

LEADERS CREATE MORE LEADERS

What it takes to lead: A look at what's most critical in GC succession planning

There may be nothing more important to the work of the legal department—and its impact on the organization it serves—than the way it plans for and executes General Counsel succession.

To develop an understanding of how this process can work best, we turned to some of the people most familiar with it – public company General Counsels, executive search professionals and a Fortune 100 human resources executive – 20 in all. We also draw on the collective wisdom and robust discussions among nearly 30 other General Counsels who attended ACC's CLO Club "Talent Management and Succession Planning" program at the October 2017 Annual Meeting. Here is what they had to say:

WHY IT'S IMPORTANT

General Counsel are typically part of the leadership team; their position naturally connects them to others across their organizations. By being open about the succession planning process, you are letting the candidate know that there is a place at the table for those who can help anticipate developments, proactively manage the company's legal risks, and strategize in related areas such as finance and employment matters.

WHO'S INVOLVED IN THE PROCESS

The GC leads: Colleen Batcheler, Executive Vice President, General Counsel and Corporate Secretary, Conagra Brands, is one of many experts who advocate for making sure the GC is the point person in this process. After all, who knows the expectations demanded of the position better? Moreover, it is the GC's role to communicate and liaise with all key stakeholders: the Chief Executive Officer (CEO), Chief Human Resources Officer (CHRO), Board members, and of course, the succession candidates.

The CHRO plays a key role: In addition to the General Counsel, the CHRO can and should play an important part in the process. As Tanya Clark Robinson, Vice President, Human Resources, Aetna noted, that collaboration with the CHRO lays the groundwork for the process: "Succession planning in general is most effective when the GC and CHRO consult together to create the slate and preliminary action is taken long before you actually need to fill the position. This requires receptiveness on the part of the sitting GC to invest the time and resources necessary to develop a strong and credible pipeline of potential candidates."

The CEO must be involved...early: In most cases, the CEO is the single most important decision maker in the process for all of his or her direct reports. Consequently, the General Counsel should reach out to the CEO at the outset of succession planning. By keeping in mind what the CEO wants and needs, the GC mitigates the risk of presenting and grooming the wrong candidates.

"Because the CEO vote carries so much weight, the GC needs to figure out what's on that person's mind," said Michele Mayes, Vice President, General Counsel and Secretary for The

New York Public Library and former Executive Vice President and General Counsel, Allstate Corporation and General Counsel, Pitney Bowes, Inc. “It’s better to go to the CEO first, and say, ‘These are the people I believe have the potential to replace me. Let me know if you feel they are strong enough candidates early so I don’t waste our time,’” Mayes shared.

The CEO will be looking for someone who can weigh the business benefits of a situation against the legal risks,” said Paul Williams, Partner, Major, Lindsey & Africa. “That’s where there may be a gap between the incumbent GC and internal candidates. CEOs look for someone who will not be mired in a legal box.”

Consider other stakeholders: By engaging with the CEO, you will also get a list of the key company stakeholders who should be involved in the interview and selection process.

IDENTIFYING THE CANDIDATES

To even be considered a candidate for the GC slot, the experts interviewed for this articles cited a dozen core competencies critical to succession planning—competencies that go well beyond the those they needed just to get to the place where they’d be considered for this role. These are:

1. Internal core confidence. Mayes said that the candidate needs “the appetite and grit to be effective at taking smart risks,” and “the ability to fashion concrete solutions combined with an openness to criticism or failure.” Julie Preng, Managing Partner, Legal and Compliance Specialty Practice, and Office Managing Partner, Stamford, expanded on this, explaining that “the person should not be thwarted by challenges.”

2. Emotional intelligence. John Gilmore, Managing Partner, BarkerGilmore LLC, noted that most emotionally intelligent leaders have the ability to effectively read people and situations “and to know how, when, and if to adjust. They listen more. They perceive the words, actions, inactions, and interaction of the speaker in order to address his or her objectives, not their own.”

3. Self-awareness. The ability to honestly assess oneself and the courage to seek out feedback and make positive changes to behaviors based on others’ perceptions. “If the candidate really digested the feedback, then they are mindful of it moving forward,” said Victoria Reese, Managing Partner and Global Head of the Legal, Risk, Compliance & Government Affairs Practice, Heidrick & Struggles.

4. Intellectual curiosity. A fundamental desire to know everything about the business, is a tell-tale sign that the candidate has the right intentions. “He or she should seem genuinely curious about the industry and the interests of key stakeholders,” Batcheler said. “You know it’s right when the desire is to learn about the GC’s role as opposed to just the promotion.”

