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Business Continuity in Times of Crisis: How Legal Ops Can Lead

How Legal Operations teams have successfully managed the impacts of COVID-19 and how they can lead the way through future distruptions.

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Introduction

The COVID-19 pandemic has shown enterprises around the world the risks and costs of not being prepared for disruption. Whether they're large or small, downturns and disasters demand an approach to business continuity that's more than simply reactive.

Legal Operations is a relatively new field that has been born of the need to keep mission-critical records, documents and processes functional and streamlined in an increasingly complex world. These core functions become even more important when disruptions challenge the very business continuity that Legal Operations is responsible for upholding. Companies look to their Legal Operations teams to solder the wounds and innovate new solutions to stay resilient in the face of disruption.

No matter how advanced a company's tech stack may be, Legal Operations must be prepared to ensure business continuity both in times of "business as usual" and amidst crises. A crisis like COVID-19 is an inflection point: one where some companies learn the hard way the need for automated, streamlined processes but finally have the motivation and momentum to begin implementing them, while more mature enterprises can focus their preparations on the future.

In both cases, it's up to Legal Ops professionals to assume the mantle of leadership and set their companies on the path to success.

> *"(The COVID-19 crisis) plays directly into what Legal Ops teams do on a day-to-day basis, whether it's financial management or legal technology, communications, vendor management, you name it. Those are all areas that have to continue to function in a crisis so that the backbone of the department carries on."*
>
> *Katrina Keiffer, Associate Director of Legal Operations, Navistar[1]*

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01 The Nature of a Crisis

There are three distinct phases in a crisis.

Phase One takes place before the crisis hits. The company appears to continue "business as usual," and it's only after the crisis and its aftermath that a company realizes the insufficiencies of their original processes and technologies.

Phase Two occurs during the crisis. At that point, the most important action is to stabilize the situation. During COVID-19, this stabilization phase largely consisted of organizations quickly setting up employees to work from home, figuring out how to handle the paper invoices and mail that were still being received at the office, and ensuring that critical processes were still functioning, even if key team members were out taking care of themselves or of their sick family members.

Phase Three calls for adaptive measures. The adaptive phase takes place after the crisis and demands the company's commitment to not just go back to "business as usual," but to ensure that "business as usual" no longer carries the same risks and uncertainties that it did before the crisis struck. This is "when you tackle the underlying causes of the crisis and build the capacity to thrive in a new reality," as noted by Dr. Ronald Heifetz, the founder of the Center for Public Leadership at the Harvard Kennedy School.[2]

In this ebook, we bring guidance from Legal Operations leaders to offer tips on how to move from diagnosing the problems to adapting your organization to the new world we live in.

02 Stabilizing the Situation

Heifetz likens a crisis to a heart attack that strikes in the middle of the night. Those with the responsibility to react must do so immediately, and their first goal must be to overcome the urgent and life threatening situation. They must "stabilize the patient."

Companies needed to ensure not only the health of their employees but also that the company itself was functional throughout the crisis. Many had to make rapid and unprecedented decisions regarding work-from-home policies and processes in order to administer emergency "stabilization."

Those with certain technologies already in place had a decided advantage: Rather than having to implement new systems, companies were able to rely on existing ones to support business continuity. They could also do so with greater efficiency, even in these circumstances, since they'd adopted those technologies for the sake of reducing costs, improving productivity, and accelerating responsiveness in the first place.

"Law departments continue to be challenged to 'do more with less' while also navigating rapidly changing corporate environments."
Kevin Clem, Chief Commercial Officer, HBR Consulting [1]

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03 How Legal Operations Handled the COVID-19

When COVID-19 struck, there wasn't time to buy new equipment or implement a new roadmap on the fly. Legal Operations had to use the knowledge and technology they had on hand to keep their business afloat. Luckily, these professionals were legal process experts with deep knowledge of the organization's best practices and current technologies.

What were the resources relied upon by Legal Ops teams that were successful at mitigating effects of the crisis?

Institutional knowledge kept in the institution

Every organization faces turnover and human resource loss when SMEs or employee superheroes leave, taking tribal knowledge with them. To address subject matter expertise "brain drain," companies use consistent record keeping to capture all relevant legal matter details. Additionally, subject matter expertise can be captured in automated, digital workflows that systematically embed best practices and resources, ensuring that everyone who touches a process follows proven methods and relies entirely on institutionally certified resources.

