



How general counsels can take succession planning to the next level

General counsels are increasingly expected to engage in ongoing and well-structured succession planning. Here's how they can ensure that who's next is who's best.

The basics of a well-structured succession-planning process are by now familiar: with the guidance of the CEO and board, map the needed skills in the role against the company's strategic priorities and future challenges, identify and assess potential internal successors and the external market in light of those needs, and put the most promising candidates on the development path. This applies to the general counsel (GC) role as well as other C-suite leaders, and is particularly crucial for GCs now, as many such roles have grown more complex in the aftermath of the COVID-19 pandemic, renewed calls for racial and social justice around the world, and in anticipation of increased regulatory scrutiny.

The increased pressure and remit are clear: a 2020 Heidrick & Struggles survey of GCs showed that, overall, 9 in 10 respondents reported being somewhat or very involved in their company's response to events surrounding the murder of George Floyd, for example; 63% had asked their direct reports to take on enhanced responsibilities since COVID-19 began; and 66% were spending more time with their board.¹

¹ Kamau Coar and Victoria Reese, "How the general counsel role is changing in 2020: A new job description?" Heidrick & Struggles, August 27, 2020, heidrick.com.

More broadly, as the role of the board is evolving from one focused mostly on governance to one focused on securing the organization for both anticipated and unprecedented challenges, the GC is one key to providing guidance and reconnaissance. The GC often works with the board chair to set board agendas, for example. This means that GCs need to be anticipating where the commercial opportunities and risks will be and ensure the board is weighing in on critical strategic elements. GCs also often help prioritize the information to be put in front of the board. GCs need to have strong credibility with the board members from day one to play this role effectively, as well as have strategic insight into the larger enterprise and external industry shifts. The core of the GC's increasingly greater strategic impact rests in a critical capability—agility (see sidebar, "Agility in the GC role").²

The rewards of good succession planning with the general counsel role—continuity in the function, a successor with thorough knowledge of the business, and a hedge against the risk of an incumbent's sudden departure—will continue to mount, along with the hazards of insufficient succession planning. Further, a highly visible succession process, including carefully planned development experiences that reach far down in the legal function, helps GCs retain highly talented people because those people see a clear path upward. This is an important point as the competition for best-in-class legal talent has only increased. Further increasing that pressure, as the general counsel role has been a frequent entry point to the C-suite for diverse executives, top law firms and corporations are seeking in particular to attract, develop, and retain diverse talent.

Given the benefits and risks, more GCs and boards are now focusing on succession planning than ever before; this is also in the context of more and more CEOs and boards mandating that all C-suite leaders have formal succession plans, with an internal successor chosen. However, even a well-designed succession planning and leadership development process can be subject to missed opportunities, possibly leaving the designated successor underprepared or, in the worst case, rejected by the CEO and the C-suite, forcing the company to scramble for an external candidate in a competitive market.

GCs will benefit from taking steps in three areas to avoid the hazards, identify potential candidates, and create a successful succession that leaves the best legacy possible for the organization.

Planning

Succession planning is an ongoing process—not something a company should do only once or every few years. There are four areas GCs should particularly consider while planning.

Refine the GC's talent management skills

When it comes to evaluating potential successors, gut instinct is no substitute for rigorous assessment. The cognitive biases to which we are all subject can—and often will—get in the way of accurately evaluating other people. Nor does a candidate's past performance reliably predict future performance in the face of unanticipated challenges. Tools and methodologies for assessment have seen great advances in recent years.

In terms of giving feedback to potential successors, experienced GCs usually have excellent people skills that have been honed over years of serving as trusted advisors to chief executives and boards. But no matter how well developed, such skills may be inadequate for this specific situation. Here, too, instead of relying on instinct, GCs should sample the copious literature on giving feedback, seek the advice of chief human resources officers, or consult an experienced leadership coach to make sure that feedback genuinely advances the development of the candidate. Three crucial steps are to provide feedback often, set goals for the candidate, and initiate a plan to address critical competencies. Be honest about a candidate's gaps, even if they are personality related. Finally, there should be a formal cadence for this feedback. When GCs do all this well, candidates appreciate it; someone who doesn't might not be the right successor.

Agility in the GC role



Foresight: GCs need to be looking years ahead and be highly tuned into macroeconomic and stakeholder shifts, able to raise concerns to the board and help shape the CEO's vision for the future of the organization. They must keep abreast of current issues with competitors and anticipate government policy changes.



Learning: GCs need not only to be insatiably curious themselves but able to lead a legal team that balances being the experts on legal matters with staying close with business partners to ensure a nuanced understanding of the business.



Adaptability: Strong GCs have long been adaptable in meeting their various stakeholders' needs, from the CEO to the broader executive team. And now, as they are playing a more pivotal role in the board and are a more visible stakeholder with shareholders, their communication skills must be more sophisticated than ever.