5. Smart risk-taking. Developing the experience and judgment to take the bold risks worth taking. The keen sense of positive outcome and the likelihood of failure that comes from deep preparation and assessment of all key risk factors. “A growth mind set is

comprised of continuous learning and the ability to recognize smart risks,” said Michelle Banks, Senior Advisor & Executive Coach, BarkerGilmore LLC and former Executive Vice President, Global General Counsel, Corporate Secretary, and Chief Compliance Officer with Gap Inc. “That, coupled with a passion for the business and for leadership in general, is key.” Mayes went a step further, suggesting that potential candidates should expand their risk appetite. “When you take smart risks, people notice,” she said. “Those risk-embracing candidates are not thwarted by failure or criticism and instead are actually open to it. No one can guarantee success.”

6. Intellectually agility. The ability to understand multiple points of views and theories. “This includes the ability and willingness to be flexible and open-minded,” said Mayes. “This is not the same as being a pushover. Every decision needs to be for the good of the company.”

7. Financial acumen. A full understanding of the key performance indicators (KPI), financial statements, and accounting practices necessary to be an effective GC, plus the ability to translate your legal advice or principles into financial terms that are relevant to the profits and losses of the business in order to solve problems. “You need to ask: Can you have a discussion and ask questions about the business that are informed by its most important financial dynamics?” Batcheler said. “The right candidates can apply their legal advice to the financial risks.”

8. Capacity. The energy, adaptability, growth mind set, and expansive outlook to take on more than is asked of you. “When someone can successfully accomplish more than is expected of them, they can then open themselves up to developmental opportunities,” Reese said.

9. Good listening skills. Potential candidates who like to hear themselves talk may be more readily noticed but less positively. PJ Harari, Partner and Global Practice Leader with Major, Lindsey & Africa, shared that candidates may be passed over because of this. “If you are doing all the talking, you are not getting all the right facts. You are not learning. You are not viewed as approachable which impacts building strong relationships with others at the company, and you will not be viewed as a good leader,” shared Harari.

10. Executive decision-making capability. Create solutions and make decisions that can be trusted by the CEO and the board. “Do you see the candidate operating in a way that demonstrates their abilities?” Preng asked. “Giving options is not adequate, business people want to hear recommendations and solutions.”

11. Willingness to make personal sacrifices. Be available. Be in the trenches with your business colleagues making the same, or greater, personal sacrifices than they do to develop trust and confidence. “The candidate needs to know if they are willing and able to give time, energy, and focus to a career even when it means their personal and private lives may sometimes take a back seat,” said Batcheler.

12. Track record of developing relationships across the company. While this competence is really relevant only to internal succession candidates, Preng notes that “the right candidate can rely on the fact that they have forged real credibility and connectivity. When that trust is already built in, they don’t have to throw the weight of their new title around.”

PREPARING THE CANDIDATE

What to say—and how to say it: Once it’s clear who the GC candidate is, it’s important to make sure that candidate will be in the most advantageous position when the time comes.

Some of the key considerations in this process are:

Transparency: What to tell the succession candidate, and when.

Constructive feedback: Giving it, relaying it, and making sure it aligns with the needs of the business.

Clarity: The candidate must understand that nothing’s final until everyone signs off. There are no guarantees.

Batcheler noted that while there is no prescribed science for succession planning, openness is always at its core. “The key challenge in succession planning is balancing constructive feedback and honesty with business realities,” she said. “There is real benefit to a high degree of transparency in talent management. I don’t like telling people they are number one on the succession plan, because situations can always change.”

Instead, she suggested informing the candidate that the higher-ups have taken notice of him or her but, in doing that, exhibit some cautious optimism. “You can still provide the sufficient encouragement, stay engaged and let them know you see a future for the company with them in it,” she said. “Never reveal too much, however, because the GC always needs to be able to have flexibility to do what’s right for the business.”

Providing full throated support. When the GC backs a specific candidate, it involves a substantial investment of time and effort. This includes helping the succession candidate expand his or her networks inside the company, particularly with the board, said Gilmore. “An important part of succession planning involves the GC letting go of the reins and giving someone more responsibility—primarily interfacing with the board. This puts the next person in line a chance to take charge of direct matters.”

“Open doors, make introductions, let them bench shadow or even step in for you as appropriate,” added Banks, “and push them to join a nonprofit board, take on a leadership role in a professional organization, or make a high profile speech for you as examples,” adding that the support should also come from others, such as the succession candidate’s C-suite champion and the external GC mentor. “These people can help your potential successors build both their

internal and their external leadership networks. Relationships are critical to success in the C-suite.”

