Legal Outsourcing Guide

The inside perspective for buyers of legal services

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Introduction

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The Outsourcing Game Changer

A demand for cheaper and more efficient legal services is making outsourcing an increasing part of the legal landscape

Until recently, outsourcing was viewed as the elephant in the room by many law firms. Seen as a cannibalisation of legal services, it was rarely in a law firm's interest to offer such services unless requested by their clients.

Now, according to new research in association with the Scottish Development international, attitudes are changing. Clients are themselves engaging outsourcers in their quest for cheaper and more efficient legal services – leaving law firms with little option but to embrace the age of commoditised legal services. There are a number of reasons for this – the enhanced role of general counsel, the commoditisation of law and the expensive and unpredictable nature of legal fees.

Many firms are still blissfully ignorant of the trend, but others are seeing a direct impact on their bottom line that is – in turn – causing them to focus on what can be done to change the situation.

The survey – Legal Outsourcing: A Game Changer – Shows that outsourcing, in its many different guises, has moved firmly onto the agenda.

BT, for example, recently announced it is reviewing its legal process outsourcing options - having appointed US company UnitedLex for its commercial contracts and anti-trust work in 2010.

Royal Bank of Scotland’s deputy GC, John Collins, included a legal outsourcing element in the bank’s panel review. In France, companies such as ATOS have expressed interest in the model.

The shake-out of the legal profession has triggered the move as the economics of the legal model no longer make sense to those paying the bills.

Indeed, an American economist, Tyler Cowen, recently published a book Average is Over arguing that the disruptive effects of automation and ever-cheaper computer power is entering its second phase with lawyers directly in the line of fire, alongside other professionals such as doctors and accountants.

His theory is that the first phase of automation has ended – removing secretaries from their jobs. Now it’s the turn of the professional classes who are redundant as automation takes over. Furthermore their mediocrity is exposed as ratings increasingly reveal their limitations.

As the research shows, the impact of technology and economics is indeed putting pressure on lawyers to review all options available and to innovate where possible – which, in itself, has spawned a new range of providers.

The battle is also territorial, with a range of

How do you view the future of legal services?

It has to re-engineer to be sustainable
65%
It has many years to go yet
27.8%
I am perplexed by the current changes to legal services
8.9%

Do you think that the legal profession ...

Will dramatically shrink
60.2%
Will shrink a little
12.2%
Will not change
6.8%
Don’t know
20.7%

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countries seeking to compete to attract outsourced legal work from across the globe and challenging the dominance of India – with some degree of success, judging by the results of the research.

Onshoring has also become a viable option for law firms which can find regional alternatives that may not be as cheap as developing countries, but make up for it in other ways such as the ‘comfort’ factor.

Many companies and law firms are looking within their jurisdiction for cheaper solutions with recent initiatives such as Herbert Smith Freehills, Allen & Overy and Citibank in Belfast and Ashurst in Glasgow as prime examples of such moves.

**Satisfaction guaranteed**

There is no doubt that legal outsourcing has issues to resolve, quality control being one. The majority of law firm respondents, 89 per cent, complained about quality control, half had anxieties over confidentiality and data security issues whilst one in four believed outsourcing would change the nature of the legal profession.

On the plus side, half of the law firm respondents said that legal outsourcing allowed for a more efficient service for clients and a more innovative pricing model, whilst two in three said it allowed lawyers to concentrate on higher end work.

The research also revealed a high level of satisfaction with outsourcing experiences from the majority of law firms and clients. Indeed, the research revealed that clients were more satisfied, five per cent said they had an excellent experience but 21 per cent of whom were disappointed.

One of the reasons for the changing attitudes is an increased focus on creating better value for their companies. Cutting costs is a key part of this, which most of those surveyed said they were doing.

Indeed 93 per cent of inhouse lawyers responding said it was important or very important for the legal department to save costs on legal fees and 89 per cent were putting pressure on external advisors to save fees.

It is not always about price per se, with corporate counsel more interested in not being ‘ripped off’ by their law firms. One respondent said that his department was not interested in fee reduction as such but ‘best value for best advice with a true understanding of our business and provided efficiently without time-wasting or unnecessary or unwanted advice.’

Another, Sharon Pearman-Wright of Airbus legal department, said her company, which had not experienced a budget cut, looked for ‘legal quality and business understanding at best price, rather than a full low-cost approach’.

One in three corporate counsel surveyed were offered outsourcing options by their law firms while 35 per cent were not and the rest don’t know.

**Are your clients demanding cheaper legal fees?**

- **Yes**: 37%
- **No**: 59.3%
- **Sometimes**: 3.7%

---

**Are LPOs a threat to law firms?**

**The law firm view**

- ‘Yes, to a limited extent. They will never provide high end, complex work.’
- ‘Yes, for commoditised legal services, but not for high-end legal work.’
- ‘For high-volume work like document review and due diligence.’
- ‘They are a threat to some of the services currently provided by lawyers.’
- ‘It depends if you view it as an opportunity or not.’
- ‘Not if law firms adapt.’
- ‘They will change the landscape and type of legal services offered.’
- ‘There is scope to work in partnership with LPOs.’
- ‘It depends on the structure and management processes of each law firm.’

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**Introduction: Legal Outsourcing**

**What is currently outsourced?**
Of those surveyed who had outsourced their work, one third said they outsourced up to 10 per cent of the legal work in the department whilst 47 per cent said they outsourced between 11 and 30 per cent.

According to corporate respondents who outsourced, litigation support was top of the list – three in four. IP administration was next, with 30 per cent sending this work out, while transaction support was outsourced by 27 per cent.

For those corporates not yet converted, contract management and contract review looks set to be the biggest growth areas, with 36 per cent and 24 per cent respectively saying they would contract out these areas if they used LPO services.

The research also looked at the routes used to outsource work and found that 48 per cent use onshore legal outsourcing companies, 38 per cent used law firm captives whilst 14 per cent went offshore.

Reasons given were 'speedy disposal of the matter'; 'They offer great quality work for certain segments of legal work that has always been “prime” for outsourcing'; 'flexibility'; 'costs'; 'cost arbitrage'.

One large Spanish company’s general counsel said the nature of the work determined which outsourcing model they used with litigation, debt and data protection most common.

Many law firms believe their clients could benefit from outsourcing. Nearly 40 per cent said it would be suitable for up to ten per cent of their clients, while 23 per cent said between 11-20 per cent would benefit and one in ten 21 to 30 per cent, all of which begs the question – how proactive are they in proposing such solutions?

**If your firm uses LPOs, which of the following have been outsourced?**

- Document review: 46.3%
- Transaction support: 30.5%
- Contract management: 8.4%
- Contract review: 14.7%
- Legal research: 12.6%
- IP administration: 20.0%
- Litigation support: 48.4%

**Which of the following countries do law firms feel most comfortable outsourcing legal work to?**

- India: 22.3%
- Philippines: 4.5%
- US: 38.1%
- Scotland: 34.7%
- Republic of Ireland: 44.6%
- Northern Ireland: 38.6%
- Australia/New Zealand: 40.1%
- South Africa: 21.8%
- Asia: 8.9%
- Eastern Europe: 10.9%
- Africa: 1.5%
- China: 2.0%

**Location, location**
Where do corporate counsel and law firms feel most comfortable outsourcing legal work? For in-house legal departments, the US comes first, with 48 per cent happy to outsource to Uncle Sam. Hard on the US heels was the Republic of Ireland, where 39 per cent felt most comfortable.

**What is the size of your legal team?**

- Up to 5: 25.0%
- 6-10: 19.2%
- 11-25: 19.2%
- 26-50: 10.5%
- 51-100: 10.5%
- 101-300: 9.9%
- 301-500: 4.7%
- 501+: 1.2%

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If you have used outsourcing, why have you gone down this route?

The law firm view

‘To help manage peaks in demand and low cost resource for repetitive/routine elements of transactions.’

‘Distinct tasks can be carried out at a lower cost and by less legally qualified operators,’

(Partner, UK)

‘Sub-standard work which does not require the degree of our capabilities. We could limit ourselves to supervisory functions,’

(Partner, Germany)

‘Able to downsize legal and other resources, particularly junior resources and offer clients greater cost efficiency,’

(BD Director, Singapore)

‘Specific skills, control over quality, delivery and cost,’

(Partner, US)

‘Cost effective, with reasonably good service,’

(Partner, Australasian law firm)

‘They are more effective and cost less,’

(Partner, France)

‘It is a cheaper option for us and our clients,’

(Partner, UK)

‘Internal efficiencies and enhanced client offering,’

(BD, Hong Kong)

‘To manage costs,’

(Partner, Australia)

‘Client value,’

(Partner, USA)

What do you see as the benefits of outsourcing legal work?

53.0% It allows us to provide a more efficient service for our clients

65.2% It allows lawyers to concentrate on high-end work

3.6% It provides greater transparency

10.1% It provides improved job satisfaction

50.2% It creates a more innovative pricing model

What are the disadvantages of outsourcing?

89.3% Quality control

16.6% It makes work less financially rewarding

53.1% Data security issues

24.5% It could change the nature of the legal profession

51.7% Confidentiality

Northern Ireland was next with 39 per cent happy to go there, just ahead of the US with 38 per cent. Scotland comes next with 35 per cent ready to do business with the Tartan tigers whilst India and South Africa trail behind on 22 per cent.

How important is it for your legal department to save costs on legal fees?

5.6% Very important

1.6% Important

42.4% Not essential

50.4% Our fees are reasonable

Northern Ireland, Scotland and Australia/New Zealand tied for third place in the comfort stakes, say 27 per cent of corporate counsel respondents. Scotland’s high place in the ‘comfort’ zone for multinationals deserves comment as it is a new entrant to the marketplace. India was surprisingly low, with only 20 per cent happy to outsource there while 13 per cent opted for eastern Europe and ten per cent for South Africa.

The Republic of Ireland got top marks from law firms globally, with 45 per cent comfortable outsourcing work to the Emerald Isle, followed by 40 per cent favouring Australia/New Zealand.

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The future of law

The discussion of outsourcing inevitably raises the question – just what is the future of law and how will the legal profession be shaped in the next decade. According to two in three law firms globally, law has to re-engineer to be sustainable. There will always be a need for legal services but private practice needs to deliver services in a smarter way,” one global law firm partner opined.

An optimistic 28 per cent, however, still believe that the current model has many years to go yet. A further one in ten admitted to being perplexed by the current changes in legal services.

Most view shrinkage as one of the impacts of the changing legal profession. One in eight sees the profession dramatically decreasing whilst a further 60 per cent anticipates some shrinkage. Others have a different vision with 21 per cent adamant there would be no change in the size of the profession and quite a few believing it would actually grow.

“...with the overall objective of creating a centre of excellence to deliver a high-quality, consistent and cost-efficient service to the broader Ashurst network.

In deciding to open an office in Glasgow, the firm undertook an analysis of several global options. Key attractions of Scotland included the quality of the talent pool, number of available graduates, infrastructure, accessibility, strength of the legal industry and the regional support offered by us. There is no plan to practice Scots law, nor will the office compete with Scottish law firms.

The shape of the legal services market is changing and clients want their law firms to take responsibility for efficient sourcing of services without compromising on quality. We believe our new venture in Scotland will be of great benefit to the firm and its clients.”

James Collis, Managing Partner, Ashurst

Are you putting pressure on your external advisers to reduce fees?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.4%</td>
<td>88.6%</td>
</tr>
</tbody>
</table>

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NewGalexy

NewGalexy is a global LPO firm with bases in Glasgow, London, Chicago and Mumbai. The firm is at the forefront of the movement towards a global service delivery model with two world-class and fully serviced LPO delivery centres.

The onshore European LPO delivery centre is based in Glasgow and was Scotland’s first legal process outsourcing (LPO) centre. The new centre was announced in October 2012, creating 21 jobs including qualified lawyers. The Glasgow centre will focus initially on managed legal support services to law firms, legal risk management and the delivery of legal services to a range of business sectors. NewGalexy expects to expand its Glasgow workforce to more than 50 lawyers in the next few years.

I am delighted that of the various European locations we explored, Scotland has come out on top. Support from Scottish Development International was a key component in our decision to build our new onshore LPO business in Glasgow.

Increasingly, European legislation will drive businesses to consider alternatives to offshoring legal work – and we are greatly encouraged by the enthusiastic support existing and potential new customers have given us as we launch this new, onshore facility.

There is clear market demand for this development – and Scotland has an excellent pool of legal talent which could make it a leading base for LPO services.”

Robert Glennie, NewGalexy’s co-founder and executive chairman

The role of lawyers

There was also concern about not only the role of the profession but how the job of lawyer would be impacted. One Central American partner said he did not see the profession shrinking but “it will move to different practice areas and roles for clients. The role of “consigliero” will be open to valued and trusted lawyers.”

A partner in a Mexican law firm opined that the job “will evolve for more client/business orientated matters and be less legalistic.”

Despite this, law firms were clear about why outsourcing was important. One UK respondent said his firm was responding to calls to “help manage peaks in demand and low cost resource for repetitive/routine elements of transactions.”

A partner in a global firms said that her firm had gone down the outsourcing route as it offered ‘cheaper resource for dealing with large disclosure tasks. The benefit is a cheap educated workforce to crunch through documents. The downside is the feeling of loss of control and quality issues.’

Another UK lawyer said “It’s cheaper for the client than doing it in-house.”

Outsourcing is part of the solution

All in all, outsourcing is generally felt to be part of the solution and the move towards onshore is continuing unabated as firms look to the nearest, cheapest and most easily managed locations to provide solutions. But there are many and varied views about how outsourcing will fit into the bigger picture and how, ultimately, law firms would service clients.

If you have outsourced, please specify which of the following have you outsourced:

<table>
<thead>
<tr>
<th>Service</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document review</td>
<td>20.3%</td>
</tr>
<tr>
<td>Transaction support</td>
<td>27.5%</td>
</tr>
<tr>
<td>Contract management</td>
<td>4.3%</td>
</tr>
<tr>
<td>Contract review</td>
<td>23.2%</td>
</tr>
<tr>
<td>Legal research</td>
<td>26.1%</td>
</tr>
<tr>
<td>IP administration</td>
<td>30.4%</td>
</tr>
<tr>
<td>Litigation support</td>
<td>73.9%</td>
</tr>
</tbody>
</table>

If you have outsourced, please specify which of the following have you outsourced:

Do your law firms offer you outsourcing options?

- Yes: 28.3%
- No: 35.4%
- Don’t know: 36.3%

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"It will change – In-house will deal with more complex work, Commodity (lower value) work will be outsourced to law firms," one UK lawyer responded.

A partner at a US law firm believed that within the profession the number of people would “decrease for a time; as with other industries and their maturity, efficiency will drive more to be done by fewer. Overall the number of potential clients will grow but the traditional “big law” market will continue to reward efficiency.”

One partner from a Mexican law firm described his view of the way forward. “The legal profession will spin off into three different kinds of legal professionals,” he said. These will be firstly consultants, dealmakers, statesman and negotiators, secondly document producers and project managers, and thirdly, small local firms handling personal matters.

An associate in a French law firm believed that the profession would shrink in terms of specialist legal-only services and that “the boundaries between legal and non-legal will become blurred and the profession part of a wider professional services sector.”

