

Finding your next general counsel

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If your general counsel (GC) unexpectedly resigned tomorrow without a successor, consider how many moving parts would come to a halt. Who would protect your company from the many risks associated with the business in our heightened regulatory environment? Who would manage your legal department and oversee your outside counsel? Who would advise the CEO on matters involving litigation, securities, employment law, compliance and business strategy? Do you have someone to act as an objective adviser to the board?

Over the past 10 years, the role of general counsel has become significantly more influential and strategic and they are likely to be a critical member of the C-Suite. In fact, 86 per cent of CEOs and board members said their general counsel is a member of the executive team today, compared to just 55 per cent a decade ago, according to the results of a 2014 survey conducted by BarkerGilmore and NYSE Governance Services¹.

Given the more expansive and vital role of today's general counsel, companies can no longer afford to be without their trusted legal adviser. Not long ago, it was common for GCs to devote their entire career to one company. However, the turnover rate for this key role is steadily rising as the market continues to improve.

In 2014, 10 per cent of companies with more than \$1bn in annual revenue began the year with a new leader in their law departments, according to BTI Consulting Group's Benchmarking Corporate Counsel Management Strategies survey.

The movement we're seeing in the general counsel role reflects several trends. As companies recognise the value of the position and the

Companies must ensure they have implemented a general counsel succession plan or risk at least a year of upheaval, warns Bob Barker

individual filling the role, they are offering bigger and better incentives to entice the perfect candidate to join and remain with their team. Compensation packages continue to become more competitive and, in most cases, include stock, increased status and other perks. Additionally, many GCs are feeling more comfortable with their investment portfolios than they did several years ago with the market crash, which is increasing their willingness to consider new opportunities, including retirement.

Faced with the inevitability of their GC's departure, companies are realising the importance of general counsel succession planning and, in some instances, their boards are even demanding it.

Interestingly, only 40 per cent of the companies BarkerGilmore surveyed in a recently released study² have a formal succession plan in place for their GCs.

That leaves 60 per cent with no roadmap for replacing this key contributor in the event of an unexpected departure. Without a plan in place, identifying and grooming a GC successor with the skill set and leadership abilities needed to navigate an increasingly complex business climate can take a year or more.

No company can afford to be without their general counsel for that period of time, especially when factoring in a transitional period once a successor has been identified. Here are seven recommendations for



LEGAL ADVISER Only 40% of companies have a formal GC succession plan in place



incorporating succession planning into your organisation so that when your GC's inevitable departure occurs, you're prepared and not scrambling to find a replacement.

1 Identify and develop successor candidates

If your general counsel is already hiring quality in-house attorneys and building a strong legal team, identifying top internal candidates should occur naturally. By surrounding themselves with capable and exceptional successor candidates with leadership potential, general counsel position their companies for long-term success.

In addition to identifying potential successors, mentoring and grooming those individuals to ensure continuity in your company is an important part of the general counsel's responsibilities. Laying this groundwork early will reduce the potential for future risk, cost and transition time for the company, especially in the event of the GC's unforeseen departure.

Your company's key stakeholders can support the GC's efforts to develop and groom candidates by implementing a formal process for periodically evaluating internal talent. Assessing those top contenders and discussing their level of preparedness provides the executive team with a comprehensive understanding of what additional skills and experiences (and the timeframe associated with each) the candidates need to acquire in order to step into the GC role.

2 Engage all your key stakeholders

Once the decision has been made to begin actively identifying the successor, establish a selection committee which typically includes the CEO, chief human resources officer, other key executive and perhaps a board member.

The CEO can provide insight into the strategic direction of the company and how success will be measured with the next general counsel. The board will have insight into the skills and experience that will best protect and guide the company over the coming years. The executive team can offer a broad and fresh perspective on the GC's past contributions, as well as how they expect the successor to be involved going forward. Finally, the outgoing GC will have a unique understanding of the responsibilities, skills and competencies required for this role.

3 Outline the process and timeline

Having a roadmap helps your team stay on track while setting appropriate expectations for candidates. During this stage, you should identify your target hire date, establish your transition process and timeline and determine when the current GC will step down.

Given the time that it can take to identify, recruit, assess, and integrate the right successor, we recommend establishing a timeline of a year or more. »

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4 Clearly define the role of your General Counsel

While the attributes and qualifications sought in a given GC depend on a company's business objectives, culture and specific requirements, most successful general counsel share a set of core competencies and characteristics, including:

- Remaining calm during crisis situations
- Track record of successfully managing others, including both in-house counsel and outside counsel
- Global business acumen
- Acting as an objective adviser to the CEO and the board
- Contributing to business strategy discussions
- Offering risk analysis expertise
- Contributing to discussions on increasing shareholder value
- Being unafraid to ask tough or sensitive questions
- Providing continuity during CEO and board member transitions
- Experience with talent management, development and recruiting
- Excellent communication skills and experience with internal and external constituents

Companies with larger law departments may have individual subject matter experts, while leaner law departments may require GCs with broader skill sets since they will be handling a wider variety of legal matters.

Regardless of company size, general counsel are expected to have broad legal expertise in the following areas:

- Corporate and securities law
- Compliance
- Governance
- Labour and employment
- Litigation
- Risk and dispute management

Depending on when your company last hired a general counsel, you may need to revisit your definition of the role and update your job description to reflect any shift in priorities.