The Role of Development Opportunities: As part of providing full-throated support, GCs need to make sure that their successors are, as Tom Sabatino, Executive Vice President and General Counsel, Aetna, puts it, pressure tested. “One of the most important developmental opportunities to is give them exposure during a highly visible situation,” he said. “You want to stress the person to see if they can handle it. All this helps them become well-rounded. No one will have all the experience you need—but this will help you check off more boxes when you consider your requirements.”

Gilmore, noted that the best practice for a GC is to be an honest, strategic adviser. This will help demonstrate to the executive decision makers that the candidate is in alignment with the company's direction and provide more direct insight into how this person will act under pressure.

There are a number of ways that GCs can give their successors pressure tests, all the while developing their understanding of the position they’d be inheriting and preparing them to handle it well. Our panel pointed to the following, some of which need explanation, but most of which are self-evident—they just need to be put into practice:

- Stretch assignments
- Focused mentoring
- Shadowing the GC
- Increased exposure to the board
- Increased exposure to the C-suite
- Expanded scope of responsibilities
- Increased investment and training
- An executive coach
- Key Succession Development Plan
- Increased opportunities to establish reputation/experience as a leader in the profession

As Robinson put it, “The key is positioning the succession candidates so they are well-prepared for the 'general' part of sitting in the organization’s top legal seat. Affording succession candidates as many stretch opportunities as the organization can support provides the GC the chance to provide oversight as warranted and the candidate the chance to demonstrate an ability to think outside of his/her area of expertise.”

It's also critical, notes Sabatino, that candidates are able to think outside the company at which they work. Part of the GC’s role in preparing candidates for succession, he notes, is connecting them to sitting GCs at other companies so they can understand how other GCs—and other companies—work.

Banks, who attributes her success to stretch assignments and the focused attention she received, noted that “Those stretch responsibilities should be designed to get the candidate outside their comfort zone and area of legal expertise—whether that's from domestic to international, legal to nonlegal, or transactional to litigation—and with senior-level visibility.”

Succession planning often focuses on individuals who are immediately ready to take the position -- this too narrowly focused. Preston Hopson, Senior Vice President, General Counsel and Corporate Secretary for Tetra Tech emphasized that “it is just as important to focus on individuals who may be ready to take the position in one to three years – and to identify the steps (additional responsibility and experience, training, exposure to board, management duties, executive coaching, etc.) to prepare them to be successful in the position.”

For a succession candidate who is one-to-three years from transitioning, A. Verona Dorch, Executive Vice President, Chief Legal Officer, Government Affairs & Corporate Secretary, Peabody, suggested customizing what she called a “key successor development plan.” This provides clarity and focus on certain key qualities and “includes knowledge requirements, relationships, skills, and experiences,” she said. “There are also rotation opportunities and milestone action plans that should be discussed between the succession candidate and the GC quarterly to ensure stakeholder and board support”.

HOW CANDIDATES CAN GET DERAILED

Just because it seems likely a candidate will get the nod, succession is not guaranteed. As Wanji Walcott, Senior Vice President and General Counsel at Paypal Inc. noted, there is always a chance that a candidate will get tripped up with some derailing behaviors. Our panel identified a number that are certain to have a negative impact on the likelihood of the successor being offered the job. Those include:

- **Lack of organizational savvy.** “Some people display a lack of emotional intelligence. They can't read a situation or an audience, and they can't pivot and adjust,” said Walcott. “Even worse are the folks who are not collaborative or work toward a collective set of goals with several teams.” She added that people who talk more than they listen often set themselves up for failure.
- **Lack of humility.** The candidate needs to be approachable. “It's so easy to let the thought of a promotion go to your head,” said Sabatino. “When someone demonstrates a sense of entitlement, it can be a sign of bad things to come.”
- **Working on cruise control.** “The candidate's head needs to be in the game,” Mayes said. “They need to proceed knowing that you're watching them.”
- **Insular views.** “Someone who's too parochial or unable to look outward for ideas may not be the best fit,” Williams said. “We're promoting from within, not only looking within.”
- **Lack of listening skills.** “People who jump to conclusions quickly or are impatient to get to a result often miss what are the most important big picture facts and risks,” shared Phuong Y. Phillips, Chief Legal Officer, Zynga Inc. They create their own barriers to success because they think they know the answers before understanding all the stakeholders' perspectives.

