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The Era of the Distributed Law Department

Law Department Management



The COVID-19 pandemic has been terrible in almost every way. But it has also demonstrated that allowing some employees to work from home may be a reasonable — or even preferable — alternative to requiring them to work on premise. Not everyone can work from home, of course. Chemists, doctors, factory workers, and a lot of other employees need either specialized facilities or other professionals nearby, or both. But lawyers? Lawyers should be able to do most of their work in any quiet place. As we all now know, working from home has both plusses and minuses. Whether because of privacy issues, small children, slow available internet speeds, or other factors, some homes do not make great offices. Some lawyers need facetime with their clients or adversaries, like attorneys whose main job is conducting investigations or preparing witnesses. But for many lawyers, videoconferencing and other electronic communication work well enough, there are fewer interruptions when working from home, their formerly unproductive commute time is being put to better purposes, etc.

Now consider the company's perspective. Assuming you believe you can trust your lawyers to work acceptably from home (and if you can't, you probably shouldn't assume you can trust them on premise either), there are a number of benefits in developing a distributed law department. For one thing, you don't have the real estate costs of keeping office space. You also may have access to lawyers with better skills who simply would not be willing to relocate to your office location, or whose salary expectations may be lower because of where they live. Who knows? You may even be able to get the benefit of staggered time zones for urgent projects, so that you can hire various lawyers who

can work around your clock but who do not have to work around *theirs*. Furthermore, with the exception of things like the COVID-19 pandemic, from a business continuity perspective, it is much less likely that any disasters will impede all of the lawyers in a distributed law department.

There are of course some downsides. It may be harder to maintain consistent processes or systems. It may (or may not) be harder to ensure the privacy or secrecy of some work. It will certainly be harder to create *esprit de corps* among lawyers or between lawyers and clients who rarely — if ever — see each other in person. There will potentially be less of a “moat” preventing lawyers from casually changing employers. Most importantly, it may be harder to keep track of the work being done by lawyers in a distributed law department for purposes of quality control and continuity, in the event of business continuity issues or that any particular lawyer becomes disabled or leaves the department.

There are ways to address these potential problems.

- **Hiring practices:** Once it's decided the legal team can work from home, be creative when expanding the geographic and temporal scope of hiring. Is it possible to hire a lawyer in South Carolina or Wyoming instead of one in New York or California, where lawyers' salaries are substantially higher? Or someone living in Spain or India, so the company can time-shift some of the work in addition to saving on salaries? Could the company hire a part-time specialist in one specialty for three days a week, and in another for two? If the enterprise employs headhunters, make sure they have the resources to find great candidates in a broad geographic territory or worldwide. Don't forget that in-person interviews will be critical, so spend some of the savings to bring candidates in for meetings.
- **Onboarding:** Doing this properly will be more important than ever. I recommend a combination of on-premise and virtual onboarding. If the company doesn't already have an onboarding program set up, now is a good time to do it. If it does, consider which portions should be adapted to a virtual platform and which ones will need to be done in person. Consider creating comprehensive training programs, playbooks, legal process checklists, precedent libraries, and other tools to help your hires integrate quickly. Make sure you have good knowledge management practices in place so that your hires can locate both tacit expertise among your staff as well as explicit, written knowledge assets.
- **Teambuilding programs:** Creating good morale and *esprit de corps* may be more challenging with a distributed workforce but it isn't impossible. Many of the same practices that should be a part of any centralized law department will also work on a distributed basis if you give them the priority they deserve. Systematically share news about company and department developments — don't let the grapevine be the harbinger of good or bad news (grapevines are notoriously inaccurate and tend to foster feelings of exclusivity within the department). Hold in-person meetings for the entire department at least annually if possible, with teambuilding exercises built in, and virtual “town hall” meetings quarterly to share interesting developments. Have team members present on particular projects or lessons learned. Use your continuing legal education programs as an opportunity for team members to share their expertise. I recommend setting up a committee to design and manage a program that suits the department's needs.
- **Client development:** In a distributed law department, working to build strong relationships between your team members and their clients is more important than ever. Make sure your lawyers and staff have the opportunity for regular in-person meetings with their more important clients. Make sure you create a good feedback loop that will allow you to quickly learn if those relationships are going off the rails; those should include but not be limited to, “lessons learned sessions” after any major project. Hold both in-person and virtual client training sessions on important topics as frequently as possible. Engage clients in both hiring

and performance review processes, to make sure they feel like they have some say in the lawyers who will be serving them. Again, establish a committee to create a program that will ensure internal clients don't feel isolated from the team members who serve them, and consider making client representatives a part of that team.

- **Legal services request tracking tools:** Developing a good system for receiving, assigning, and monitoring the legal service requests made by your clients is important in any law department, but especially in a distributed one. I highly recommend creating some kind of online tool for managing those requests. I have become very impressed by the ones I have seen used at Chubb and other companies. Not only do they track those requests, but they provide metrics that are invaluable in understanding staffing needs, trends, and other aspects of legal department work.

This is a time of great change in the world. You should strive to take advantage of the opportunity to skate to where the puck will be. And if you build a distributed law department, you and your company will be able to put it into the goal.

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