According to a client relations manager at an Austrian law firm: “Legal services consists of many standardised commodity products on the one hand. On the other hand highly specialised experts will deal with increasingly complex and specialised cross-border and cross culture conflicts.”

The impact of technology
The commoditisation of the law was a factor on many lawyer’s minds. A partner from an Irish law firm said more and more work would be commoditised and cited outsourcing company Capita’s entry into litigation as significant. A business development manager in Hong Kong predicted the marketplace would not shrink but saw “it changing in nature in response to commoditisation and outsourcing trends etc.”

Technology will have a big impact, according to a partner from a large Argentinian firm who said he believed it would “definitely change and will be impacted by technology. Probably more specialized boutiques will emerge.”

An Australian partner was of the view that whilst the “legal profession will shrink, legal knowledge as a business offering will expand.” Whilst a partner in a Polish law firm believed “The number of professionals will increase, but it will shrink in terms of revenue.”

There are as many different opinions as there are lawyers but most agree that the law firms as they are presently organised will need to reshape if they are to remain fit for purpose.

**Scottish Development International**

“We are pleased and encouraged by the overall findings of the report which appear to show a positive perception of LPO as a delivery model as well as indicating a growing trend toward its adoption. The findings reflect and reinforce our belief that LPO is an area of great potential and opportunity. Scotland’s depth of legal expertise, competitive operating costs and mature and sophisticated business services workforce means that we are well positioned and fully capable of continued and increased delivery of LPO excellence on a global stage.”

Elaine Hovey, Manager Financial and Business Services, Scottish Development International.

Which of the following countries would corporate counsel feel most comfortable outsourcing legal work to?

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>20.9%</td>
</tr>
<tr>
<td>Philippines</td>
<td>1.5%</td>
</tr>
<tr>
<td>US</td>
<td>47.8%</td>
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<tr>
<td>Scotland</td>
<td>26.9%</td>
</tr>
<tr>
<td>Republic of Ireland</td>
<td>38.8%</td>
</tr>
<tr>
<td>Northern Ireland</td>
<td>26.9%</td>
</tr>
<tr>
<td>Australia/New Zealand</td>
<td>26.9%</td>
</tr>
<tr>
<td>South Africa</td>
<td>10.4%</td>
</tr>
<tr>
<td>Asia</td>
<td>1.5%</td>
</tr>
<tr>
<td>Eastern Europe</td>
<td>13.4%</td>
</tr>
<tr>
<td>China</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

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We’re renowned for invention, innovation and the formidable castle or two. An iconic legacy that stretches from Penicillin and the beta-blocker to the creation of one of the largest and most sophisticated BPO sectors in Europe. With a thriving financial and business service industry to call upon, Scotland has become a highly desired location for high value BPO solutions, assisted by a skilled and dedicated workforce fluent in over 26 languages. The fact is, our passion for success and hunger to win, combined with our excellent customer service and delivery levels are financially irresistible. We can also provide business continuity and a stable market environment. And that’s why companies are investing in Scotland.

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INTRODUCTION: The Innovators

Different Directions

A new wave of innovative suppliers of legal services is on the way. Joanna Goodman reports on the UK market and how it is responding to the seismic shift in the marketplace.

Legal process outsourcing (LPO) is a well-established business model whereby law firms and corporates delegate volume or repetitive legal work to an external or affiliated provider. The principle objective is to lower the cost of routine and volume work, thereby reducing fees and/or improving margins. The ability to increase capacity in response to demand, often on a per-project basis, for example by outsourcing document review for litigation disclosure or transactional due diligence, also boosts productivity, business agility and flexibility. In these circumstances, all parties benefit from increased efficiency and economies of scale.

Challenging economic conditions and market liberalisation in the UK have brought competition from other sectors, which together with technological advances, have transformed legal services into a buyers’ market where firms are expected to deliver more for less. To operate successfully in the ‘new normal’ they need to view outsourcing legal and business support services as a strategic tool to build and maintain a competitive edge. Recent research indicates that over half of the UK’s top 30 law firms utilise some form of LPO or have set up their own low-cost centres.

In LPO’s earliest incarnation, offshore outsourcing to legal services providers in India or the Far East brought cost savings due to wage arbitrage – by utilising a provider in a low-wage economy – and automating and deskilling tasks so that they could be carried out by foreign-qualified lawyers or paralegals with significantly lower charge-out rates. Offshoring legal services or business support functions includes the possibility of utilising an outsourcing provider such as Integreon or Pangea3 in India or setting up a wholly owned subsidiary such as Baker & McKenzie’s B&M Global Services Manila which was established in 2000 to support the firm’s document processing needs. However, strong relationships and mutual understanding, underpinned by regular, effective communication, are required to make this type of outsourcing arrangement work smoothly. Although advances in technology and connectivity have helped, it still requires a significant investment of time and resources.

Going onshore

Consequently, several larger firms have moved away from offshore providers and locations and established wholly owned near-shoring ventures in UK regional centres. Linklaters uses its Colchester office for back-office and disputes work and Addleshaw Goddard’s transaction services team has operated out of the firm’s Manchester office since 2010. Herbert Smith Freehills and Allen & Overy established support offices in Belfast in 2010 and 2011. Earlier this year Simmons & Simmons moved support staff from London to its Bristol office, which was opened in 2012 to provide lower-cost services. Ashurst’s low-cost base in Glasgow, due to open later this year, will cover volume work in terms...
of document review as well as business support services. Although some firms have moved away from external outsourcing partners, other firms have entered into new arrangements with outsourcing providers in a bid to boost efficiency and productivity, particularly around document review. Improved technology and connectivity has facilitated outsourcing arrangements, and firms are more comfortable with outsourcing non-core activities such as out-of-hours support and telephony services, with popular providers including Intelligent Office and MoneyPenny.

New providers

Another model is to use external legal services providers that employ freelance, part-time or home-based lawyers or paralegals. Their overheads are significantly lower than that of a law firm and they can offer quality work at lower rates while maintaining their margins. They also provide a flexible way for law firms and corporate legal departments to supplement their resources to deal with fluctuations in their workload.

Berwin Leighton Paisner (BLP) spin-off Lawyers on Demand (LoD) and Eversheds’ Agile allow firms to extend their teams in a flexible way – charging at a secondment rate or pay-as-you-go – to deal with fluctuations in workload. LoD recently launched a managed service which involves providing entire teams of lawyers with LoD acting as the project manager.

The recession and the liberalisation of legal services in the UK has led corporate legal departments to review their legal spend and decide what to retain in-house and what to delegate to external law firms and other legal services providers. Like law firms, they are following Richard Susskind’s model set out in The End of Lawyers? of ‘decomposing’ or disaggregating legal service and deciding the best way to deliver each constituent part.

In its recent EMEA legal panel review, Royal Bank of Scotland (RBS) added a new alternative provider sub-panel, which included LPO providers, indicating its focus on working directly with LPOs rather than simply expecting its panel firms to utilise LPOs where appropriate to reduce costs and make fees more predictable. Law firms are increasingly asking LPOs to participate in joint pitches.

Corporate legal outsourcing

Taking corporate legal outsourcing significantly further, in 2010, Thames Water transferred the majority of its legal work – along with some of its lawyers – to BLP under a managed services arrangement.

BT is an example of a large corporate operating several legal services models. It uses and offers LPO. On 30 September it announced that it had commenced a review of its LPO arrangements – BT currently outsources about 30% of its UK work to US LPO provider United Lex – having revised its network of external legal advisers and established BT Law, an ABS that will offer claims handling services that BT currently provides to its own fleet of vehicles to other corporates.

Corporate legal departments commonly utilise LPOs directly as an alternative to law firms for repetitive and volume work, document review and transactional support. I interviewed the corporate counsel of a €20bn turnover global corporate who supplements the resources of his small legal team by employing external legal services providers to carry out all routine contract work, working directly into and updating where necessary the company’s systems and databases.

Liberalisation has allowed a variety of new models to transform the UK legal services marketplace. These include self-service online legal services which are based on workflow and document automation. The client completes an online interview and the responses are used to create a draft document. Only complex matters are referred to a lawyer. The online self-service platform is commonly provided and managed on a white-label basis by external provider DirectLaw. This allows mid-market law firms to compete for online business with market entrants such as Rocket Lawyer.

Not just about volume

It is important to recognise that LPO is not just about volume. It also enables smaller firms and new entrants to grow quickly and punch above their weight while competing on price and business agility by using outsourced and sub-contracted providers for all non-core business. Commercial outsourcing and technology boutique radiant law is one example. All work below partner level is outsourced to South African LPO provider Exigent enabling it to compete on a true fixed-price basis. In this and other ways, it is possible that LPO is hastening the end of the billable hour.

LPO, which was originally developed as an extension of a law firm’s back office, has become an accepted part of business strategy in the legal sector that it is heavily influencing the basic premise of next generation legal service provision. Perhaps these are already on the horizon. Outsourcing giant Capita, which already has a legal call centre, recently agreed to buy Optima Legal Services, subject to receiving an ABS licence, and is looking to partner with a top-20 law firm with a view to competing on service and value with both law firms and ABS providers.

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It all started in July 2013. The Editor-in-Chief of the prestigious legal services magazine The American Lawyer wrote an article titled ‘Don’t Bury Big Law Just Yet’. The headline sounded innocent enough. To argue large law firms are ‘alive, well, and rich’ Robin Sparkman drew on The American Lawyer’s famous league tables of lag indicators, ie financial performance. And while she did acknowledge that large law firms have ‘plenty of problems’ citing failure to retain women and minorities, unfunded pensions, lack of alternative ways to bill clients... overcapacity... and adapting to clients’ shifting needs,’ she made scant reference to lead indicators.

Many strategy-savvy analysts and commentators would agree that relying on lag indicators, such as historical financials, is akin to driving in forward gear by looking only in the rear view mirror. So I weighed into the debate with this tweet: ‘Dear @RobinSparkman, with respect, financials are not lead indicators | Why #BigLaw is Alive, Well and Rich: at.law.com/rebutt’. The tweet was part of a meme that echoed the danger in being trapped in what is becoming understood as the BigLaw paradigm. For the intellectual leader of BigLaw’s leading business-related publication to make a statement that selectively uses its own data can only reinforce self-belief.

The great US blogger Adam Smith Esq joined the debate with a dissection of the data, stating: ‘There seems to have been a spasm an unusual concentration of articles recently advancing the theory (I generalize) that all is well in BigLaw.’ This was in his post CAGR for Dummies (CAGR is short for compound average growth rate). The whole analysis and commentary are worth reading, but here’s a taste:

‘Actual CAGR of AmLaw 100 revenue is 2.63%. As expected and predicted, starting one year earlier makes the picture even uglier. Now, rather than needing to have grown their revenue 23% more than they did (2009–2013), firms would have needed to have grown their revenue 69% more than they did simply to “stay even” over the 2008–2013 period. If this is resilience and growth, then I should have been a professional athlete; I could count on the bar being lowered every year and still be able to set annual records at the new diminished height.’

And at the same time I wrote ‘Danger in being part of the BigLaw establishment’ showing that substitutes for BigLaw are starting to offer clients the choice of how to meet their legal needs. Clients now have a real choice between conventional law firm service providers and new ways of sourcing solutions. Examples abound in other industries. Just think what Amazon did to the local book store. Or digital cameras to Kodak. Or TripAdvisor to travel agents. The main challenge of substitutes is the ceiling on the price a market and law firms in the market can sustain. As clients switch to the substitutes the viability of incumbents declines.
INTRODUCTION: The Marketplace

Many incumbents consolidate (wrongly believing bigger is better), or withdraw (effectively surrendering by merging into another firm) or collapse (30 of the 100 largest law firms in the UK are reported to be financial difficulties), unless they too can adopt the technologies of the substitutes. A handful are trying, but none have yet shown they can do so successfully.

‘BigLaw’ is a business model

‘BigLaw’ describes a business model; it is not short-hand for large firms. The difference is crucial.

In September 2013 The Lawyer in London published a range of prognostications about the shape and fate of large law firms in 2018. For partners in large law firms the articles don’t make entirely comfortable reading. But, The Lawyer, like almost all law firm leaders and observers of large law firms, misses the real point. The reality of 2018 and beyond will turn out to be a great deal worse and much more varied than The Lawyer suggests. And the scenarios apply to all conventional law firms not just big ones.

BigLaw is a description of the business model used by firms generating more than 99% of law firm revenues today. That is, it excludes micro and sole practitioner ‘firms’ and the handful of alternative business model firms (ABM) that now constitute NewLaw. The difference between BigLaw as a business model and big (or small) law firms is critical.

Let me explain by starting with a little history. In 1819 the firm we know today as Cravath Swaine & Moore LLP was founded in New York. Early in the 20th Century Paul Cravath enunciated the principles of a system to train associates rigorously and promote exclusively from within. To quote the firm’s website: ‘The rotation path fosters collaboration and eliminates the need for associates to compete for work, clients, training or bonuses. The Cravath System places a premium on efficiency and quality of work that no other firm matches, and it was through this value system, which we still use today, that Cravath created a new model for American law firms.’

One should add what Paul Cravath really invented was the foundation for the contemporary BigLaw business model. The modest claim to be ‘a new model for American law firms’ is insufficient. The model for rapidly became the basis of the Magic Circle and White Shoe firms of London and the USA – and every other law firm that strives to learn from and copy the model.

In the great industrial boom of the post World War II era firms seized on the Cravath model and turned it into the BigLaw model. The BigLaw business model enabled the massive growth of firms throughout the Anglo-American world – and has generated the fabled incomes of the equity partners of BigLaw firms for more than 60 years.

‘BigLaw’ describes a business model; it is not short-hand for large firms. The difference is crucial.

Elements of the BigLaw business model

As Beaton Capital analyses it, the BigLaw business model is built on six key elements. These work together and no one is more important than another:

- Attraction and training of top legal talent,
- ‘Leveraging’ of these full-time lawyers to do the bulk of the work serving clients,
- Creation of a tournament to motivate the lawyers to strive to become equity partners (the idea of a tournament is akin to Roman gladiator contests and the subject of a groundbreaking book),
- Tight restriction on the number of equity owners,
- Structuring as a partnership, and
- Charging high hourly rates (which is or at least until very recently has been possible because of the mystique associated with legal advice).

Consequences of the BigLaw business model

The consequences of the BigLaw business model as set out above are these:

- Firms treat their lawyers as though they are fixed costs (because of they are concerned about the time it takes to bring them to full productivity) plus most other costs are regarded as fixed too,
- Firms pay their lawyers high salaries to win in the war to attract the very best talent,
- Firms drive high utilisation from their lawyers (although it should be noted Australian and British utilisation is much lower in comparable American firms),
- Profit – measured as profit per point of equity on issue – is maximised and as a result the average equity partner in a BigLaw business model firm earns far more than they if they were employed as in-house lawyers,
- Profit is taken today and none is retained and as result partnerships have no balance sheets on which to rely for investment or rainy days, and
- The clients bear the risk of time-based fee arrangements.

These consequences are now combining to enable substitutes to seriously threaten firms with a BigLaw business model.