- **Lack of exposure to other companies, departments, and industries.** “Networking, continuing education, and conferences, for example, help prepare you for various legal and business issues,” said Sabatino.
- **Wearing ambition on their sleeve.** It’s one thing to want to succeed, but another to be blatantly ambitious. “Most people will not be comfortable trusting someone who’s too ambitious of protecting the company,” Sabatino said.
- **Deputy General Counsel forever syndrome.** “People have a real tendency to think about others in the context who they were when they met. It is important that a deputy outwardly demonstrate growth and leadership, to overcome the mental default picture of that deputy formed at another (earlier) time, and create a different perspective than the one formed initially about a person. In other words, it is something that those that desire successorship must understand and manage,” notes Preng.

ONCE THE CHOICE IS MADE

With the succession candidate informed that he or she is the succession candidate, everyone's actions will be felt. The candidate is now in the spotlight, and the GC will want to relay all the progress he or she has seen, and vice versa. Just as at the start of the selection process, this also emanates from the connectivity loop between the GC and CEO.

At this point in the process, Mayes suggests that GC take the following actions:

- **Give feedback in real time.** “Strike while fresh in their minds—the candidates and stakeholders. Work toward closing the loop.”
- **Prepare a pep talk.** “They need to know what it's like to be in your chair and how it feels to carry your weight.”
- **Introduce the candidate to the stakeholders.** “Deploy increased exposure to decision makers on substantive matters. This is the chance to show what they're made of. After all, it's not only what you know, it's who knows what you know.”

GC engages with key stakeholders. In addition to a continuous feedback loop between the CEO, the GC, and the succession candidate, there should be similar communication between the key business executives, General Counsel, and succession candidate. The GC captures key stakeholders’ *real time feedback* and relays it immediately to the succession candidate. Mayes said that during one process, the stakeholders she regularly checked in with were the CFO and the head of the business unit. “These were the folks who would be in the boat with the candidate in real-world scenarios,” she said. “Their opinions carried more weight and their input was critical to the feedback loop.”

Stakeholders engage with the candidate: With the CEO’s blessing, the shareholders can provide their feedback directly to the candidate. Mayes stressed the importance of doing this in real time. “Give the person all the information necessary to understand what’s required to sit in the GC’s chair,” she said. “The goal is to close the loop while the situation is fresh on the

candidate's mind.”

Robinson noted that it is clearly to the company's benefit that the candidate and stakeholders interact. “Exposure to key internal and external stakeholders with whom the succession candidates would engage as the GC provides a foundation for relationships that will prove essential to longer-term success,” she said. “This may range from board members and C-suite leaders to analysts and other external constituents with whom the GC may engage on a regular or *ad hoc* basis.”

Taking off the training wheels: “This boils down to the GC giving someone more responsibility—primarily interacting with the Board,” notes Gilmore. “It includes putting the next person in line in a position where they can take charge of direct matters. Let them identify and deal with risks and present proper solutions. Often it's the GC who takes credit for those wins but the candidate needs to gain trust of that business team and be given a chance to be innovative.”

A FEW CAUTIONARY NOTES

While following the game plan outlined above is likely to provide for a successful transition, there are some landmines the experts we talked to advised watching out for. Among them:

- **GC mindset.** The GC thinks that his or her choice is the best choice. This is the time to keep your ego in check because it may, however unintentionally, reflect negatively on the candidate.
- **Law department-centric perspective.** The GC views the succession candidate through the lens of their effectiveness in the legal department (versus effectiveness in all business groups).
- **Using succession planning as “false” motivation.** Although the GC has concerns about the succession candidate, the candidate is placed in the line of succession to keep them happy.
- **Failure to remove the training wheels.** The GC “protects” the succession candidate from high-visibility failure. “Make sure the candidate's experience is rounded out,” said Walcott. “Because once in the role, situations will arise that they will not have even been dreamed of.”
- **General counsel not fully committed to succession planning.** Vigilance” is a key trait. The incumbent's enthusiasm for the entire process may have waned. “Maintaining your motivation through a long process is a task in itself,” Walcott said. “If you're wholly committed at the beginning, make it your goal to remain so until the end.”

IF YOU GET IT RIGHT

The entire succession planning process offers many positives if implemented correctly. By planning ahead, identifying the right candidates and keeping honest lines of communication open

between every stakeholder in the process, it will demonstrate that the right person is being groomed for the job. And it will provide you with peace of mind when you need to let someone else take the wheel.

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