

The Business Case For Championing Diverse Legal Teams

By **Louise Pentland** (July 9, 2019, 7:04 PM EDT)

While reports of incremental change and firm mandates to improve diversity across the legal industry are encouraging, we are seeing the next generation of legal professionals demand more inclusive workplaces. These aspiring lawyers are seeking out employers that demonstrate career paths and opportunities for diverse talent. It's not enough to simply declare inclusion a business imperative; this must be part of the very fabric and culture of the business.

Beyond increasing employee demands, there is much empirical data that supports the financial and wellness business case for diverse teams and inclusive workplaces. It almost becomes a business judgment test if people aren't operating to achieve diversity of thought across every team and every aspect of what they do. Failing to do this is the sales equivalent of "leaving money on the table."



Louise Pentland

Research shows the direct and proportional relationship between diversity and growth — as companies diversify their workforces they are able to serve a more diverse audience of customers. They get new ideas and challenge legacy processes because they cultivate diversity of thought, experience and background, and are better able to solve for customer pain points. Leveraging the collective strengths of a diverse workforce is not only the right thing to do, it's a strategic imperative for any successful firm or business.

Building Diverse and Empathetic Workforces

When PayPal separated from eBay in 2015, our leadership team set out to create a new set of guiding principles and values to inform our culture. To better serve our constituents, we needed to evolve our workforce starting from the board of directors all the way into the organization to ensure our people look like, sound like and fundamentally understand the challenges and barriers our customers face. Our focus on celebrating the variety of thought, background, experience, gender, race and capabilities that our employees bring to work opens up important conversations and has spurred innovation across the business — innovation that we would have missed had we not embraced diversity.

The legal industry and firms will benefit from a similar focus on building empathetic and inclusive teams, as firms will be better positioned to present themselves to a broader client base and attract new business. In doing so, and by creating supportive and flexible work environments that allow employees to bring their true and whole selves to the office, leadership's commitment to accommodating employee needs will attract the very best talent.

Employees with the flexibility to manage their workload and personal commitments, and who see the empathy their leaders display in creating supportive work cultures, ultimately become empathetic leaders and decision-makers, which results in the very best solutioning. You are still an incredible professional even if you have to leave the office at 2 p.m. to pick up a sick child — it's about empathy, balance and perspective, and that will lead to higher employee engagement.

Driving Diversity From the Inside Out

When I joined PayPal in 2015, I quickly learned that some of the law firms on our roster were not representative of our diverse employee base and, to be frank, were at times arrogant about it. As a longtime advocate for diversity with a track record of working with minority- and women-owned law

firms, it not only disappointed me to see that these firms were not investing in attracting or retaining diverse talent, but also showed a great lack of client understanding.

In response to this discovery, the team and I started an initiative where we went to all existing firms and asked them serious questions about their diversity initiatives. The results were eye-opening for me and the legal leadership team, and reaffirmed what we already suspected: The legal profession was sorely lagging behind other business sectors on this front. We took the results as a challenge and committed to stop accepting the status quo. We are now known as a business that demands to see diverse talent not only in the pitch room but working on our business day to day to ensure we're yielding the best results from our external firms. To earn our business, you've got to live our values.

Internally, we have enforced similar requirements for our teams and hold ourselves just as accountable for increased diversity in the business. We were early adopters of the Mansfield Rule, which requires participating in-house legal teams to consider at least 50% women, minority lawyers, LGBTQ+ lawyers and specially abled lawyers as applicants for key leadership roles. Legal departments are also asked to consider at least 50% diverse lawyers for outside counsel hires for new or expanded work. Aligning with this initiative is a way for us to really walk the walk — we have asked for change from our law firms and suppliers, and we want to show that we hold ourselves to these standards as well.

We have also implemented programs to help our employees live our mission outside PayPal's four walls. For instance, each member of our legal team has committed 12 hours of legal aid in local communities via our global pro bono program. Through this initiative, we partner with nonprofit organizations and law firm partners to provide assistance to those underserved by traditional legal services, working to expunge misdemeanor criminal records, help secure asylum for refugees, aid battered women and children in their quest for independence, etc. It has been a deeply rewarding experience for our global workforce and is directly aligned with our value of inclusion.

Recruiting and Retaining Diverse Talent

Over the last four years, my role at PayPal has expanded from being the chief legal officer to also assuming leadership of corporate affairs and human resources. This expanded scope of work provided me the opportunity to embrace my personal passion for developing talent with my professional obligation to evolve the way we seek out and attract skilled employees to meet our goal of cultivating an empathetic workforce representative of the customers we serve.

In reviewing recruiting processes in place, one of the challenges I identified was that headhunters and leaders — even diverse leaders — tend to allow unintended biases to impact the recruitment process. This problem is even more pronounced when looking at senior leadership or C-suite roles; the inclination to only give the job to someone with previous executive experience of that role, especially in a general counsel search, dramatically limits the pool and leaves you with the usual suspects, when in reality the deputy general counsel is often just as capable.

To elevate diverse talent and level the playing field, we need to evolve our thinking and approach to recruiting talent. This is one area where PayPal and others are making strides and modelling change. Initiatives like the above-mentioned Mansfield Rule and senior leadership structures like the general counsel and the chief legal officer model, which we successfully implemented at PayPal, can be scaled and applied across industries to drive greater impact.

There is even more optimism on the horizon. With the onset of social media, online tools and now artificial intelligence, we are no longer constrained by the traditional methods to recruit, which should by definition increase the opportunity for a broader talent pool.

To that end, I have created a list of practical lessons I have collected in the field of recruiting and retaining top talent. I hope these inspire in-house leaders and partners alike to continue championing diversity in their businesses and firms:

- When it comes to evaluating talent or selecting outside counsel, ensure you have a diverse slate of candidates as well as interviewers.
- Educate recruiters and interviewers on what you're looking for, what a diverse and qualified candidate looks like, and what the expectations are for the role.

- Create a diversity survey for outside counsel and include direct questions in requests for proposals. If a firm is not where you need them to be in terms of diversity initiatives or numbers, share specific feedback on areas for improvement to earn your business and set achievable goals to provide an incentive for change.
- Diversity and inclusion must endure. Create programs that will grow, evolve and outlive leadership changes so you are not solely reliant upon passionate individuals to keep the program alive.
- Don't miss an opportunity to directly address a glaring issue. Most people will recognize the lack of diversity in the room, but most will never say anything about it — use your voice to bring awareness to the issue and don't let the moment pass.
- Ensure you develop a culture and environment with real growth and career progression or top talent will leave.
- Get involved with external diversity initiatives. It's important to have an outside-in perspective.
- Share frequent feedback with external partners on who you see as the rising talent within the firm.
- If the law firm relationship manager for your company is not diverse, ask that the firm shares the talent pipeline and request that this be a diverse slate.
- In partner season, be certain to advocate for the talent that you think should be considered for promotion. It's important for firms to see how invested you are and to understand that if they fail to nurture and grow diverse talent, the talent and their loyal clients will go somewhere else. Companies are generally loyal to people, not firms.

We have the opportunity to be the change we wish to see in the world, but we all need to play a role. If all else fails, consider the reality that you are accepting substandard performance when you lack diversity, and no one aspires to be on a team or to work with a team that is less than high-performing.

Louise Pentland is the executive vice president and chief business affairs and legal officer of PayPal. Previously, she was chief legal officer at Nokia.

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