Substitutes are now serious alternatives to BigLaw

We may be witnessing the last days of the BigLaw business model as substitutes gain traction. So the really big question is this. To what extent do substitutes threaten large, conventional BigLaw firms? The evidence is accumulating by the day.
First, in the post GFC era clients of all kinds – corporates, SMEs, governments, consumers – are pushing for more value from their providers. Beaton’s research shows in law firms, and all professional services, this means either price down or delivery of more benefits. Or both. This is very fertile ground for substitutes that can operate at or below the break-even point of the incumbents.

Secondly, substitutes are often backed by external capital in much larger quantities than any firm is willing and/or able to call from its partners or borrow.

Thirdly, substitutes can take risks that the conservative culture of professional partnership will not contemplate. This is the essence of the Innovator’s Dilemma about which I have previously written.

Fourthly, at least in some service lines, technology like that provided by Clearspire is becoming a substitute for labour.

In 1995 as a prelude to his seminal book on disruptive technologies Clayton Christensen wrote in Harvard Business Review: ‘Upstarts will first capture new and low-end customers, and then gradually move upmarket to pick off higher-end customers from incumbents.’

Substitutes are the NewLaw

We believe the biggest threat to BigLaw is being posed by disruptive technologies which we now term NewLaw. These legal services providers have alternative business models to conventional large law firms based on BigLaw. Whether they are LPOs like Pangea3 or Integreon or virtual like Axiom Law out of the USA, AdvantBalance out of Australia or Riverview Law out of the UK, these NewLaw firms are here to stay and grow. Yes, they should be called BigLaw versus NewLaw Growth

firms as they are real competitors for conventional law firms.

The story of Axiom illustrates the rise of NewLaw like no other. Eric Chin of Beaton Capital has recently told the story. This analysis is based on simple facts and warrants very careful attention, all the more so because Axiom isn’t even listed by The American Lawyers in its league tables.

2018 is the year Axiom may become the world’s largest legal services firm. The American Lawyer 2013 league table shows DLA Piper as the largest firm in the USA and almost certainly in the world. Baker & McKenzie has been as dethroned as the largest of the BigLaw community. But this change is irrelevant. Axiom – founded only in 2000 – grew exponentially at 72% compound annual growth rate (CAGR) from 2002 to 2011. During the same period DLA Piper grew at 13% CAGR, including by adding new firms to its network. It’s noteworthy that Axiom has grown only by organic means.

At Axiom’s current pace, the firm will outgrow DLA Piper by 2018. That’s in five years from now; our modelling shows:

- Axiom, $130m in 2011 and growing at 72% CAGR will have a turnover of $5,730m in 2018,
- DLA Piper, $2,231m in 2011 and growing 13% CAGR will achieve a turnover of $5,215m in 2018, and
- Axiom would be at least $500m larger than DLA Piper by that time.

Of course these are forecasts based on historical data and should be taken as crystal-ball gazing. But for the sake of this argument, the uptake of clients as evidenced by the growth of NewLaw and the plateauing of BigLaw points to a possible future when NewLaw is bigger than BigLaw.

As corporate clients continue to seek better ways of meeting their needs the more cost-effective ABMs will continue to grow in influence – and size. They will be increasingly virtual as they outsource nearly everything, save for the brand and client relationship management. And one can only guess at their profits. Of course in NewLaw profits are not measured by PEPP; many are backed by private or public equity.

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A Different Proposition

A changing value proposition for legal outsourcing will determine the future of the industry, says Janet Taylor-Hall of Cognia Law

Since the publication of the last LPO Handbook, we have seen a wide range of views and survey results emerging about Legal Process Outsourcing. This ranges from those who feel that LPO has failed and have been prophesying its demise, referencing the trend towards law firms engaging in captive operations, to others stating that LPO is now really taking hold.

The reality is that we are seeing signs that the legal sector is starting to move into the next phase of maturity. As an integral part of this sector, LPO is evolving into a service model that combines all the key components of sector focus, experienced client centric and collaborative leadership, analytics, talent, project/process management and technology enablement.

The maturing service model will focus on integrated service delivery to drive macro organisational value as opposed to merely a separate entity that executes discrete (disaggregated) workflow components (e.g., document review or contract abstraction) at a low cost.

For example, law firms are developing LPO as part of a broader overhaul in terms of pricing and rightsizing resources across core/non-core functions. In-house legal and compliance departments want LPO solutions that are integrated with law firms, leverage analytical approaches to legal spend, and apply in-house right shoring paradigms to support the growing GC and Head of Compliances’ portfolio.

As we look ahead to where LPO is going, it will be far less a story about the demise of LPO and far more about a changing value proposition. This is not so much about the right shoring location, but using the right LPO partners that have the understanding of where they fit in to the model, as well as the experience to play a key role in implementing the overall service model.

Doing more for less

Increasing regulation and pressure to reduce legal spend has meant that in-house legal and compliance functions face growing challenges of how to respond to the increasing demand from their organisations for legal support, while being expected to manage the company’s legal spend – in other words, they are being asked to do ‘more for less’.
INTRODUCTION: LPO: Next Generation

Many have turned to outsourcing as a solution, which allows costs to be reduced whilst maintaining or increasing quality. These legal service outsourcers have provided an alternative to holding the resources in-house or using more transitional (and expensive) law firm junior resources to perform aspects of legal work.

For those who have effectively leveraged this tool, legal outsourcing has also brought inherent scalability and flexibility to their organizations, enabling them to cope with the peaks and troughs of demand.

Within this context, the LPO market has developed significantly over the last 10 years starting with document review, then expanded horizontally (different service lines, e.g. contracts/compliance/research) and also vertically (more sophisticated). Legal tasks supporting litigation, due diligence, contract management and compliance have been most commonly outsourced. In most cases the bulk of this outsourcing has been the executing of discrete (disaggregated) work flow components (e.g. doc review or contract abstraction) and often project based engagements, although there have been a few notable exceptions. For example, a dedicated team supporting procurement and NDA functions.

There are now a growing number of new entrants to the legal sector providing in-house legal and compliance functions and law firms with temporary legal resource or outsourced managed service options. These include the larger traditional managed outsourcing service providers who have been operating for 10 years or more such as Integreon, CPA Global, Pangea 3, United Lex; large BPO service providers such as Capita and Accenture; new entrants labeling themselves as Legal Service Outsourcers (LSOs) or new generation law firms such as Riverview Law; consultancies/legal outsourcers providing legal spend and operations consulting, managed legal support services and technology solutions such as Elevate Services; billing and analytics specialists such as Sky Analytics; and legal resourcing solution providers such as LOD and Axiom (who have also moved into the provision of managed legal services). Increasingly, General Counsels will utilise a combination of these different types of resources to get the best of all worlds.

Many in-house legal and compliance functions have achieved both efficiency and quality improvement benefits from outsourcing, principally due to the freeing up of valuable in-house lawyer time so that they are able to get closer to their business functions and to take on more of the workload traditionally given to external law firms. Some law firms have achieved both efficiency and quality improvement benefits, although fewer than initially thought.

First generation LPO is now undergoing a paradigm shift to overcome some of the challenges encountered in realising benefits.

Challenges to LPO

The challenges that in-house legal and compliance departments and law firms have faced when outsourcing generally centre on the process of sourcing the service provider, the nature of the relationship between the company and the outsourcer (i.e. a partnering approach versus a vendor supplier relationship), and a lack of investment or experience in the design and implementation of the service.

There are many challenges to LPO that are often cited. These include:

- Strained client relationships. There are often challenges with law firms and in-house functions adopting LPO, as well as issues surrounding vendor supplier relationship management style and LPO management teams who are trying to optimise profitability.
- Poor service quality offered by teams with generic rather than jurisdiction specific legal skills, leading to the need for regular interventions to put matters right. This, together with service continuity disruptions brought about by high attrition rates, inflation and exchange rate movements in offshore locations, tend to erode the original financial case.
- Lack of experienced LPO executives.
- Language, cultural, and time zone differences leading to troubled communication and deadline issues, which in turn inhibit the development of the business relationship between the firm and the outsourcer.
- Bumping against limitations with offshore teams for more complex tasks leading to onshoring or blended shoring models.
- Flexibility in terms of pricing and staffing (dedicated FTE vs. project-based/unit pricing/fixed project pricing, etc), highlighting the need for LPOs to improve internal metric analyses to develop new pricing models.
- Designing and nurturing integrated solutions that realise clients’ larger commercial objectives as opposed to short-sighted SLAs.
- Effective use of analytics through client process optimisation. This is widely advertised, but delivery of actual intelligence is questionable.

These challenges have led some to question if LPO has failed. Market activity and parallels that can be drawn between the LPO sector and the development of other more mature segments of the overall outsourcing sector suggests otherwise. An alternative conclusion is that LPO has been through a process of developing, proving its worth and earning the right to be called a part of the legal sector, which it now is.
INTRODUCTION: LPO: Next Generation

Mapping out the future

The future of LPO will grow from a new definition of the value proposition that outsourcing brings to the table. LPO providers will be expected to design and implement integrated solutions that extract the maximum commercial benefits from all of the players in a corporate legal ecosystem, including in-house teams, law firms, LSOs and technology vendors.

More importantly, the penultimate measure of whether such collaborative engagements are successful is whether corporations, the clients, are able to find an optimal balance between profitability and risk mitigation. Therein lies the challenge that the new generation of LPO service providers face.

What will next generation LPOs look like?

Next generation LPOs will embrace the challenge and have the experience both to operate in dynamic legal ecosystems, as well as effectively quantify the resulting success in commercially meaningful terms. Meeting these advanced expectations will require LPOs to do the following:

- Put in place leadership teams made up of tested and experienced executives that strike the right balance between reliability, profitability management, client focus and innovation.
- Form alliances and partnerships with other LSOs and specialty providers in the LSO-connected market spaces to create holistic solutions, e.g. contract management software, spend analytics platforms, project management, pricing analysts, etc.
- Move towards organisation-centric models built around industry expertise rather than just service/project-centric models as we see the growth of transactional solutions. So rather than hopping from one document review project to the next, LPO solutions are embedded into client structures, e.g. integral parts of procurement departments and global legal and compliance functions.

Where will LPO services be delivered from in the future?

The trend towards blended shoring models that take better advantage of regional differences in terms of availability, language capability, talent, etc. will persist. As the sector matures, and the work outsourced becomes more complex requiring more interactions and integration between onshore and offshore teams made of both client, other LSO, law firm and LPO employees, we will see more legal work being delivered from locations better suited to the delivery of more complex, judgment oriented outsourced services.

Next generation LPOs will embrace the challenge and have the experience both to operate in dynamic legal ecosystems, as well as effectively quantify the resulting success in commercially meaningful terms.

This is due the increased complexity requiring better alignment of factors such as legal system, time zone, cultural and native language.

This is not a suggestion that India and Manila have had their day, or that everything will move onshore to locations such as the mid-west US, Scotland or Northern Ireland – they will remain key locations – but as the sector matures we are already seeing other locations emerging as strong alternatives or being added in addition to or as part of blended location delivery. We are increasingly seeing this trend emerging in South Africa.

Where will the next generation of LPO emerge from?

There are a number of likely sources. Some of the traditional players will invest and mature, others will be successfully merged with large BPO organisations who have to date found this sector hard to enter due to a lack of experience working with lawyers as well as long sale cycles.

We will also see successful law firm captives spun out to form separate organisations, and new entrants who have been founded and managed by leadership teams that have implemented both offshore captive and outsourced legal services successfully before.

It is more important than ever to understand that true value-creating change will only occur when law firms, corporate legal and compliance departments, legal technology providers and legal outsourced service providers work together in a streamlined and cost-effective operating model.

The combination of law firm legal expertise, the reassurance corporate clients have from ongoing relationships with these firms, and the legal outsourced service providers’ expertise in project managed, technology enabled process-based development, transition and delivery will yield a service that is far greater than the sum of its parts. It is the LPOs that understand this, and have the experience to play their part, that will form the next generation.

Janet Taylor-Hall is Chief Executive Officer of Cognia Law. She has more than 18 years of industry experience, having worked for Clifford Chance, Ernst & Young and Integreon and has legal, consulting, implementation and outsourcing expertise.
Cognia Law is a next generation legal service provider focused on providing our global clients with pragmatic solutions to address the challenge of meeting increasing regulatory pressure and new efficiency demands in a cost effective manner, while operating in an increasingly complex business environment. We provide consulting and integrated, high quality outsourced legal and document production services to law firms and in-house legal and compliance teams. We understand that achieving a balance between profitability and risk management is the ultimate measure of our clients’ success. Cognia Law brings to the table a proven leadership team with a track record of successful implementation on a global scale.
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A Seamless Service

All will benefit from a faster, more integrated delivery of legal services, says Mark Ross of Integreon.

Even before the onset of the global financial crisis in 2008, in-house legal departments and their outside counsel were under considerable pressure to do more with less. The great recession exacerbated this pressure and led to a surge in the exploration of innovative legal services delivery models.

Corporate legal departments began mandating that their outside counsel consider the complexity of the full spectrum of the legal services they required and the resources most appropriate to undertake them. Two key questions came to the fore for in-house legal – can we reduce or eliminate the requirement of undertaking certain legal services, and for the services we must consume, how can we do so as efficiently and as cost effectively as possible?

Responding to these questions saw many law firms re-focusing on their core competencies (ie high-end advisory services) while finding new ways of more efficiently supporting non-core, routine legal services offerings such as legal research, M&A due diligence and of course, document review.

The last five years have seen significant change in the sourcing and deployment of legal resources, particularly with growth in the adoption of legal process outsourcing (LPO). A new equilibrium is now taking shape between law firms and their corporate clients in which LPO plays a crucial role in the delivery of services.

Redefining the law firm delivery model

To survive in today’s economy and to thrive in the future, many law firms are actively re-thinking their business models. This re-think frequently includes an embrace of LPO and a re-examination of the traditional pyramid structure as the usual modus operandi for legal services delivery.

Although some believe LPO providers will increasingly contract directly with corporate clients, it is important to consider that LPOs do not practice law and therefore cannot replace law firms. A more natural fit for LPO is to supplant the base of the law firm pyramid.

This is not to suggest the only benefit of LPO is labour arbitrage, in which expensive junior associates are simply substituted on a like for like basis by less expensive offshore lawyers. LPO is really much more than this, presenting an operating model built on best practices, with process efficiency, quality control and enabling technology at its heart.

While once originally focused on labour arbitrage, LPO now takes into consideration the
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were the first proponents of LPO. law firms but corporate legal departments that industry driven. In or around 2006, it was not the legal market was corporate client rather than Outsourcing, 2007 and Beyond, outsourcing in Almost six years ago, as reported in Legal Process Kicking and screaming within the law firms’ corridors of power. In a profession that has historically embraced change at a glacial pace, there are four phases to the LPO adoption process that law firms are now traversing. Once this journey is complete, value-creating change will have arrived at last. The timeline in Figure 1 illustrates this process from over the past several years and looking ahead.

**Kicking and screaming**

Almost six years ago, as reported in Legal Process Outsourcing, 2007 and Beyond, outsourcing in the legal market was corporate client rather than industry driven. In or around 2006, it was not law firms but corporate legal departments that were the first proponents of LPO.

