatism instead of theories
- Making it real by understanding and articulating critical workforce journeys during the transition to the new normal
- Using facts and analytics to make informed decisions and communicate transparently
- Employing digital solutions to promote transparency
- Recognizing that manual may not be scalable in every instance, so, wherever possible, use new tools, rules, and processes to enable efficiencies at scale

Looking forward to better days

By almost any measure, the road ahead is likely to be a long one as solutions to the pandemic are devised, tested, and deployed. For organizations in many industries, the return to some sense of normalcy may take many months, if not years. Yet some functions, such as legal departments, have little time to lament these changes because the demand for their services is already high and, in many cases, increasing.



For CLOs and other executives who are already exhausted from long hours spent dealing with seemingly endless crises and inflection points, the prospect of dealing with more change can be daunting. Yet, for CLOs in particular, renewed focus on the three main areas discussed above may actually facilitate a transition from respond to recover and on to thrive. Each area can help legal departments operate more effectively with potentially fewer resources, thereby freeing up the remaining resources to handle increased workloads more strategically and in a more cost-efficient way. At the same time, the actions described above can help CLOs bake additional resilience into their legal operations (the people, processes, and technologies that make the legal department run) so they are better prepared for whatever the future holds.

Insight: Well-being is critical for the legal team—and the CLO

As mentioned previously, nearly eight of 10 (78%) executives responding to the Deloitte survey indicated that legal department workloads have increased during the pandemic, even as cost-containment measures forced reductions in workforces.¹⁰



The shift to remote work has had both positive and negative outcomes. One study indicated that hours worked per day by all US workers have increased by 40% after the shift to entirely remote working in mid-March 2020.¹¹ Workers are experiencing “video fatigue” due to seemingly endless video calls that have replaced in-person meetings.¹² And 57% of mothers and 32% of fathers of children under 18 reported that their mental health has deteriorated during the pandemic.¹³

Notwithstanding these negative impacts, there are some silver linings in the remote work environment. Deloitte’s survey found that more than half of surveyed legal executives believe that COVID-19 changes have had a positive impact on their legal departments. More specifically, respondents noted that virtual meetings (72%), working from home (61%), and reduced travel (54%) are benefits of remote working arrangements.¹⁴

In light of these increasing demands, it may be helpful for CLOs to consider the role well-being plays in their leadership effectiveness. In recent Deloitte conversations, specialists who work extensively with legal professionals¹⁵ revealed two ways that CLOs can demonstrate effective leadership as they respond to increasing demands on their time, energy, and insight:

Focusing on their own well-being by taking specific actions around their diet; technology use; rest and sleep; physical and mental health; personal relationships; and resilience-building activities such as goal-setting, visualization, positive messaging, and relaxation management.

Reimagining the way they engage their legal teams by being open and authentic, giving the team time and space to adjust to evolving demands, revisiting the mental health support available to the team, effectively communicating with them, and building trust and respect through transparency.

Author

Lori Lorenzo

Research & Insights director
 Chief Legal Officer Program
 Deloitte Transactions and Business Analytics LLP
 lorilorenzo@delloitte.com

Endnotes

1. Deloitte Development LLC, 2020 Legal Department COVID-19 Survey, September 2020, <https://www.deloitte.com/us/closurvey>.
2. Ibid.
3. Association of Corporate Counsel, "2020 ACC Chief Legal Officers Survey," <https://www.acc.com/clo2020>.
4. Deloitte Development LLC, 2020 Legal Department COVID-19 Survey, September 2020, <https://www.deloitte.com/us/closurvey>.
5. Deloitte interviewed legal executives from a range of industries in a series of in-depth conversations about legal department modernization. All participants had "legal operations" as part of their title or primary responsibility.
6. Deloitte Development LLC, 2020 Legal Department COVID-19 Survey, September 2020, <https://www.deloitte.com/us/closurvey>.
7. Ibid.
8. Association of Corporate Counsel, "2020 ACC Chief Legal Officer Survey." <https://www.acc.com/clo2020>
9. Deloitte Development LLC, 2020 Legal Department COVID-19 Survey, September 2020, <https://www.deloitte.com/us/closurvey>.
10. Ibid.
11. Lucy Meakin, "Working From Home Means Working Longer Hours for Many," *Bloomberg*, March 23, 2020, <https://www.bloomberg.com/news/articles/2020-03-23/working-from-home-means-working-longer-hours-for-many-chart>.
12. Scott Rosenberg, "Another pandemic woe: Zoom fatigue," *Axios*, April 22, 2020, https://www.axios.com/zoom-fatigue-coronavirus-teleconferencing-f5c0ce17-483f-4c71-9a7d-f023d7e7a45b.html?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosatwork&stream=business.
13. Alice G. Walton, "Coronavirus Lockdown Is Taking A Toll On Mental Health, Especially Among Women, Study Finds," *Forbes*, April 8, 2020, https://www.forbes.com/sites/alicegwalton/2020/04/08/coronavirus-lockdown-is-taking-a-toll-on-mental-health-especially-womens-study-finds/?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosatwork&stream=business&sh=25b587a62d1f.
14. Deloitte Development LLC, 2020 Legal Department COVID-19 Survey, September 2020, <https://www.deloitte.com/us/closurvey>.
15. Deloitte, "Leading through the pandemic: Well-being for chief legal officers," <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/chief-legal-officers-leading-through-covid-19.html>.



This publication contains general information only and Deloitte is not, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional adviser. In addition, this publication contains the results of a survey conducted by Deloitte. The information obtained during the survey was taken "as is" and was not validated or confirmed by Deloitte. Deloitte shall not be responsible for any loss sustained by any person who relies on this publication.

About Deloitte

As used in this document, "Deloitte" means Deloitte Financial Advisory Services LLP, which provides forensic, dispute, and other consulting services, and its affiliate, Deloitte Transactions and Business Analytics LLP, which provides a wide range of advisory and analytics services. Deloitte Transactions and Business Analytics LLP is not a certified public accounting firm. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.