Don't forget to seek feedback from key stakeholders on the job description, critical competencies and preferred characteristics for potential GC successors.

5 Benchmark internal candidates against external talent

You may have an impressive slate of internal candidates, however, unless you've evaluated them next to external candidates, you may find yourself lacking confidence and certainty in your ultimate candidate selection. Benchmarking is one of the most effective ways to ensure that you've been thorough in your assessment and that your final candidate is the best fit for your company.

In fact, 90 per cent of CEOs and board members opine that internal GC candidates

should be benchmarked against external ones to ensure that the most qualified individuals are identified, according to a 2015 survey by BarkerGilmore and NYSE Governance Services.

Benchmarking is also an important way to define compensation parameters so you can be sure that your package is competitive and appropriate. Once you've engaged candidates, especially external candidates, be sure to set expectations about the process timeline. If too much time passes, they may feel as though your company is no longer interested in their candidacy. They may then become restless and begin to consider alternative opportunities.

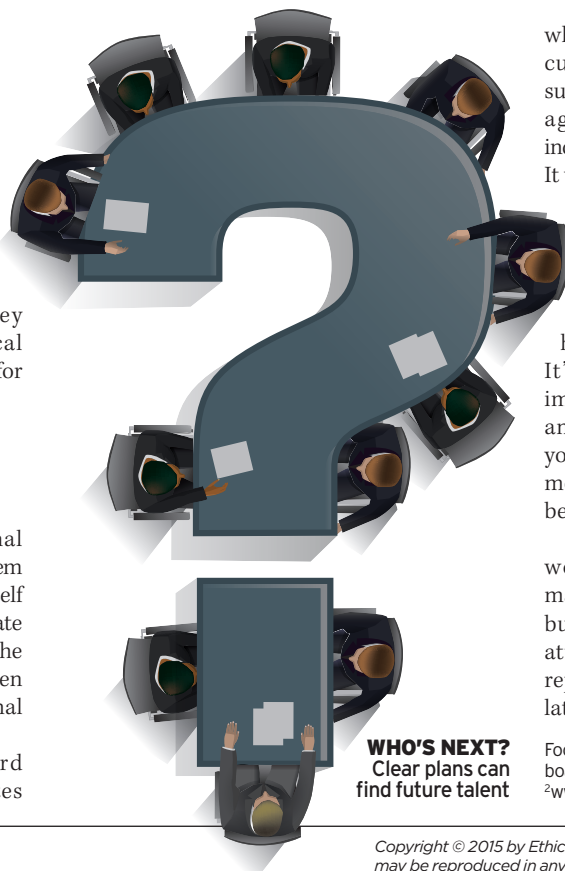
6 Develop a rigorous assessment process

General counsel need to remain competent, composed and confident in the face of intense pressure. The assessment process you use to vet your GC candidates should be similarly rigorous.

Your assessment process may include interviews, references and/or the use of various evaluation techniques. Assessment tools or other similar resources may examine an individual's leadership style, competencies, personality traits, motivating factors or other experiences which align them closely with the role.

Be sure to define your interview procedures ahead of time. Consider whether you will use individual or panel interviews and determine the accompanying level of structure you wish to apply to your preferred means of interviewing.

During the course of interviews, challenging questions should be posed that are designed to evaluate key competencies. Press for specific examples and clarification about the candidate's personal involvement in each instance being



WHO'S NEXT?
Clear plans can find future talent

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described. Your assessment process may also incorporate less formal exchanges and interactions that reveal character, interpersonal skills and integrity.

While a candidate's verbal and non-verbal cues may reveal a host of qualities, be sure to seek information from a variety of sources to generate an accurate, well-rounded portrayal of each candidate. In addition to the standard background checks and credit checks, always reach out to professional references.

7 Plan properly for a smooth transition

Once the new GC has been chosen, you'll want to integrate him or her into your company with as little disruption as possible. Focus on integrating the GC with the executive team, with the board and with regulators if they are coming from a different industry. Integrating the new GC into the company culture is also important, even if you've chosen an internal candidate.

Integrating a new GC requires time and attention and should be addressed well in advance of the current GC's departure. The transition process must be tailored and customised to the needs of each individual company and each company's culture, industry, priorities and structure.

During this process, you should consider whether, for how long and to what extent your current GC will remain on staff after the new successor takes the reins. You may also draft an agenda, including orientation scheduling, individual meetings, group meetings or even tours. It will be important to maintain open channels of communication to avoid ambiguity and anxiety for all parties. Finally, this is the ideal time to discuss your company's history and share future goals and ambitions.

Succession planning starts by hiring the highest quality talent from the beginning. It's a matter of attracting the best talent, implementing an effective assessment process, and hiring candidates who are the right fit for your company's culture. This, in turn, makes it more likely that they'll remain loyal and you'll be able to groom them for future advancement.

Succession planning is a commitment to working smarter and a necessary part of managing your company's risks. Strong leaders build their teams with an eye on the future, attracting and training top talent long before a replacement is needed. Don't wait until it's too late to start planning. 🌐

Footnotes: ¹www.barkergilmore.com/gcs-in-the-boardroom-and-beyond-site.

²www.barkergilmore.com/gcs-adding-value-in-c-suite