Back in these early days, a mix of incredulity with a dash of disdain was the tipple of choice for many a law firm partner when confronted with the LPO elevator pitch. Big law executives would protest that LPO was win-win-lose. Win for the firm’s clients, win for the LPO provider, yet lose for the law firm. This viewpoint presupposes the adequacy of two hypotheses that simply do not hold water any longer, namely the zero-sum game (the more the client ‘loses’, the more the law firm ‘wins’) and that every penny of revenue generated by an LPO provider is a penny of revenue lost by the law firm.

In any event, these first couple of years can be characterised, perhaps somewhat harshly, as the phase where law firms were dragged kicking and screaming into the arms of LPO providers. On a case by case basis, in-house counsel started to advise their outside counsel that to retain their corporate client business they must begin to advise their outside counsel that to retain their clients, and consequently appeared to gain a competitive advantage. A small yet growing number of innovative law firms have begun publicly to acknowledge their relationships with LPO providers. On review of the dates of these public pronouncements, it is readily apparent that the pace of these declarations is picking up. Over the course of the last three years Simmons & Simmons, Allen & Overy, Pillsbury Winthrop Shaw & Pittman, Nixon Peabody, Pinsent Masons, Linklaters, CMS Cameron McKenna, Seyfarth Shaw and most recently, Australian heavyweights King & Wood Mallesons, Corrs Chambers and

### Law Firm Adoption Timeline

![Law Firm Adoption Timeline](image)

complexity of particular tasks, whether those tasks need to be undertaken at all, whether they can be eliminated, automated or allocated to lower cost resources. But whether law firms remain the first port of call from corporate legal and the conduit for the delivery of end-to-end legal services is predicated on a degree of acceptance of LPO within the law firms’ corridors of power.

In 2011 Integreon commissioned research tracking the adoption of LPO among law firms and in-house counsel. While a small minority of firms seemed to worry that using an LPO might send clients the wrong signal, the results of our research showed such fear to be unfounded. A significant majority, about 75%, of both in-house and law firm lawyers believed using an LPO did not ‘diminish the brand’. Rather, those that embraced LPO were perceived as cognisant of the cost, efficiency and quality demands of their clients, and consequently appeared to gain a competitive advantage. A small yet growing number of innovative law firms have begun to consider a job well done with no further action required. Many firms today are struggling with how to navigate the transition from the checking the box phase into the phase that follows, strategic collaboration.

### Checking the box

Law firms have many constituencies but their clients always come first. Large firm clients are, by and large, cost-sensitive in-house counsel. Firms can gain both a perception and actual advantage with clients by making clear they understand and are responding to the cost pressures facing their clients. In-house counsel muscle flexing manifested itself not only in ad hoc requests that their outside counsel use an LPO provider but also in the increasing prevalence of Requests for Proposals (RFPs) asking outside counsel whether they had relationships in place with LPO providers.

Law firms responded in turn by undertaking selection processes of their own to choose one or more preferred LPO providers. The end result was that when asked the question in an RFP, law firms could respond in the affirmative. This is the checking the box phase. While such recognition that incorporating LPO within a firm’s strategic suite of client facing solutions was fast becoming a necessity, true value-creating change only occurs when law firms and LPO providers deconstruct work streams and collaborate in a reengineered and streamlined operating model.

Many of the firms during this phase were simply looking to place a check in the box, and once a master services agreement was put in place between the firm and the LPO provider, it was considered a job well done with no further action required. Many firms today are struggling with how to navigate the transition from the checking the box phase into the phase that follows, strategic collaboration.

### Strategic collaboration

In 2011 Integreon commissioned research tracking the adoption of LPO among law firms and in-house counsel. While a small minority of firms seemed to worry that using an LPO might send clients the wrong signal, the results of our research showed such fear to be unfounded. A significant majority, about 75%, of both in-house and law firm lawyers believed using an LPO did not ‘diminish the brand’. Rather, those that embraced LPO were perceived as cognisant of the cost, efficiency and quality demands of their clients, and consequently appeared to gain a competitive advantage. A small yet growing number of innovative law firms have begun to consider a job well done with no further action required. Many firms today are struggling with how to navigate the transition from the checking the box phase into the phase that follows, strategic collaboration.

In any event, these first couple of years can be characterised, perhaps somewhat harshly, as the phase where law firms were dragged kicking and screaming into the arms of LPO providers. On a case by case basis, in-house counsel started to advise their outside counsel that to retain their corporate client business they must begin to utilise LPOs. In fairness to Big Law, this phase of forcible reluctance has largely passed, and did so fairly quickly. Whether the great recession was the dominant catalyst or merely a sidebar to a change in partners’ mindset is a debate for another day.
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Blake Dawson have all publicly acknowledged relationships with LPO providers.

All these firms are at various stages along the journey that can be termed as strategic collaboration. The end of this journey, one that arguably no firm has yet reached, is when LPO solutions are so closely integrated into the firm’s overall value proposition that they are simply viewed as part of a suite of re-engineered solutions that the firm provides to its clients across all its practice groups. This requires firms to embrace LPO at a strategic level, welcoming the LPO provider into the firm, lifting open the hood, and working with the provider, as Richard Susskind would say, to ‘decompose’ legal functions, map out ‘as is’ workflows and then re-engineer the processes to incorporate LPO 2.0 best practices, technology and lower cost labour.

The theory behind strategic collaboration is not rocket science. The premise is that the whole is greater than the sum of the parts. Contrary to early concerns that LPOs would compete directly with law firms, it has become abundantly clear to those firms embracing Strategic Collaboration that the most effective legal services delivery model is a true symbiotic ecosystem in which law firms and LPO providers both play crucial roles. LPO providers do not ‘practise law’ and so are not true alternatives to law firms. Within the global legal ecosystem, in addition to practising law, law firms provide critical oversight, supervision and, only if and when needed, bespoke, premium legal advice.

Neither LPO providers nor law firms can individually deliver the holistic, end-to-end services corporate clients are now demanding. While one could argue that those law firms with captive LPO units can do so, there are limits to the capabilities of even the world’s largest law firms and their captive operations. A common misconception held by proponents of captives is that working with a third party LPO provider means loss of control. This is not the Redefining the Law Firm Delivery Model | Scase.

Control is more about governance than ownership. For example, some captives are ‘out of control’ because they have not been properly set up with service level agreements (SLAs) and rigorous metrics. Conversely, a proper SLA and governance structure can give the law firm more control over a third party LPO provider than they might typically have over their own staff. Running a captive centre, especially offshore, requires a scale that only the largest law firms possess. LPO typically offers several other advantages over a captive. These include better capacity utilisation by aggregating demand across many clients; conversion of fixed to variable costs; ongoing investments in technology and continuous improvement; and of course business continuity assurance with multiple delivery locations.

The premise is that the whole is greater than the sum of the parts. Contrary to early concerns that LPOs would compete directly with law firms, it has become abundantly clear to those firms embracing Strategic Collaboration that the most effective legal services delivery model is a true symbiotic ecosystem in which law firms and LPO providers both play crucial roles.

Under Strategic Collaboration however, law firms can work with LPO providers to expand their offerings and deliver a complete, end-to-end approach, efficiently providing the appropriate level of legal services required for each type of work product.

**Bifurcated ownership**

Unrelenting cost pressure, deregulation, disaggregation, globalisation and technological advances have been the genesis of LPO. Over the next three to five years, the challenge and the opportunity is for LPO providers and our law firm clients to develop new service delivery models that will drive even greater innovation. You can either shape the change or be shaped by it. It is incumbent upon all the key constituent stakeholders in the legal services industry to find better ways of working together.

In coming years there is no doubt we will see even closer collaboration between law firms, and LPOs, with the lines of ownership of the legal services delivery model becoming increasingly blurred as these stakeholders invest in and enter into joint ventures with one another. This can be called the Bifurcated Ownership phase. How long will it be before an LPO provider acquires a major law firm in the UK now that external investment in law firms is permitted via the Legal Services Act?

Hardly a week goes by without the rumour mill spinning a story about this law firm or that law firm seeking to monetize either their captive LPO operation or their high volume practice group. For many of the reasons cited above, likely the majority of those law firms with captive LPO today will look to divest these operations in the coming years. Global LPO providers are the most logical acquirers of these entities.

As time progresses there is a growing optimism about and enthusiasm for reshaping the way legal services are delivered. The new bifurcated model is inevitable. The end result of the journey to this final fourth phase, is a seamlessly integrated delivery model, with both corporate and lay clients benefiting from better, faster, more readily accessible and cheaper legal services.

*Mark Ross is Vice President, Legal Process Outsourcing, of Integreon*
What If... You Had The Most Potent Mix?

The correctly blended model of legal services is the ultimate solution for clients, says David Holme, CEO of Exigent

The debate that started in earnest in 2008 continues: is the model for legal services delivery broken? Which is more important: cost or value? What will law firms and the competitive landscape look like in 2015/2016? The truth is that nobody knows.

Everybody active in the legal industry does know, however, that certain things have indisputably changed. For example, hundreds of ABS’s, once considered avant-garde, have now been registered in the UK. Innovative law firms such as Radiant.Law, Riverview Law and Gunnercooke have emerged disrupting the market with a fresh internal structure. Law firms have morphed into temping agencies. Non-legal businesses now offer legal services. Many firms have shrunk while others have grown.

The once fledgling LPO industry, upon which this handbook is focussed, has matured as it was predicted to do. Some LPO’s have come and others have gone, and within the LPO businesses themselves, large scale deals have risen and fallen (at times publicly). Some law firms have launched consultancy services focused on identifying in-house efficiency, which some commentators see as a contradiction in terms of the most extreme kind! These trends have spread in all of the major markets, and all the while Corporates (who have largely promoted the debate) remaining focused on value (provided it is easy to understand and deliver). Nobody can say it has been dull!

We believe that the common thread throughout is the prevailing request that more be delivered for less. This represents a new dawn with a new status quo where the client is king. “More” invariably means more value, even if value is often misunderstood. “Less” means different things to different players. To the client it means less cost. To the provider, it heralds a sea-change in the way law is delivered: less revenue, fewer staff members, fewer hours, tighter deadlines...

The legal market is now defined by more competition across all sectors and in all segments. There is a ‘squeezed middle’ of law firms, and a widening gap between the top 10 and the rest. Corporate counsel are exerting fee pressure on panel firms but are not getting far. As a result other players have entered the market.

There is now a wider range of legal service delivery options than ever before: temp agency, panel firms, in house, outsourced (offshore, onshore, near-shore), co-sourced, multi-sourced, captive, and of course pure technology which continues to make inroads into the legal services market. Add to this the array of services that are suitable for delegation: what tasks should be delivered where and how? The answers exist, somewhere. Maybe above all, the question is this: ‘if I have more suppliers, how do I get the best mix and who is going to manage them?’
The optimal mix should facilitate not only delivery, but also unprecedented levels of management information with the skills to understand and utilise it.

What does the optimal solution look like?

Given the wide variety of delivery options, it has to be that the optimal solution is a mix of suppliers. How the suppliers are blended and interact with one another is critical, and has been the focus of our attention for some time. The mix doesn’t have to be law-firm led. It does have to have as a core principle the delivery of value to clients, and in general terms must balance people, process and platform. The optimal solution is sensitive to prevailing regulations whilst paying due attention to the needs of the market. It encompasses old-world values with new-world trends such as six sigma, mixed delivery locations, technology enablement and a certain irreverence to the old guard.

A quick example: using a joint delivery model that blended fit for purpose technology, legally qualified offshore resource and direct access to an in-house legal team, we were able to design a lead portfolio management process that matched existing standards of quality but cost 50% less than traditional methods. If the end-client is after value then this is a difficult model to ignore.

This article is not intended as a critique of current practice, but instead attempts to show the way - to articulate the fantastic opportunities available to those who are willing to explore and experiment with the array of supply options currently available. Now is a time of unprecedented opportunity.

What does the optimal mix require?

To achieve the optimal mix of service delivery, it is an almost universal requirement that one introduces more diversity in suppliers. This requires commitment and no small amount of vision. Encouragingly, we have started to see organisations taking steps in this direction with some RFP’s explicitly referencing a requirement that the bidders demonstrate a willingness to change the status quo.

In addition to introducing new players into the mix, it is also crucial to develop an understanding of what is being challenged internally. Various institutions have been reported in the media as having undertaken process-mapping exercises. This is a sound point of departure. Once processes are properly understood, the journey of optimisation can begin.

In our business we have seen that process without business intelligence and analytics will only go so far in the journey of optimisation. A great example involves Anglo American, a South African client of ours. Together with their forward thinking in house legal team, we have developed an invoice management system that leverages technology, process, and legal skills. The resulting data is subjected to focused business analysis to draw down a wide range of conclusions regarding the business’s suppliers. The results are exciting: 30% of Anglo’s legal spend will be saved by capturing rebates alone. As the saying goes, you can’t manage what you can’t measure. The optimal mix should facilitate not only delivery, but also unprecedented levels of management information with the skills to understand and utilise it.

Where is this happening?

Anyone in the UK with an interest in the legal media will have read that, almost without exception, the Top 10 law firms nationally have begun to adapt their models to meet the perceived demands of the industry.

Thought leaders such as Prof Richard Susskind have played a central role articulating the incredible potential behind technology enablement in the legal industry. Open-format conferences such as ‘Re-Invent Law’ provide a platform for lawyers and software developers to share ideas and comment on progress in this dynamic industry. It is hardly a surprise that the conference was generating peaks of upwards of 90 tweets per minute.

Large UK Law firms are adapting their models. Pinsent Masons and Eversheds, for example, offer out their own temp lawyers drawn from junior ranks. Gunnercooke and Radiant.Law have abandoned the traditional firm structure altogether and have built agile practices without any of the usual overheads associated with law firms.

UK corporates lead their commonwealth counterparts in demanding more for less and accepting innovative solutions. For example, Ladbrokes Plc publicly declared that by 2015 its entire 22 firm panel must have abandoned hourly billing for their work. Many of the world’s largest corporates have begun to echo the sentiment and make similar demands on their law firms.

The UK may lead the way in terms of awareness, utilisation and variety, but it has to be said that the majority of mid-tier law firms and corporates are not yet capitalising on the trend. The real risk is that they will lose out as a result. Top-tier law firms and niche players are driving innovation and capturing market share on the back of their successes. This has caused a decline in the lower tiers, while our Commonwealth neighbours look on and learn from our lessons and case studies.

In Canada, Mitch Kowalski and Jordan Furlong have stoked the fires under traditional law firms with their innovation-themed commentary. McCarthy Tetrauault was arguably the first Canadian
law firm to embrace the change by introducing a firm-wide policy of reengineering it's processes in an attempt to reinvigorate it's approach to market. They have also publicly embraced LPO. Reports of success are emerging.

In Australia, alternative delivery models such as LPO have become something of a buzzword as corporates prevail on their panel firms to explore or at least understand new model services. Interestingly, the Australian mid-tier is catching onto smarter legal delivery methods apparently faster than their top-tier competitors. Since January 2013, we have been invited to over 90 meetings in Australia alone, and in over 50% of these meetings we have been asked about joint delivery with panel law firms. A far smaller percentage of law firms bring this model up, which tells us that there is an unmet need here ready for the right solution.