> *"Having all the information that we needed in our (TAP) technology and in our CLM combined together with just a little bit of institutional knowledge from Legal Operations and supporting attorneys - we were able to get people up and running within a week and not really have a business interruption for a big part of our international business."*
>
> *Andy Cooper, Legal Operations Manager, IDEXX Laboratories[1]*

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Existing technology to tackle new problems

Business Continuity in a crisis demands that employees are able to continue doing their work. Leveraging the technologies that are already on hand is the easiest way to do this. Organizations that already have matter and document management systems in place and capture all pertinent details and data in systems with reporting capabilities, not spreadsheets, have the upper hand. Without these systems in place, even virtual information can be almost as difficult to wrangle as paper.

"We've had personnel changes, we've had people that have gone out sick related to COVID, so we've had to do some shifting of gears rapidly, and having these technologies at our disposal, it made it significantly easier to disperse the work or see where our gaps are, see where things are falling off, so we can address them appropriately."

Andy Cooper, Legal Operations Manager, IDEXX Laboratories[1]

Metrics to inform data-driven decisions

Data may be the greatest untapped resource in a legal department's possession. By taking large data-sets and revealing their patterns, trends, and associations, legal departments are able to drive keen decision-making. The departments that rely on dashboards and have analytical reporting in place definitely have an advantage during a crisis.

> *"Anything that they weren't doing electronically, find a way to make it electronic, otherwise you won't know who's doing it, what their workload is, et cetera."*
> *Mike Russell, Lean Leader - Legal Operations, Trane Technologies[1]*

> *"A tech-enabled Law department of the future will really be using the data to inform decision making in a more meaningful way, whether that's through existing tools or analytics tools, dashboards, Tableau, Power BI, Click, etc."*
> *Kevin Clem, Chief Commercial Officer, HBR Consulting[1]*

Innovation and iteration of digital transformation

A flexible and centralized tech stack has been important for these Legal Ops teams, because it allows their departments – and by extension, the companies around them – to stay functional during the crisis. Working from home means working with the tools employees have at home: no more filing cabinets, no more disconnected and non-integrated repositories, no more physical mail.

This demanded they innovate using the tools on hand to solve the challenges of having to quickly pivot to a new operational environment, and quickly experiment with fresh approaches and adaptations.

> *"Whether it's e-signatures, scanning, e-Billing, getting our last few vendors up on e-Billing, set up for ACH payments, you name it -- all of those areas have been really critical to business continuity for the law department."*
>
> *Katrina Keiffer, Associate Director of Legal Operations, Navistar[1]*

04 Adapting for the Future

The real change takes place after a crisis is stabilized. After patients who have recovered from heart attacks have stabilized, only about 80% change their lifestyle habits in ways that would prevent a future attack. The initial success of the procedure can lull them into a false sense of security, and the prospect of changing one's diet or exercise routines is often unappealing.

Dr. Heifetz writes that companies often make the same mistake after a crisis seems to have been handled: they forget that they must prepare and adapt to handle the new reality that the crisis has left behind.

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What are Legal Operations professionals to do once their company announces that it's back to "business as usual?" **What *is* the new business as usual?** Legal Operations can use this opportunity to build on the lessons learned from the crisis and set a foundation for the future. In doing so, they shape that future, rather than simply waiting for the next crisis to arrive.

As Ronald Heifetz points out, "[Leaders] use the turbulence of the present to build on and bring closure to the past. In the process, they change key rules of the game, reshape parts of the organization, and redefine the work people do."

How, then, can Legal Ops redefine business continuity for the enterprise – driving Business Continuity Transformation™ much as they've already fostered digital transformation?

Legal Operations can use this opportunity to build on the lessons learned from the crisis and set a foundation for the future.

By introducing business continuity for processes, not just systems

Data backup has been a must-have for companies since they began using computer systems. Today, companies need to back up not only their data, but also their processes. As companies become extended over time and space and face increasing threats of fast turnover, it is more crucial than ever that the processes and paths that unite people, process, and technology do not depend on the memory of the one or two wizened employees.

Processes, just like data, must be stored so that when a crisis hits they stay up and running just like your backup drive.

> *"Business continuity is a central theme right now... and not just systems continuity, but functional business continuity."*
> *Katrina Keiffer, Associate Director of Legal Operations,*
> *Navistar Inc.[1]*

By forging ahead with what works

When a company experiences a threat to "business as usual", the new situation often demands that employees and employers alike experiment with new solutions and new ways of thinking about the problem. Not all experiments are successful, but activating this adaptive mindset is the only way to build sustainable, long-term success.

When an experiment works and helps people get their work done more efficiently, it nurtures long term compliance with a new approach or a best practice. It's a great opportunity to leverage that community support and grow a success story exponentially. One successful rollout can be the tipping point to digital transformation and ultimately business continuity resilience.