Resilience and capacity: GCs now are being asked to take a greater ownership role in the larger enterprise. They are being asked to move from an advisory role to proactively leading the organization, beyond the legal function. They must have the inner reserves and tenacity to manage this remit. Their voice and perspective are critical at the start of new initiatives, not only in times of crisis.

² Steven Krupp and Becky Hogan, "Agility for the long term," Heidrick & Struggles, April 13, 2021, heidrick.com.

Advise up-and-comers about the path to the GC role

Make it clear to high potentials in the legal function what CEOs and boards have come to expect more than ever from their GCs: wise counsel, effective management of the legal function, strategic thinking, and a global perspective, as well as strong relationships throughout the organization and industry. The GC role has historically been the moral compass of an organization, able to answer not only whether an action is legal but if it is right and how it will be interpreted publicly. Now, as public expectations and demands on corporations intensify, requiring them to take on greater responsibilities for social good and act as agents of change, the GC must both understand the systems in need of reform and be equipped with the emotional intelligence, judgment, and technical expertise to guide their company through complex social and political issues. Not pushing for action and responsiveness can be major pitfalls as well.

Furthermore, GCs must not only know the legal discipline and societal context, but also act as generalists who have a passion for the business and can make significant business contributions, as our survey underscored. To acquire the requisite depth and breadth, high potentials should be encouraged to take on roles that require the management of significant numbers of subordinates, work abroad (or with colleagues in other countries remotely), and develop diverse legal experience—in corporate law, litigation, tax law, intellectual property, regulation, and compliance. Where appropriate, they may also benefit from seeking practical experience in the business. Such encouragement and candor will help ensure a full pipeline of potential successors.

Finally, potential GCs should understand the jump they will need to make from execution to vision. There are many corporate counsels who do great work but may not be able to set a vision for success of the legal function and success as a partner to the business. This may mean that as they are considered potential successors they may be asked to stop doing the work that got them to the point of being considered in favor of more strategic work, because the work they were doing can be done by others.

Map the landscape

Today, GCs are addressing the need for their legal teams to model inclusivity in their organizations in order to attract and retain diverse legal talent, and they must ensure that their internal pipeline is at least as diverse as the external talent pool. We have seen a sharp increase in the number of CEOs who are willing to look at a broader range of candidates than ever before³ in terms of gender and race or ethnicity, as well as consider people from outside their own industry, who may have a steeper learning curve. Overall, CEOs are seeking GCs with more diverse backgrounds than ever, and GCs are seeking the same diversity in their pipelines in order to benefit from the long-term cultural impact of diversity and inclusion. In addition, many GCs are now working hand-in-hand with chief diversity and inclusion officers (or serving in that role themselves). So, GCs not only address issues related to equity and integrity from a legal standpoint but are playing a central role leading diversity and inclusion efforts.

Using external advisers to map the market as part of succession planning well ahead of a GC's anticipated retirement can also be enormously useful. Understanding the relative strength of internal candidates and potential external ones can greatly improve the GC's understanding of their leadership pipeline. Even when an organization promotes an internal candidate, having done such an assessment can provide validation for the board and executive team that they have the right person for the job.

Understand what internal and external stakeholders think of potential successors

Particularly if a potential successor has not previously been a GC, the current GC should make senior leaders aware of which person or people are being considered. We have found that the C-suite often does not agree with the GC on who his or her designated successor should be—and having the buy in of potential GCs' future peer colleagues is critical.

The GC should ensure that anyone on the shortlist gets exposure to colleagues in the C-suite and to the board. In this context, it's also crucial for the current GC to solicit candid feedback on candidates' performance from people with whom they have worked—business-line leaders, internal consumers of the candidate's legal work, and outside. We have seen cases in which GCs simply assumed that everyone shared their own favorable views of a given successor but, when the time came to discuss the transition, found little support for the candidate. Making sure any potential candidate has sufficient exposure to the CEO, business leaders, and especially the board, can prevent the unpleasant surprise and also create familiarity and comfort.

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³ In 2020, 71% of the GCs placed by Heidrick & Struggles in the United States were diverse in terms of gender, race or ethnicity, or both.

Communicating

Throughout the process of determining and planning for the GC's successor, it is crucial that leaders clearly communicate both their criteria for candidates and the timeline in which they are operating.

Be honest with the "not quite ready" candidates

Often, a number of people on the legal team aspire to the top job and may even fully expect to get it in due course. But as a company changes, and especially in uncertain times, even someone who has been a valuable contributor in the past may not be suitable for the GC role. Further, an otherwise competent person may turn out to lack some essential attributes of leadership despite development efforts. Being honest with these people about their prospects and giving them the opportunity to consider where they want to go with their careers, is essential. It may be, for example, that they are well suited for the top job in a different organization. And when GCs help such people make a move, it creates more loyalty throughout their department. In addition, real stars who are for some reason unsuited for the top job in their current company will eventually leave anyway.