Finally, in South Africa we are starting to see the bigger Law firms exploring and re-imagining their internal processes, with the goal of efficiency and market consolidation. Corporates, likewise, are embarking on similar exercises either within their legal teams or across the business. For us, this marks an important step as it shows that pure labour arbitrage is no longer the primary driver for outsourcing.

Why all the fuss?
It's precisely because of the behaviour of the competition that we would argue every law firm and in house legal team should pay attention to their particular mix of service delivery. Those that don't will face competition not only from a stagnating market and depressed growth, but also because if they don't act to secure market share, others will.

The potential gains are not only financial. By optimising delivery, wastage is recaptured, market share is gained or retained and (done correctly) reputations can be enhanced. There are additional potential gains: where changes have been implemented and through strong leadership and a shared vision, efficiency objectives have been achieved, there follows a cultural shift within the organisation that facilitates yet further benefits.

The challenge: finding the potent mix
The fundamental challenge is therefore selecting the best mix of legal service providers and enabling technologies. Getting the combination right is essential, and knowing where to look and establishing the right relationships at the right stages is of course easier said than done. The largest law firms have recognised this challenge and created non-fee earning 'practice manager'
roles. Unburdened by the daily pressures and obligations of fee targets, these important role players are able to dedicate their attention to assessing the marketplace.

The benefits of a job well done are apparent. In its recent RFP, RBS specified that the successful bidder will have to demonstrate knowledge of and a relationship with existing LPO suppliers. Barclays is expected to follow suit. Those with the willingness to embrace mixed delivery methods that derive value stand to gain market share through formal channels such as RFPs, and also informally as they are seen to be leaders and innovators.

There are pitfalls to be aware of. Too much process engineering is not a good thing. For example, by segregating legal services into constituent tasks, and setting these tasks in a rigid manner the risk is creating a process that becomes unbending. While this might appear to lead to efficiency as each process can be mastered in isolation, and indeed some LPO providers actively choose this path, the resulting service may not be the best solution for nuanced client needs.

We have seen a recent example in which a well-known LPO provider had its services dramatically scaled back within a London law firm, reportedly due to compatibility issues.

It is always important to understand that exploring alternatives is not simply about cost reduction. On the contrary, a dogmatic approach to cost cutting may lead suppliers into proposals that have no prospect of success in what is referred to as ‘the winner’s curse’. Very broadly speaking, the supplier under-prices their services to win work, and then fails properly to nurture the relationship because it is not valuable enough to them. Clearly nobody wins. The key then is to ensure that the multiple suppliers who are introduced to the service all understand their own and each other’s roles, the drivers leading to the decision to engage them, and the goals of the end client.

Naturally, there is no ‘silver bullet’ to innovation. One size does not fit all, so to speak. What is required is a significant amount of investigation into the existing practises of the organisation. Only by ‘deep diving’ into the intricacies of existing process delivery can real opportunities for innovation be discovered.

Everyone else is doing it...

Fortunately, enough is now known about disruptive innovation (through case studies, recent experiences and of course a look at the experiences of neighbours in other sectors that have faced disruption such as the IT industry), that a path towards principles of service delivery optimisation is starting to reveal itself. The solutions are understood and while every case is different, there are enough similarities to allow a knowable point of departure.

Consulting firms have emerged that specialise in identifying legal suppliers of all shapes and sizes, and passing this knowledge on to buyers who wish to create the right mix. Lex Connect and source are two examples that immediately spring to mind. In addition, existing suppliers themselves are increasingly in a position to share their expertise with clients. Increasingly we at Exigent have been asked to share our process design efficiency expertise with existing and new clients, and this has developed into an entire service line. Law firms are following suit but some commentators would argue (perhaps provocatively) that if law firms knew what the elusive ‘potent mix’ looked like, we would not be here in the first place!

As we design more processes, best practice starts to emerge and where possible this can be applied to organisations with similar profiles. Thus we have seen sector specialisation emerge directly in the LPO space (for example the services we provide to our corporate clients in the Energy and Resources sector).

Blue-sky thinking will always have a place, but the cornerstone of this type of delivery is the understanding that most legal services, and by extension most law firms and legal departments, are not unique. Therefore the processes by which these problems are identified, addressed, resolved are standard.

Conclusion

We are still far from a situation where the optimal blended delivery model for a particular organisation can be articulated after simply filling in an online questionnaire. Given the direction of travel, we would not be surprised if this is soon the case. Until then, however, experienced providers, practice managers, implementation partners and strong leaders with a clear vision are required to get the mix right.

It is by no means an easy or straight-forward task, but in our experience the rewards are clear. Efficiencies are almost always immediately apparent at an early stage of the review, and the resulting cost savings always outweigh any upfront investment costs. Looking ahead, savings are bolstered by reputational and long term gains not foreseen at the time of the mix.

David Holme is the founder of Exigent Group, a leading provider of LSO and LPO to leading global law firms. Exigent now employs 300-plus staff globally and has six offices in five countries.
Years ago, procuring and delivering legal services was easy.

Now there are so many things to consider: new technologies, automated processes, alternative service providers, alternative fee structures, LPOs, contract attorneys and onshore, offshore and nearshore captive centres – to name a few.

The best response to any market change is adaptation, so we believe selecting the right ingredients is the key to differentiation and success.

Our experience working with corporates and law firms in all major markets has given us unique insight. This enables us to identify and advise on optimised processes and delivery to increase efficiency, reduce costs and deliver value. If you are looking for the most potent mix, come and talk to us.
Heraclitus’ oft quoted statement that ‘the only thing that is constant is change’ neatly summarises the LPO industry and the challenges and opportunities that are now presenting themselves. The ‘perfect storm’ of the financial crisis led to a number of changes including the increase in regulatory scrutiny and greater regulation. At the same time the litigation landscape was changing with an increase in claims focusing on the issues giving rise to the regulatory scrutiny such as the Payment Protection Insurance (PPI) ‘scandal’ in the UK and the LIBOR issues on both sides of the Atlantic.

Other industries are also facing up to greater regulatory scrutiny with the impact of sanctions and a focus on corporate governance and responsibility for issues in overseas jurisdictions such as corruption and bribery.

The combination of these changes and the greater focus by and requirements of the courts in the UK and elsewhere on the complexity of e-disclosure and the desire to reduce legal spend has led to a number of corporate and law firms revisiting what LPOs have to offer. With these opportunities and challenges, the question is how will the new generation of LPOs react?

The perfect storm

Now that a decent amount of time has passed and
with the benefit of hindsight, the financial crisis that engulfed the major financial centres around the globe is viewed as a watershed event. Whilst the debate continues around who was responsible and why it happened, what is clear is that the crisis has led to changes that will impact a number of industries directly and as a consequence the LPO industry indirectly.

Both in the US and UK the regulators were accused of not acting quickly enough and for failing to spot the build up of circumstances that would lead to the crisis. As a consequence, regulators have been empowered with a clear mandate to investigate sooner and more often. In the UK the FSA was effectively split into two regulators (the Financial Conduct Authority and the Prudential Regulatory Authority) and the Bank of England given additional powers. In the US the state and federal regulators have acquired a growing reputation for taking a hard line and imposing heavy fines in recent investigations around LIBOR and money laundering issues.

As a result the number of investigations being conducted by regulators has increased significantly. Indeed, the numbers of new or amended regulations have also increased as regulators focus increasingly in ensuring the right conduct and outcomes. The upshot is that regulated entities find themselves in and around the very issues the regulators are investigating. Traditional ways of gathering and collating this information and reviewing it for relevance can no longer be justified both in terms of the time taken and the cost. This provides an obvious opportunity for efficient and cost-effective LPOs that are willing to give forecasts of the budgets to be spent on key documents. They will need to review and the nature of those requirements and requests for information. Such requests for information usually require a lot of information from different sources to be collated at short notice, often giving little or no time for the company or firm to review the information before handing it over to the regulator.

Traditional ways of gathering and collating this information and reviewing it for relevance can no longer be justified both in terms of the time taken and the cost. This provides an obvious opportunity for efficient and cost-effective LPOs that are willing to provide exactly this type of predictability of costs and time lines for disclosure and can work to a fixed budget. This creates a challenge for traditional law firms that operate and charge on an hourly rate and usually employ their own lawyers and/or paralegals to undertake review work. The length of the disclosure exercise and the costs will be difficult to predict until those law firms know how many documents they will need to review and the nature of those documents.

Seasoned LPOs are geared up to provide exactly this type of predictability of costs and time lines for disclosure and can work to a fixed budget. This provides more certainty and allows clients to control costs particularly on complex litigation cases.

The Tchenguiz brothers
The current litigation in England between the Tchenguiz brothers (Vincent and Robert) and the Serious Fraud Office (SFO) provides a great example of the challenges and opportunities faced by LPOs. The SFO arrested the high profile Tchenguiz brothers in a blaze of publicity in 2011 over their dealings with the insolvent Icelandic bank, Kaupthing. The SFO subsequently dropped their
investigations into the Tchenguiz brothers in the summer of 2012. The Tchenguiz brothers then brought judicial review proceedings against the SFO over the lawfulness of the search warrants obtained by the SFO.

The High Court held that the warrants that had been used to seize documents from the brothers were unlawful and overturned the decision to grant the warrants. The brothers are now engaged in further litigation against the SFO and are seeking damages for the damage to their business relationships and reputations as a result of their arrest and the publicity that followed.

The SFO has instructed magic circle firm Slaughter and May in the proceedings. At a recent case management conference, details emerged of the disclosure exercise and the work currently being undertaken by Slaughter. The original disclosure deadline was August 2013 and it was anticipated that there would be around one million documents disclosed by the SFO. The SFO now needs an extension of time until 19 December 2013 to complete the disclosure exercise.

The firm initially hired 10 barristers to undertake the review work. Slaughters then increased its team of barristers to 25. It has been reported that only 298 relevant documents had been listed by the time of the hearing and that £118,000 had already been spent on the disclosure exercise. Slaughters indicated in court papers that it would be hiring a further 10 barristers to supplement the existing review team. It is estimated that the total cost of the disclosure exercise will exceed £1 million and take almost five months longer than originally anticipated.

In response to the question of why the disclosure exercise had not been outsourced, Slaughters claimed that the issues were too ‘complex’ and therefore the work had to be undertaken by Slaughters. Whilst the complexity of this case may have demanded extra resources, it raises a more general point as to who does decide on these matters and what options the SFO considered.

Usually in a disclosure exercise the primary focus is to review the documents for potential relevance but equally important is to understand how those documents fit the ‘narrative’ and what their significance might be to the issues in the case. Experienced document reviewers have precisely this experience and develop these skills when undertaking reviews and know exactly how to use the relevant technology to build the narrative, to mark the documents appropriately and to add value during the review process.

What is complex?
Legal outsourcers would certainly argue that no case is too complex to be outsourced. It could be said that they would say that, wouldn’t they. However, in any case where disclosure is undertaken by anyone other than the lead partner and associate working on a matter, there will be a form of delegation and instruction to those who will be undertaking the document review for disclosure.

No matter how complex the legal issues and how convoluted the factual matrix it is possible and often necessary to create a review protocol document which sets out the legal issues and the facts and guidance on how to complete the disclosure exercise. What is clear is that more clients are giving serious consideration to outsourcing and taking control of the decision on whether disclosure in litigation cases and or document review work in regulatory matters should be outsourced. The most sophisticated clients are setting up panels for alternative service providers (LPOs by another name) and actually require their external law firms to work collaboratively with the LPOs to ensure that the potential cost savings are properly and appropriately realized. By taking the decision for them, the clients are effectively forcing law firms to reflect on what has been obvious for some time – there are some things that the LPOs can do more effectively and at a lower cost than a law firm.

It is only a matter of time before more clients set up panels for alternative service providers and put in place controls to measure the cost savings that are generated. This should end the debate once and for all about whether outsourcing works and how effective it is. This will become increasingly important to clients as they feel the scrutiny of regulators and are targeted in litigation.

The LPO industry is entering its next phase and is now maturing with greater sophistication, improved techniques, quality of service and offering even greater cost savings. The financial crisis has made clients weary of the costs associated with investigations and litigation and more discerning in respect of how they distribute their work and what options are available. Law firms too are facing changes and a challenge in how they choose to work with LPOs. They can choose to decide whether they want to offer their clients an option to outsource even if it means they make less money. In reality, this isn’t a choice at all and never has been - if law firms truly want to act in the best interests of their clients they are effectively forcing law firms to reflect on what has been obvious for some time.

Aamir Khan, General Counsel (UK & Europe) & Senior Director, Clutch Group

The perfect storm created by the financial crisis has led to a number of changes but then the only thing that is constant is change.
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The Use Of Data Analytics

By Andrew Goodman, Michel Sahyoun and Philip Algieri, QuisLex

Introduction

Document review for litigations, regulatory actions and internal investigations remains the most costly aspect of eDiscovery/eDisclosure. The overall amount of data requiring review continues to grow despite efforts such as changes to the Federal Rules of Civil Procedure and Judge Rader's Model Order for IP litigations in the US, discovery pilot programs in US courts, the introduction of Practice Direction 31B in the UK, and the work of the Sedona Conference, Lord Justice Jackson and others that focus on key issues such as cooperation and proportionality.

Even as document review technology has evolved from linear review to concept and analytics-based and technology assisted review (TAR) has continued to gain acceptance, the volume of Electronically Stored Information (ESI) requiring review continues to rise. In addition, the volume of ESI derived from new sources, such as social media or audio files, continues to grow.

Legal Process Outsourcing providers (LPOs), particularly those that have developed best practices that incorporate sophisticated data analytics, are well suited to handle this ever-growing volume of ESI and other discovery-related tasks, whether it involves performing Early Data Assessments, creating efficient review methodologies or providing post-review discovery and trial support. This chapter will first provide an overview of how successful LPOs deploy best practices to drive high-quality, defensible document review solutions and then discuss a representative type of matter, review for RMBS litigation, which has proven to be particularly well suited for the LPO model.

Overview of ethical considerations in outsourcing legal services

A number of regulatory bodies in the US and the UK have issued ethical guidance for attorneys who outsource legal support services. These opinions share a number of common elements: the LPO should (1) be competent; (2) preserve client confidences; (3) avoid conflicts of interest; (4) avoid aiding in the unauthorized practice of law; and (5) aid the outsourcing attorney in supervising its work.

While an LPO’s commitment to quality, transparent reporting and security should be goals unto themselves, they also serve another purpose – to give the outsourcing attorney confidence that the LPO it has selected helps the attorney satisfy his or her ethical obligations. Since an LPO does not provide legal advice, it is essential that the LPO involves and seeks guidance from the client at all stages of the review, and that it lets the client make or guide all substantive decisions. As part of best practices, most leading LPOs run a conflicts check procedure before accepting new engagements that is consistent with ethics principles.

Finally, a comprehensive security program serves to demonstrate that the LPO has taken effective measures to preserve the client’s confidences and secrets. LPOs that take security seriously use a triad of measures in order to safeguard their clients’ data: (1) personnel security, which consists first and foremost of building a culture of confidentiality by educating the workforce on the importance of maintaining data security and confidentiality. Other best practices consist of conducting employee screening and having employees sign stringent and enforceable confidentiality agreements; (2) physical security, which consists of a myriad of measures that ensure that no person or device is able to penetrate the company’s infrastructure on the one hand, and that no unauthorized data leaves the company’s premises on the other; and (3) IT security, which involves the use of technology to protect clients’ data assets through the use of continuous monitoring and electronic countermeasures to block any intrusion, extrusion or interception attempts. Such measures include firewalls, anti-virus software, extrusion prevention software, biometric access control, and encryption algorithms. Finally, having an ISO 27001-certified information security management system and passing a meticulous SSAE 16 audit, preferably by a Big 4 accounting firms allows an LPO to further assure its clients that their critical data is safe and secure.