> *"People have reached out to us when it comes to Mitratech and said, how did you do that? Can we learn things? ...[COVID-19] has actually accelerated a few projects that were in pipeline for this year."*
> *Andy Cooper, Legal Operations Manager, IDEXX Laboratories[1]*

One successful rollout can be the tipping point to digital transformation and ultimately business continuity resilience.

By investing in flexible tools

Legal Ops will help enterprises transform their continuity planning and execution so they're prepared for both immediate demands (like COVID-19) and for future disruptions or challenges, including the probable permanent changes to how companies do business after the current crisis has passed.

Teams equipped with the right tools will have the flexibility and agility to lead the enterprise in transforming continuity planning and execution so it can respond quickly to the permanent effects of any crisis, or even be proactive in anticipating its effects.

There are plenty of processes that need to be managed with flexible software solutions that can be configured and reconfigured on the fly as new challenges arise.

> *"We think that the first characteristic of a law department of the future is one that is agile."*
> *Kevin Clem, Chief Commercial Officer, HBR Consulting[1]*

By managing permanently remote workforces

The genie is really out of the bottle: As businesses find remote workforces to be efficient and effective, more employees will continue working remotely after the outbreak has passed. The quality of remote collaboration will be central to future success and demands better platforms and processes.

This means tools that drive collaboration - like web conferencing, collaboration platforms like Slack, or workflow automation and enterprise legal management solutions with baked-in collaboration features - have become **key elements of any legal tech stack** as in-house legal departments look down the road.

"The quick wins that we see are those workflow type automations or moving spreadsheets to databases: very simple things that create some ability to do reporting and share data remotely."
Gary Tully, Head of Legal Operations, Gilead Sciences[1]

"Just having... our different agreements and NDAs and contract approvals remote as is in a cloud technology has made the transition to that [WFH] significantly easier."
Andy Cooper, Legal Operations Manager, IDEXX Laboratories[1]

As businesses find remote workforces to be efficient and effective, more employees will continue working remotely after the outbreak has passed.

By replacing paper, once and for all

Paper-based processes are being rendered obsolete, replaced by digitized forms, documents, and processes. For those who didn't believe "paper is dead," COVID-19 confirmed it. And the change means that companies will innovate and explore new ways of working, after they decommission their paper shredders and kick old filing cabinets to the curb.

This means paper invoices from law firms are also defunct; e-Billing provides the most effective structure for a legal spend management program that properly manages outside counsel and other third-party billing.

Along those same lines, paper contract execution is also extinct: An integrated enterprise legal management (ELM) and workflow automation solution can digitize the process of contract requests, approvals, and executions, topping it all off with seamless integration of e-signature. Simple repetitive contracts like NDAs can be automated for self-service, relieving a huge amount of strain on the legal department.

Conclusion: Leading by Accelerating Digital Transformation

Non-legal departments and upper management recognize how the innovations and tools Legal Ops brings to the table are invaluable to sustaining operations in this new environment. Legal Operations has the chance to lead by example in many companies during crisis.

As Connie Brenton, Chief of Staff and Senior Director of Legal Operations at NetApp, explained it, "the window has been cracked," as the COVID-19 pandemic and the disruptions it has caused have made organizations take notice of how operational agility, resilience, and flexible tools to support them are needed to maintain business continuity right now, not just in the future.

"The window has been cracked."

"Within a weekend," she said, law firms were ready to "shift on a dime" to adopt new tools and approaches, and she saw the same happen for in-house legal departments. Digital transformation was now "at the top of the CEO's action items list," and that momentum is gaining.

Previous fence-sitters about technology adoption are now enthusiastically looking to Legal Ops to guide them in adopting tools like workflow automation. This gives Legal Operations the chance to lay a more flexible yet durable foundation for business continuity beneath the entire organization.

> *"We've had more knocks on the door (from other departments) in the last two months than we had in the last two quarters, because people cannot work how they used to work."*
> *Connie Brenton, Chief of Staff and Senior Director of Legal Operations, NetApp[1]*

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Sources

[1] 21, May. "Virtual Summit Visionaries on COVID-19, Continuity, and the Future of Legal Ops." Mitratech, May 27, 2020. https://mitratech.com/resource-hub/blog/virtual-summit-visionaries-covid-19-continuity-legal-ops/.

[2] Heifetz, Ronald, Alexander Grashow, and Marty Linsky. "Leadership in a (Permanent) Crisis." Harvard Business Review, April 4, 2020. https://hbr.org/2009/07/leadership-in-a-permanent-crisis.

About **Mitratech**

Mitratech is a proven global technology partner for corporate legal, risk, and compliance professionals seeking to maximize productivity, control expense, and mitigate risk by deepening organizational alignment, increasing visibility and spurring collaboration across the enterprise.

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