Be transparent about timing

Preparing a successor should begin no later than two to five years before the GC's retirement, leaving time for the candidate to make up any gaps and to transition critical duties in an orderly fashion. Ideally, once a departure date is set, the GC will adhere to it. But unforeseen developments can create circumstances in which it would be irresponsible to depart: a new CEO might want the current GC to stay on for a year to provide institutional memory, for example, or the company could suddenly be plunged into a crisis that leaves little room for an orderly transition.

But it is central to an orderly succession that a timeline is established for the transition. We have seen several instances in which GCs delayed their retirement for various reasons. Often, the designated successors, chafing under the undue delay and mixed signals, leave for a GC role at another company. Such departures can have unfortunate ripple effects. For example, the deputy GC of a major financial services company, who had been assured that he would assume the top job within 18 months, left in frustration when the GC repeatedly postponed his retirement. Recruiting a new deputy GC required 6 months, and his development took an additional 18 months. Meanwhile, the head of compliance, who had expected to become deputy GC, was stalled, as was her number two, who had been prepared to lead compliance. Both of these very talented people soon left for other opportunities.

Making it happen

Once a successor or group of potential successors are agreed upon, it is equally important that leaders are intentional about ensuring meaningful mentoring, sponsorship, and learning opportunities, providing the successor with visible opportunities to shine and aligning the candidate with the future CEO and his or her C-suite peers.

Ensure meaningful mentoring, sponsorship, and learning opportunities

The GC will, of course, act as the primary mentor for all potential successors, but consideration should be given to seeking additional mentoring. Often, a good choice is another member of the C-suite, so that potential successors can gain an additional perspective on how to navigate the organization, develop a strong and valuable relationship with the new mentor, and secure a foothold of support in the top team. Such mentoring also gives an incoming GC the opportunity to become a trusted advisor for another top business leader in the company.

We have also seen the benefits of hiring an executive coach for the deputy general counsel (DGC), for example,⁴ or of introducing the DGC to GCs and executives at other companies for networking and development. When there are particular skills the successor needs to develop, enrolling him or her in a training program or having a law firm train them on the subject will be necessary. With the right coaching, candidates can also develop the communication and presentation skills needed in the role. An organization could also consider hiring a retired GC as a consultant or mentor to support a newly promoted GC in the first year or two, especially if the retiring GC left sooner or more abruptly than anticipated.

When the successor is an outside candidate



Despite any GC's best efforts at internal succession planning, some circumstances may require bringing in and developing an external candidate. For example, the clear successor may leave for another opportunity, or a turn in the company's strategic direction could leave no internal successor with a newly critical skill set. Or it could be that mapping the talent landscape has indicated that the external talent is superior—a highly promising external candidate in mid-career may be too talented to pass up.

Adding diversity to the team is another increasingly important reason to bring in external candidates. In our survey of GCs, over half of respondents said they are rethinking diversity within their own law department and with external law firms.

In other circumstances, companies may want a seasoned GC to come in for a few years while internal candidates gain time to develop without feeling that their chances at the top job lie too far in the future.

Whatever the reason a company has to go external, they typically seek general counsels who have a proven track record in managing to scope and scale, industry expertise or a passion for learning the business, solid experience working with a board, and the ability to navigate regulatory issues domestically and globally.

⁴ Sonya Som, "Demystifying executive coaching: The Tenzing Norgay factor," LinkedIn, June 26, 2019, linkedin.com.

Provide the candidate with visible opportunities to shine

To showcase potential successors' competence and leadership, putting them in charge of leading the legal team on a major piece of litigation or assessing the impact of and appropriate response to significant new regulations, as examples, will help build skills and relationships and underscore the current GC's confidence. Another way for a successor to build a relationship with the board is for a potential successor to be given the role of corporate secretary. Such moves will help other leaders see potential GCs as real partners, who understand the business and its strategic goals as well as its legal needs.

Encouraging the successor to network externally through conferences and speaking engagements will build external presence, as will taking on some of the "ceremonial" duties of the GC, such as being interviewed or accepting awards on behalf of the company, speaking on panels or writing articles, or representing the company in not-for-profits and other organizations. Greater external presence, in turn, can build support internally as well.

Align the candidate with the future CEO and C-suite peers

Forward-looking GCs will expose their successor not only to the CEO and board but also to the likely successor to the current CEO. In some cases, that person obvious. But even when not, GCs are in a unique position with regard to CEO succession planning. As stewards of corporate governance, they ensure that the board plans for both emergency and long-term succession. As regular participants in board meetings, they have a feel for the inclinations and preferences of board members. And, as trusted advisors to the CEO, they know which way the wind is blowing on a great many issues, often including succession, even when it's largely a matter of speculation among other executives. In either case—an heir apparent or a crowded field—helping a GC successor win the trust of the future CEO will lay the groundwork for a fruitful relationship far into the future.

Succession planning is a mandate in many top institutions across the C-suite, and GCs are no exception. Thoughtful planning, communication, and transitions strategies will help them ensure that there are no disruptions or vacancies in the general counsel seat.

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Acknowledgments

The authors wish to thank **Emily Amdurer**, **Kamau Coar**, and **Rose Gailey** for their contributions to this article.

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