Process matters

Even where a search or review methodology has been judicially accepted, its defensibility ultimately rests on the design and implementation of the process surrounding that methodology. As Judge Grimm explained in Victor Stanley, “[t]he implementation of the methodology selected should be tested for quality assurance; and the party
A defensible review process begins with a reliable, tested, and process dependent quality assurance programme.

Utilise a robust process

A defensible review process begins with a reliable, tested, and process dependent quality assurance programme. Internationally recognised third party certifications such as the ISO certification are generally accepted as good standards when evaluating the robustness of a process. Successful LPOs have typically received the ISO 9001 certification or other comparable certifications for their Quality Management System for document reviews.

Such certifications demonstrate that a review process has been vetted by a reputable, independent third party and serve as an important indicator of quality to clients, courts, and opposing parties. Another key element of a robust process is the effective use of data-driven quality-improvement systems like Six Sigma. Manufacturers have successfully utilized Six Sigma for decades, and LPOs have been at the forefront of identifying innovative ways to apply its underlying principles to create methodologies to track and improve quality on large scale document reviews. Most importantly, it is not enough to just have processes; it is imperative that entities adhere to such processes, document this adherence and be prepared to testify if required.

Take a quantitative approach to quality and defensibility

Use of advanced statistical concepts and data-based intelligent search methodologies also help in establishing defensibility of certain macro decisions made during the course of the review, such as culling selected review sets or not reviewing portions of the data set. By integrating these concepts into their robust processes and taking a quantitative approach to document review, LPOs help their clients make defensible decisions regarding Early Data Assessment, intelligent document reduction and the use of a technology-assisted review solution.

They establish appropriate quality-control protocols for every stage of the review, use advanced statistical concepts to select sample sets, measure accuracy and gauge performance, and then test and validate searches and search results. This last step is vital, because as Judge Grimm noted in Victor Stanley, and Judge Scheindlin cited approvingly in Pension Committee, the failure ‘to assess the accuracy and validity of
A process is only as strong as its weakest link, and even the most sophisticated process will fail without adequate human capital.

Emphasise human capital

A process is only as strong as its weakest link, and even the most sophisticated process will fail without adequate human capital. A document review process that relies on the exclusive use of permanent employees at all levels is inherently more robust and repeatable than one that only uses full-time employees at key positions or above a certain level of responsibility.

Top-tier LPOs only staff document reviews with teams of permanent employees, which allows them to invest time and resources in training these employees in all aspects of their business. As a result, an LPO’s reviewers become immersed in its processes and develop institutional knowledge of its clients’ matters, industries, documents and preferences for handling document reviews, all of which makes them more effective than teams that do not have the benefit of such knowledge gained by historical experience.

This applies beyond the ‘core’ review team as well. As fully supported businesses, top-tier LPOs have full-time experts, such as search specialists, statisticians and linguists, whose primarily role is to help build and sustain robust practices described in the previous section that assist in improving review quality and efficiency. For example, an LPO might have a separate quality group that serves as an independent check on all projects, enhances the review team’s performance on any given matter, and then takes valuable insights learned across matters and industries and applies them to enhance the quality and process stability of all the LPO’s reviews.

Maximise benefits of technology

Without the effective use of technology, be it in quality control processes, constructing and implementing the best search assays or in designing a review workflow, it is nearly impossible to efficiently and accurately review large volumes of ESI. Given their exposure to various review platforms, top-tier LPOs are typically adept at maximizing the benefits of technology and can use their familiarity with the relevant tool or comparable technology to help clients devise the best suited workflows for a given project.

An LPO’s ability and freedom to work with any review platform also allows them to gather the data necessary to measure and drive quality, and their data-driven processes are uniquely suited to help identify and fill in the gaps where technology leaves off and enhance a review tool’s strengths. In addition, LPOs understand the difference between the search algorithms particular tools employ and the implications these differences have on their processes.

Facilitate supervision by counsel

An LPO’s processes should never be a ‘black box’. At the end of the day, the client is responsible for the review and must stand behind the quality of the LPO’s work product. Among other best practices, top-tier LPOs typically work with clients to: (1) initiate project kick-off calls and project-specific training; (2) assist in Early Data Assessments and search term validations to better understand the documents and reduce risk (and cost as well); (3) tailor its workflow to account for the client’s preferences and the project’s requirements, and integrate them into its processes; (4) customise its quality processes and create an issue escalation mechanism; (5) create a reporting schedule that allows transparency into
the review; and (6) perform calibration exercises as needed to ensure teams are generally consistent in their interpretations of review guidelines.

LPOs also stay in constant communication with the client throughout the review and continuously obtain and apply their feedback. By following these practices, successful LPOs ensure that their clients have complete insight into the review, can make timely changes or improvements to the process and can appropriately monitor the review team’s performance and provide feedback, all of which allow the client to effectively supervise the outsourced work.

**Best practices in action: RMBS**

In the aftermath of the financial crisis of 2008, financial institutions faced an ongoing deluge of regulatory investigations and lawsuits, which were accompanied by extremely burdensome discovery obligations. As with any complex litigation or investigations in any industry, many elements of these matters made them conducive to using LPOs, which enabled these companies to effectively deal with large amounts of ESI in an efficient and defensible manner. In particular, one of the more high profile and common types of matters seen in recent years, RMBS litigations, proved especially well suited to the LPO model and provides a good case study for the benefits of employing the best practices discussed above.

Given the complexity, volume of documents and often repeated nature of these cases, a client must employ an incredibly robust, repeatable and defensible process for its RMBS matters. There is intense pressure to do things correctly the first time and avoid any unwanted distractions. In addition, RMBS cases are often complicated, with the documents needing to be coded and analyzed for a large number of issues. An LPO’s strong process orientation will help ensure that everything stays on track, even when facing multiple, rolling deadlines in simultaneous cases. LPOs can also help streamline complex coding by intelligent use of predictive features of major tools combined with highly customised search assays.

People are a key ingredient in designing and implementing these processes. The fact that LPOs use permanent employees exclusively at all levels of their reviews offers several benefits in the RMBS context. A company embroiled in RMBS litigation will often deal with multiple related RMBS matters over the course of several years, each with similar fact patterns, custodian profiles and document types.

Having teams that retain and apply institutional knowledge of these cases adds tremendous value in terms of (1) implementing quality assurance procedures to drive reliability, defensibility and reduced costs; (2) approaching each review with a built-in degree of sophistication and ability to think strategically about the instant matter on a granular level; and (3) aligning more closely with counsel over time. Furthermore, an LPO that has worked on multiple RMBS matters will take best practices developed on one project and deploy them across successive ones, thereby increasing efficiency and quality in a way that would not be possible with a less permanent solution. The LPO can also seamlessly scale up or down as required with employees familiar with the matter or shift gears amongst priorities with regards to simultaneous matters, productions or even workflows.

The choice of technology also plays an important role in document reviews for RMBS litigations. It is critically important that the LPO is aware of both the potential benefits and limitations of the technology being used, especially given the high degree of structured data in the review pool for such matters. In this context, for example, certain technology assisted review or predictive coding offerings can help identify potentially relevant documents.

LPOs are well suited to use such sophisticated technology, which when combined with their sophisticated analytical capabilities would greatly enhance a client’s knowledge and use of key documents. This provides clients with a strategic advantage in addition to the more obvious cost effective reason for utilizing LPOs.

**Conclusion**

Process is the key to a defensible document review, whether with regard to appropriate use of available review technology, validation of search terms, inadvertent production or any other aspect of document review that can be called into question as part of an adversarial process.

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QuisLex is a premier legal services provider offering multi-shore capabilities through execution centers in Chicago and Hyderabad, India, and provides highly innovative, value-added solutions to its corporate and litigation clients, which include Fortune 500 companies, leading US and international law firms, and large financial institutions.

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How to: Project Management

Karyn Bradley, Head of Business Law at Gowlings in Toronto, was responsible for the performance of the practice group and she was worried. Competition since 2008 had intensified and clients had grown more sophisticated and demanding. It was also clear to her that if a dozen partners were shown a list of assumptions about a matter and asked to set a price, she would get a dozen very different estimates, and that range would be discouragingly wide.

It was also clear to her that a) agreeing to assumptions with the client, and developing resource plans and budgets was increasingly important in developing competitive pricing to win business profitably (‘scoping’ and setting the price); b) increasing amounts of time were being written off for work done, but which would not be valued by the client (‘waste’); and c) inevitably the scope of some matters changed, but the scope change was not being managed explicitly with the client—the partners either wrote the extra work required off or, just as bad, got into negotiations after the fact with clients over the invoices (‘scope change’).

She discussed these concerns with Mark Tamminga, the firm’s leader, Innovation Initiatives. She and Mark agreed that addressing these issues was at the heart of providing real value to clients and running a law firm effectively as a business. So they decided to do something about it.

The first step was to assemble the right team. Gowlings had already made a start through work done by Cliff Cole, a leader in the Advocacy group, who had standardised workflow mapping and assumptions worksheet templates in a general litigation context and so he was an obvious recruit to the effort. They also brought in Jason Mervyn, Director, IT Business Solutions, and Cheryl DeMarbre, Gowlings’ Controller, to make sure the Keepers of the Keys to IT and accounting were onside.

Exploring the LPM Landscape

They then had to work out what was available. They attended conferences about pricing and legal project management where they saw that LPM was being advanced as a solution to many of the problems Karyn had identified. They also talked to other law firms that had tried implementing LPM, LPM consultants and trainers, LPM software providers, and clients.

In looking at the specific LPM software tools in the market they realised that generic tools like Microsoft Project were ill-suited to the legal context and more specific tools were too clumsy or too complex. Legal specific products were targeted at smaller firms, had LPM bolted on as a module, almost as an afterthought, to ‘matter management’ suites, or were LPM adjuncts to the major accounting systems. This last category, while attractive from a costing, integration and budgeting perspective, had offerings that were simply too complex or rigid for lawyers to weave into the fabric of their practices.

In the late spring of 2013, unhappy with the options, Mark Tamminga came across new cloud-based legal project management software called Cael, by legal efficiency-focused technology, consulting and services provider Elevate Services, Inc. Elevate was advising law firms to take a light touch approach to LPM, i.e. ‘just enough’ legal project management that allowed lawyers to work in a way that did not depart significantly from the way they were used to practicing, but allowed them to quickly and easily update an LPM system—influenced by the simplicity of LinkedIn or Facebook—in minutes each day, with ‘one touch’. Further, Elevate didn’t advocate using LPM slavishly on all matters, but rather that LPM should be used only on those matters that would really benefit from its use. The collaboration, exceptions handling and integration capabilities apparent in Cael also showed promise of checking off most if not all of the boxes on the list the Karyn, Mark and Cliff had developed.
After demos and due diligence, Karyn and Mark engaged Elevate to help them launch an LPM system at Gowlings, under the name ‘Gowlings Practical’.

Building a System of Legal Project Management

It was obvious to the Gowlings Practical team that the effort to launch meaningful project management at Gowlings could not be simply about buying software and hoping the lawyers would use it. This was about coming up with a different, better, way of practicing ‘sophisticated law’. They wanted to develop a ‘system’ of legal project management that would be widely adopted and self-sustaining through ease of use, yielding better experiences and better results. For it to be credible and adopted by the lawyers, they concluded that significant cultural change would be required and that the project would have to be ‘owned’ in-house while leveraging the experience and expertise of Elevate.

The team approached the introduction of Gowlings Practical along the following streams:

- People (Gowlings Team Members) – the roles and responsibilities of the law firm staff who manage a matter and perform legal work.
- Process (Gowlings Practical LPM Framework) – a defined repeatable structure of activities and results designed to facilitate project management.
- Technology (Cael LPM) – easy to use, cloud-based software that facilitates efficient project management by lawyers through each stage of the Gowlings Practical LPM Framework.

The first thing they did was to work with Elevate’s LPM consultants to co-develop a simple 5-step framework, based on proven project management principles, but simplified and stripped of PM jargon. This latter point was important. The senior lawyers at Gowlings — those whose buy-in would be required if this was to be a success — had grown weary (and wary) of consultant-heavy language. LPM had to be presented in a way that rang familiar. It had to look like common sense with a dash of rigor.

Each step of the framework includes:

- Activities – Specific tasks to be completed in order to successfully move on to the next step
- Roles and Responsibilities – Clear assignments of who is doing what
- Results – The outputs resulting from the activities
- Success Criteria – What successful completion of this step looks like
- How to Use Cael LPM Software – Best practice use of the Cael LPM software to complete this step

Susan Clarke, another recruit to the implementation team and Gowlings’ Director of Professional Development, set out to develop a half-day workshop to teach lawyers what Gowlings Practical LPM was and what it was not, how it could improve the way they and the firm served clients, what activities they were expected to perform and what results would be achieved at each stage. The workshop included training on roles and responsibilities at Gowlings for each stage and how the lawyers would coordinate effectively in performing the substantive legal work, especially when matters spanned locations and practice areas. These can be neatly grouped:

<table>
<thead>
<tr>
<th>ARCI – Quick Reference Guide</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accountable (A)</strong> – Person who is ultimately accountable for all decisions. Includes strategic authority, yes/no, veto and assignment powers, and final approval.</td>
</tr>
<tr>
<td><strong>Consulted (C)</strong> – Person(s) providing input or special support who should be consulted in making decisions or doing work.</td>
</tr>
<tr>
<td><strong>Responsible (R)</strong> – Person(s) performing the work, as assigned by the ‘A’. Includes tactical responsibility for doing the work, completing the tasks, and producing deliverables.</td>
</tr>
<tr>
<td><strong>Informed (I)</strong> – Stakeholders who receive updates on the work at key decision points and milestones. Includes work providers, clients, and beneficiaries.</td>
</tr>
</tbody>
</table>

**Define**

As part of developing this framework, Susan worked with some of the partners at the firm to develop a firm-wide set of templates and checklists. These would be matter (deal, case, internal management project) ‘models’ which would establish the firm’s best practice for setting assumptions and defining scope with clients, and for specifying workflow, resource-planning and budgeting. It was important that the templates be flexible enough to allow the lawyers to work according to their individual styles and to accommodate the unique characteristics of each matter.

Once these templates were built, Gowlings worked with Elevate to load them into Cael to create a library of online templates and checklists that allow lawyers to quickly develop assumption...
sheets, scope documents, budgets and fee proposals – and to be able to update them in real-time to evaluate the effect of changes in assumptions (scenario planning). By using these online tools and digging into the detailed assumptions of a matter in advance, the lawyers can identify opportunities for savings and risk factors to be controlled to prevent budget overruns.

‘Plan’

One of the important decisions made was to assign a Legal Project Manager to each matter, who was not necessarily (and most often was not) the partner in charge of the matter. Gowlings decided that the optimal project manager would be an experienced senior associate or junior partner, with an excellent understanding of each matter’s substantive requirements. This person, typically, would ensure that each matter was being managed as a project, i.e. establish milestones, break down work into its component parts, allocate resources to lawyers, make sure they knew what their tasks were and how long they had to complete them, etc.

‘Monitor’

This is where the lawyers take just a few minutes each day to ‘one touch’ toggle traffic light buttons to register the status of activities against the work assigned to them in the matter plan. Cael connects with Gowlings’ time and billing system to generate automatic status alerts based on firm-wide or matter specific rules, e.g. ‘set a yellow traffic light alert for activities where over 75% of the time allocated has been recorded, but where less than 25% of the result has been achieved’ or ‘this class of activities turns yellow 2 days before a deadline and red on the due date’.

Gowlings defined and configured the firm-wide Cael traffic light indicator logic, considering some of the following questions:

- How do we define something as being ‘on track’?

<table>
<thead>
<tr>
<th>Traffic Light Status</th>
<th>Is defined as (and should be marked when...)</th>
<th>Should trigger...</th>
<th>Should be updated...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green</td>
<td>An activity is on track to being completed on time, within budget and to the desired expectations of the client</td>
<td>N/A</td>
<td>Once a week (or as deemed necessary based on project)</td>
</tr>
<tr>
<td>Yellow</td>
<td>An activity that poses at least a 50% probability to either: Run over effort or budget by 10%, Run over duration by 10%, Produce an unfavourable outcome, or Risk getting too close to a fatal deadline</td>
<td>Correspondence between matter manager and activity owner A required status update, including details of the issue and how it may be resolved</td>
<td>Every 4 days</td>
</tr>
<tr>
<td>Red</td>
<td>An activity that poses at least a 75% probability to either: Run over effort or budget by 10%, Run over duration by 10% or Produce an unfavourable outcome</td>
<td>Email notification to matter team roster Meeting between matter team Resolution or Issue Escalation to client</td>
<td>Every day</td>
</tr>
</tbody>
</table>
At what point should we escalate risks to our matter managers? Clients?
What types of risks should trigger the escalation of an issue from Green to Yellow or Red?
What happens when items are escalated to something different than Green status?

'Manage'
The lawyers, the matter manager or the project manager can identify the ‘at risk’ activities and see how they affect the overall project plan in table or Gantt chart format.

Client status reports can be generated, customised and exported to Word for further editing before being sent to the client.

Cael LPM captures a history of any changes to the scope, activities and timekeepers and dynamically updates the ‘Unallocated Budget’, which shows how those changes affect the budget costs, with a clear indication of potential reduction in profitability of any fixed fee matters or likely budget over-run for hourly fee matters.

The monitoring and traffic light status system is designed to give firms ‘early warning’ when a matter might be creeping out of scope. The earlier the firm knows of this risk, the sooner it can take management action or communicate and discuss any scope change with the client.

'Review'
This final stage is focused on evaluating the project, identifying what could have been done better or more efficiently. Each completed project yields information, such as actual resources used and time required to complete activities, which is useful for future project planning. How accurate were the original assumptions, plan, estimate of resources, and budget? Was the timeframe and size of the project appropriate for project management? Gowlings conducts the post-completion review, including the lawyers who worked on the matter, while memories are still fresh. And where possible, they gather feedback from the client.

The library of project templates, polished over multiple matters, is a highly valuable (and highly valued) training tool for the younger professionals at a firm. How does a complex share purchase file typically ‘work’? What’s the best way to run a medical malpractice defence case? Go to Cael and see what the template suggests. Then check out how a few real files unfolded in Cael. That’s pedagogically powerful stuff.

Conclusion
Law firms can use LPM practices and tools to develop competitive pricing, including entering into non-hourly fee arrangements with more comfort. Submitting a proposal with a budget and project plan, supported by relevant assumptions, illustrates a law firm’s project management discipline and can increase a client’s confidence in the firm’s ability to deliver to budget or support why a firm’s proposal isn’t the lowest price. In the event scope changes during the life of a matter, effective LPM ensures that those changes and the associated potential for cost overrun are identified and discussed with the client early, rather than after the matter has closed, when it’s too late for anyone to do anything about it. The legal business is changing: effective LPM helps law firms like Gowlings be more competitive in today’s marketplace.

For more information please visit www.elevateservices.com/cael or contact liam.brown@elevateservices.com
Onshoring Is The New Offshoring

The US and the UK have offered the most interesting outsourcing models in recent years, says Kings Mead Square consultant Chris Bull

The tag ‘Legal Process Outsourcing’ has become established as a bit of a catch-all phrase to refer to a whole spectrum of contracting out activity and potential activity. The offshore, especially Indian, supplier market has made a bold grab for ownership of the term, but developments in recent years have demonstrated that this is by no means a phenomenon exclusive to offshoring of work. The most innovative and interesting models in the past two or three years have been built in the UK and US and show a trend towards offering large chunks of the services some law firms once offered, rather than just providing highly scripted basic processing in support of law firms or large in-house departments.

Legal Process Outsourcing (LPO) has not been around that long as an established and understood concept – or TLÁ (OK, that’s ‘three letter acronym’) either! Even so we have a strong sense that we are about to undergo a major re-set in how we define LPO. At the heart of this is the explosion of innovation and opportunity driven primarily by such a sustained period of economic uncertainty; creating a spectrum of new options and potential combinations and partnerships.

Market awareness and understanding of how outsourcing or sub-contracting elements of legal work to new businesses in new combinations has been slow to develop. However, there have been enough examples in the past five years for most law firms and corporate legal departments to form a broad understanding that this new LPO (legal process outsourcing) is defined by:

- Principally something for the largest law firms and largest corporate legal departments
- Principally (or if you are view it from there, wholly) India and offshore based; exploiting – first and foremost – labour rate arbitrage for legal staff
- A serious threat to established law firms and something they would inevitably resist or delay

The re-set we are now experiencing is driven by a much broader interpretation of what is happening here: a period of intense innovation, driven perhaps equally by corporate clients, law firms and new entrants, producing a much wider range of options and combinations for carrying out legal work with much improved levels of efficiency. There is stimulus from other changes in the legal market, notably the advent of external investment and ownership in the UK, and the changes are happening already.

Re-engineering the law

Re-set 1

The biggest opportunity for LPO business, whether spawned by law firm spin-outs or joint ventures or businesses from outside the sector, is in volume areas of law. The big bucks focus will shift heavily towards volume business and away from the relatively small-scale ‘high-end’ deals we have seen to-date.

Re-set 2

‘Onshore’ and ‘near-shore’ ventures are already growing at a rapid rate as some of the more complex, relationship driven work is opened up to sub-contracting and the attraction of assured quality and experience at a significant – but not offshore level – lower price appears to win out. For now – the opportunity for offshore businesses, perhaps particularly law firms in India and elsewhere and established BPO players in the volume processing market remains significant. But also labour rate arbitrage is being trumped by technology innovation and ‘lift and shift’ has been proven too often to frustrate lawyers un-used to their room for manoeuvre being restricted and unhappy with a perceived reduction in the overall quality of work.

Re-set 3

A growing number of law firms of all shapes and sizes are embracing the opportunity these developments offer – not only to revisit the extent to which they themselves ‘make or buy’ legal processing but, crucially, to engineer their own ‘outsourcing’ offerings for the legal market. The fact is that many corporate clients want and expect their external counsel to own this issue and are pressing these changes on firms ever harder.

The fact is that many corporate clients want and expect their external counsel to own this issue and are pressing these changes on firms ever harder.
domain knowledge in their chosen area of law and the reassurance of an ‘in jurisdiction’ operation with reduced cost.

Offshore-based LPOs can still offer a significantly lower cost-base in most cases and, in some cases, an obviously higher degree of process and technology capability. However, they have often not, as yet, been able to satisfy the reputational and domain knowledge demands of many in the legal market.

Re-set 4
Digital age technology innovations are now finally offering law firms the opportunity to deliver highly automated processes and practices. Many of these have barely been changed in many years and the potential for automation dramatically to reduce the requirement for the lower paid jobs within firms over the next few years is high.

Firms are starting to revisit the medium-term business case for large-scale relocation or outsourcing, based on assumptions that they will not, in any case, need a lot of this labour in the near future. Maintaining control of the automation of work – and therefore of the quality process – is generally seen as vastly preferable to using third parties to manage large numbers of outsourced low level staff. A belated conversion to the opportunities of automating legal work is possibly the biggest threat to the burgeoning labour rate arbitrage based LPO industry.

Re-set 5
Lawyers in-house and in law firms are beginning to embrace the long-heralded use of process improvement. As a result unbundling or deconstruction of the legal process is taking root in many types of legal team and department. Work is being separated out and firms are attempting to drive the work to the lowest cost but still effective level in the organisation.

What is happening, as a result, has two contradictory impacts for the LPO world. A negative impact is that it destroys the potential market for fairly simple ‘lift and shift’ deals, whereby the firm’s existing processes are simply continued, with the lower level work being passed out to a third party in a lower cost location.

Now, innovative and highly skilled process redesign work is required in collaboration with the firm. That is not the strongest skill set of all firms, nor of all LPOs. The positive impact for LPO is that new jobs and opportunities are being created by this process improvement work. In particular business-critical roles for paralegals are springing up that can be filled in lower cost locations.

Re-set 6
Firms have taken a sophisticated, multi-dimensional view of the Build versus Buy issue in recent years. While many firms are concluding that operating large numbers of support staff in legal and business service roles in expensive cities makes no sense, they believe that there are still strong enough arguments to maintain ownership and control of these resources. This dual conclusion has fuelled the rise in law firm ‘captives’; wholly owned offices (usually but not always new to the firm) being set up as centres of excellence in lower cost locations (usually but not always onshore).

Taken together, the multiple ways in which the LPO market is re-setting itself for its second decade represent a transformation. At the heart of this transformation is a shift towards a fluidity that sees hard boundaries around what is outsourcing in the law break down.

The spectrum of legal work that could be sub-contracted to a third party, whether by a corporate directly or via a law firm, is expanding beyond the original processing tasks envisaged by the early-stage LPO market. As this expansion takes hold, it collides with the accelerating changes in legal market structure that is seeing all kinds of new entrants arrive and many law firms reinvent themselves to compete.

Those changes are happening fastest and earliest in the more process-based areas of law and the result is a new competitive landscape that is seeing law firms, new entrants, LPOs and in-house legal departments (some of whom are now Alternative Business Structures in the UK and therefore ‘new entrants’ themselves) offering services in the same space.

This new flexibility in the market is beginning to affect the upper end of commercial, business— to-business work now, with the added impact of the large virtual or decentralised law firm models (including the likes of Axiom and Keystone Law but also extending to law firm spawned models such as BLP’s Lawyers On Demand).

At the same time, the LPO market that began life as a firmly offshore-based community, can no longer be identified with Indian or offshore locations, not least as onshore UK and US markets have seen the fastest and most innovative growth in new alternatives for corporations and law firms to outsource to. Furthermore lower cost onshore and nearshore locations have gained a lot of attention and are appealing to lawyers wanting some cost reduction but a degree of control, quality assurance and jurisdictional knowledge they are not yet convinced can be provided from offshore.

Whilst defining exactly what ‘LPO’ is has got a lot harder, the good news for potential customers seeking options and for existing and potential entrants on the supply side is that, by the same token, the definition of exactly what legal work for which LPO may not be suitable is also changing. The watchword is fluidity. Most important of all, LPO is no longer a market populated entirely by ‘LPOs’.

Chris Bull is Executive Director of Kingsmead Square, a business management consultancy working with the legal sector.
Forging a Law Department to Succeed in the ‘New Normal’

Liam Brown, Chairman of Elevate Services, and Madhup Goswami of ArcelorMittal discuss ArcelorMittal’s innovative legal department

Background
ArcelorMittal is the world’s leading steel and mining company. Guided by a philosophy to produce safe, sustainable steel, it is the leading supplier of quality steel products in all major markets including automotive, construction, household appliances and packaging. ArcelorMittal operates in 60 countries and employs about 245,000 people worldwide.

ArcelorMittal has grown very rapidly over last two decades, through mergers, acquisitions, joint ventures and privatisations as well as significant organic growth. This resulted in geographically dispersed international legal teams integrated through close regular communication and collaboration.

ArcelorMittal Group General Counsel, Simon Evans, challenged the legal team to evaluate whether the strategies which over the past ten years helped the team become a cutting edge legal department – and the recipient of many peer recognition awards – would continue to serve well in the new legal landscape.

In mid-2012 the Global Legal Leadership Team (GLLT) with the help of legal consultants Elevate Services, Inc. completed an evaluation of the current state of the legal department against the demands of the future. After analysing operations
and spend data, interviewing in-house lawyers and internal business clients, and benchmarking legal department’s performance across multiple dimensions against peers, several significant opportunities were identified:

- Better utilising internal and external resources based on significance and complexity of matter (Task-Value alignment)
- Improving productivity, service quality and quality of life of in-house legal team
- Implementing lean, globally integrated technology to support on-going operations
- Improving legal department’s perception and role as ‘trusted partners’ to the business
- Reducing outside legal spend by at least 10%

**Strategic Focus**

The Global Legal Leadership Team (GLLT) worked with Elevate Services, Inc. to develop a vision of the future through a legal strategic plan aimed at optimising legal total cost of ownership.

Four initiatives were selected for further analysis. Taking on all four simultaneously ran the risk of diluting the efforts. Furthermore, the legal department sought to achieve ‘quick wins’ that would build momentum and foster easier adoption of further legal department evolution in the future. Therefore, the legal team decided to focus first on the two initiatives with the broadest potential impact across all these opportunities.

**Implementation**

**Initiative 1: Optimising Outside Counsel Spend**

Detailed outside counsel invoice analysis and implementation of outside counsel spend management processes

To more accurately identify and quantify the savings attainable through optimising the use of outside counsel, the legal department performed a detailed global external legal spend analysis of ArcelorMittal’s key law firms by spend.

ArcelorMittal used Elevate Services Inc. to conduct this analysis, which provided the legal team detailed insights and law firm scorecards, identifying both cost savings opportunities and collaborative value alignment opportunities of up to 15% in:

- Staffing models and efficiency
- Fees, rates and cost structures
- Opportunities to unbundle legal services
- Compliance to billing guidelines
- Effectiveness of existing Alternative Fees Arrangements (AFAs)

The legal team then developed and implemented:

- Outside Counsel Guidelines for Staffing, Billing and Budgeting for ArcelorMittal law firms
- Significantly improved Request for Proposal of Legal Services to facilitate competitive bidding
- Law Firm Matrix – a global preferred law firm list based on jurisdiction and speciality of law firm, significance and complexity of matter

The legal team used the law firm scorecards in annual review meetings with law firm to give constructive feedback and to foster collaborative win-win commercial discussions, which led to several on-going cost saving benefits:

- Better aligned rates and discounts
- Expanded use and proposal of AFAs
- Optimised delivery and staffing models, including the use of alternative service providers
- Increased awareness and proactive management of billing against guidelines

**Implementation of an e-Billing and Matter Management Tool (implemented Q4 2012)**

To gain clearer visibility on spend, ArcelorMittal replaced home grown matter management and

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**Table: Possible Initiatives**

<table>
<thead>
<tr>
<th>Possible Initiatives</th>
<th>Task-Value Alignment</th>
<th>Productivity, Service Quality and Quality of Life</th>
<th>Lean, Integrated Technology</th>
<th>Establish ‘Trusted Partner’ Relationship</th>
<th>Reduce Outside Spend by at Least 10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Optimise Outside Counsel Spend</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>2. Implement Knowledge Management</td>
<td>✓</td>
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<tr>
<td>4. Implement Client Demand Management System</td>
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spend management solution with DataCert’s ‘Passport’ solution for the US legal team. The legal department aims to implement an e-billing and matter management solution worldwide. By replacing manual processes with an efficient, electronic system of capturing, reviewing and approving invoices, the legal team aims to gain several benefits.

**Initiative 2: Global Legal Knowledge Management System (LKMS) – Share, Explore and Learn (Implemented Q2 2013)**

To provide the legal department with a simple, efficient way to track, share and manage knowledge, the legal team built a Legal Knowledge Management System (LKMS) platform on Microsoft SharePoint, which also offers the legal department the flexibility to collaborate externally in the future.

A practical, straightforward approach to implementation was developed by the legal team, with clear LKMS roles and responsibilities, consistent guidelines for identifying and storing relevant information, and simple processes for system usage.

**Roles and Responsibilities**
- Knowledge Management Working Group – Overall responsibility for LKMS functionality, performance, management and enhancement
- Knowledge Managers – Active contribution to LKMS, Communication, motivation and involvement of the relevant legal team. Feedback to working group for improvements.
- Knowledge Contributor – User and Contributor to LKMS.

**Key features**
The legal department focused on capturing information in a consistent, categorical format. To ensure consistency and save time a framework was defined. The legal team also defined a methodical approach for classifying, normalising and searching relevant pieces of information, so the system would be as efficient as possible for legal department to use.

- Document upload policy – outlining the specific information that should and should not be uploaded, balancing the benefits of a Knowledge Management platform with the risks of publishing sensitive pieces of information.
- Document properties – profiling each document to enhance searching by:
  - Legal practice area concept tree of up to 4 sub-levels
  - Document category (FAQ, Contract, Template, Memo, etc.)
  - Law – national jurisdiction (UK, French, German, US, etc.)

**Summary**
Architects and engineers worldwide turn to ArcelorMittal steel for its combination of structural integrity and versatility. Internally, the ArcelorMittal organisation relies on its legal department for integrity and versatility as well. To continue serving ArcelorMittal organisation as effectively as possible, the Group General Counsel challenged the legal team to evaluate whether the departmental strategies of the past ten years would meet the anticipated challenges of the next five years. That analysis led to launch of two major initiatives:

- Optimising outside counsel spend and achieve 10%–15% savings
- Launching a Knowledge Management platform to make the global legal department more efficient and effective

By pursuing innovation in the areas of legal spend, operations and technology, the legal department have reinforced the foundation of a legal services model that will serve ArcelorMittal well for many years to come.

Liam Brown is Founder and Chairman of Elevate Services, Inc.
For more information please visit www.elevateservices.com or contact liam.brown@elevateservices.com
LPO Hotspots

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South Africa

South Africa is an increasingly attractive option for those requiring LPO services, says Thembakazi Maziko from the South African Department of Trade and Industry.

As Africa emerges as the new global economic growth frontier so to do opportunities across the continent’s industrial, natural resources and services sectors, which in turn offers opportunities for the legal sector. The legal expertise and experience of South African law firms make them attractive partners for those seeking expert local legal knowledge in mining, oil & gas and energy and low-risk market access and entry to the continent.

South Africa is emerging as a leading legal market offering quality legal services at an attractive cost advantage when compared to services offered by corporate general counsels, in-house legal departments and law firms in North American and Europe. South Africa offers the option of legal captive operations and outsourcing to established suppliers.

The success of South Africa in attracting leading international BPO and LPO investors was recently recognised by the European Outsourcing Association, which awarded South Africa its prestigious Overseas Outsourcing location of the Year award for 2013, following closely on the award by the UK’s National Outsourcing Association (NOA) for best destination of the year award in 2012.

South Africa’s political landscape
South Africa is a constitutional democracy with a bicameral parliament, a three-tier system of government (administrative, with its seat in Pretoria, legislative and judicial, with their seats in Cape Town and Bloemfontein respectively) and an independent judiciary.

Legislative authority is vested in Parliament, with its National Assembly in the lower house and National Council of Provinces in the upper house, operating under the Westminster system of government. Legislation is governed by the country’s constitution, which was signed by then President Nelson Mandela on 10 December 1996, and came into effect on 4 February 1997.

The national, provincial and local levels of government all have legislative and executive authority of their own.

Why invest in South Africa?
South Africa is one of the most sophisticated, diverse and promising emerging markets globally and a leading economy on the African continent. It has world-class infrastructure, exciting innovation, research and development capabilities and an established manufacturing base, with a sophisticated financial, legal and telecommunications sectors, which have led to a number of global business process outsourcing (BPO) companies establishing operations within the country.

The country’s political and macro-economic stability, abundant supply of semi-skilled and unskilled labour compares favorably to other emerging markets in terms of the overall cost of doing business. For professional work, labour costs are less than half those of European countries, in the manufacturing sector labour costs amount to around one-third of those in European countries.

One of the main reasons for South Africa’s emergence as a popular trade and investment destination worldwide is due to the country ensuring it can meet specific trade and investment requirements of prospective investors.

The South African Government has introduced wide-ranging legislation to promote training and skills development and fast-track the building of world-class skills and competences, coupled with a favourable demographic profile and its rapidly expanding middle class which values the role of education.

In supporting the investment environment, the government provides a host of investment incentives and industrial financing interventions that are aimed at encouraging commercial activity on such example is the special International Headquarter Company (IHQ) regime is an example that makes South Africa an attractive location for multinational companies seeking to invest into Africa.

South Africa’s unrivalled scenic beauty and reputation for delivering value-for-money make it an attractive leisure and business travel destination.

Doing Business in South Africa
The World Bank Ease of Doing Business Report 2013 Ranks the country as first in the world for obtaining credit and scores a maximum of 10 on the strength of legal rights index.

<table>
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<th>WEF Global Competitiveness Index (GCI) 2012-2013</th>
<th>The authoritative WEF GCI Report ranks South Africa globally as</th>
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<tr>
<td>Legal rights index, 0–10 (best)*</td>
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<td>Efficacy of corporate boards</td>
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<td>Financial market development</td>
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The Constitution and the law
South Africa: A Credible LPO Destination

- World-class strengths in financial services and legal domains
- Affinity with the UK
- Costs 50-60% lower than source markets
- Market leading incentives that reduce costs by 20%
- First World infrastructure
- Time zone similarities with UK and easy of access

16 Universities producing new law graduates of International calibre every year
Confidentiality & Data protection
Robust Security
Significant cost savings
First-World experience

South African High Commission
Trafalgar Square
London WC2N 5DP
+44-(0)20-7451-7251
james@sadti.co.uk

the dti Customer Contact Centre: +27 12 394 9500
the dti Website: www.thedti.gov.za
The courts are open to foreigners on exactly the same terms and conditions as South African citizens, although many commercial disputes are resolved through arbitration by agreement between the parties.

The Constitution defines the structure of the South African judicial system, which comprises the magistrates’ courts, the high courts, the Supreme Court of Appeal and the constitutional court.

The body of judges which make up the Judiciary of South Africa are appointed by the President in consultation with the Judicial Service Commission, the leaders of parties represented in the National Assembly, and, where relevant, the President of the Constitutional Court. The Judicial Service Commission is a widely representative body and includes the Chief Justice, the President of the Constitutional Court, the Minister of Justice, two practising advocates, two practising attorneys, six members from the National Assembly (including three from opposition parties) and four from the National Council of Provinces.

The legal system

South Africa operates a complex, hybrid legal system that incorporates elements of Roman-Dutch legal rules, a common law system similar to that of Britain, statutory law (acts of the national and provincial legislatures, and government regulations) and aspects of traditional African law. The law is sought in court decisions and statutes, as in English law. While many doctrines and the arrangement of the law in general are traceable to civilian heritage, court procedure owes much to the common law tradition, with adversarial trial, detailed case reports (which include dissenting judgments), and adherence to precedent.

South Africa has a mixed economy, upper middle-income and emerging market. It is ranked 76th in the world in terms of GDP (PPP) in 2012/13 and is considered a newly industrialised country.

Abundant supply of resources, well-developed financial, legal, communications, energy and transport sectors, a stock exchange that ranks among the top 20 in the world and a modern infrastructure supporting an efficient distribution of goods to major urban centres throughout the entire region and the largest energy producer and consumer on the continent.

The South African Rand has in recent years been the most actively traded emerging market currency in the world. Principal international trading partners of South Africa (besides other African countries) include China, the USA, Germany, Japan, and the UK. Main exports are metals and minerals. Machinery and transportation equipment make up more than one-third of the value of the country’s imports. Other imports include automobiles, chemicals, manufactured goods and petroleum.

South African law is founded on the Roman-Dutch law, although aspects of our law (particularly the company laws and the law of evidence) have been heavily influenced by English law. General commercial legal practices relating to transactions and the drafting of commercial agreements are generally globally applicable and in line with developed countries. There is a world-class and modern constitution (including a Bill of Rights) in place which...
regulates human rights and all legislation. Trade and industry is undertaken within the framework of a free enterprise economy. The courts are open to foreigners on exactly the same terms and conditions as South African citizens, although many commercial disputes are resolved through arbitration by agreement between the parties.

South Africa has human resources available to support the rising demand of current and future LPO services, with 20,500 registered lawyers and approximately 7,000 law graduates annually with 3,000 of those graduates being accepted by law firms to serve articles.

**BPS & LPO Incentives**
The base incentive grant is calculated on projected offshore jobs to be created based on a tapering scale and is awarded on actual offshore jobs created.

The base incentive is paid for three years (or 36 months) per tapering scale from the date which offshore jobs is created, and the bonus incentive is to be paid only in year three (3) and year five (5) where the applicant becomes eligible for it.

Offshore jobs created within the DTI’s financial year of 2013/14, will be eligible for a total grant of R88,000 per offshore job created and sustained over a three year period. Payable as follows: R32,000 in 2013/14, R32,000 in 2014/15 and R24,000 in 2015/16.

The incentive will be disbursed quarterly based on actual offshore jobs created; however a minimum of 10 new offshore jobs have to be created to qualify for the first disbursement. The requirement for a minimum of 10 new offshore jobs is applicable only to the first claim.

The project must by the end of three years from the start of operation of the new project or the expansion, create at least 50 new offshore jobs in South Africa as defined in the guidelines.

### Scotland

There are over 1,200 law firms in Scotland, employing over 12,600 qualified lawyers, and each year around 3,000 people graduate from Scottish colleges and universities, full of enthusiasm and hungry for work – further boosting this vibrant sector.

With some of the UK’s most prominent law firms based in Scotland, the range of skills and varying levels of experience come as a huge benefit to companies seeking employees with the right degree of training. The number of graduates entering the legal market remains steady with some joining the legal profession immediately while others use their legal education to pursue other avenues of employment – creating a wealth of diverse skills for companies wishing to enter the LPO sector in Scotland.

Since the emergence of the LPO market in the late 1990s the industry has grown rapidly and matured. Firms that initially outsourced high-volume, process-orientated work now recognise the opportunity to develop a multi-shoring approach with operations in multiple locations.

Scotland offers an ideal location for higher value qualitative work such as portfolio management,
Scotland offers an ideal location for higher value qualitative work such as portfolio management, elements of corporate transactional work, governance, risk management and compliance.

Scotland’s first centre for LPO launched in November 2012, with NewGalexxy providing legal services to large corporations and legal firms worldwide. NewGalexxy also has operations in London, Chicago and India.

Robert Glennie, NewGalexxy’s co-founder and executive chairman said: ‘I am delighted that of the various European locations we explored, Scotland has come out on top. Support from Scottish Development International (SDI) was a key component in our decision to build our new onshore LPO business in Glasgow.’

‘There is clear market demand for this development – and Scotland has an excellent pool of legal talent which could make it a leading base for LPO services.’

The Scottish legal workforce.
The quality of Scotland’s workforce is internationally recognised as being one of the best trained, most reliable and cost-effective labour forces in the world. With a world-renowned education system and its high ratio of graduates per capita, Scotland surpasses most countries in Europe of comparable size.

Labour market regulations in the UK, including working hours, are the most flexible in Europe, and staffing costs are highly competitive with salaries – including indirect social wage costs such as employer’s national insurance – among the lowest in Europe.

There are 12 universities in Scotland offering degree courses in law, producing over 2,800 law graduates each year. In addition, 300 people qualify through Scottish colleges, resulting in over 3,000 legal graduates bolstering this vibrant sector annually. This, coupled with the dynamic and vastly experienced BPO workforce, makes Scotland the ideal location for an LPO business to succeed.

For more information please visit www.sdi.co.uk or call +44 (0)141 228 2899.

India

India sits on top of the global LPO market, an area worth approximately $2.4 billion and rising. There...
are over 140 firms in the country that offer LPO services and the US sends more than 65 per cent of its outsourced legal work to India. By 2015, India’s LPO industry is targeted to reach $1 billion with present levels of $440 million.

India’s legal system is modelled on the English and its lawyers have experience and knowledge of both American and British legal systems. The country has 950 law schools, with about 60,000 law graduates joining each year and most legal employees possess law degrees. Private universities will offer dual degrees, such as BBA-LLB and law masters with concentrations (ie intellectual property), so firms may offer specialised services to clients. In addition to management details and delivery, India and other markets are offering additional services such as higher security on sensitive data.

Pangea3, one of the first LPOs to set up in India, is the largest private employer of lawyers in country. It has selective hiring and ISO-certified facilities to ensure quality. Like Pangea3, many of the large Indian LPO providers have established a centre in the country.

The LPO market is improving Indian economy and legal profession as a whole by providing advanced means of communication technology. In relation to cost, India is 50-80% more competitive than US and Britain. A research study from Strategic Outsourcing Journal states: ‘The average daily rate for a fully qualified lawyer based in India was US$248k. LPO provider turnover rates ranged from three percent to 34 percent, with an average turnover of 15 percent.’

India leads with an edge due to its background and skill on processing outsourcing market and IT outsourcing. According to NASSCOM, the country will export as much as $87 billion of IT services by March 2014. For India to continue in its path to success, it must create new strategies to compete against Asian countries. A threat against India’s LPO market is the almost equally low cost of labour in the Philippines and China’s target on India’s (lack of) intellectual property.

In the Legal Outsourcing Report 2013, when questioned where they would feel most comfortable outsourcing legal work to, law firms across the world relegated India to sixth place, with only 22 per cent saying they would feel comfortable outsourcing to India.

Concerns around India’s infrastructure remain, including serious problems that would cause disruption with international business. According to the Global Competitiveness Report 2012-13, India ranked up to 45 (previously 51) with score of 4.5 in terms of judicial independence, but placed 64 (previously 59) in efficiency in settling disputes. Despite doubts, India completed 36 projects worth 1.83 trillion rupees ($27.8 billion), and continues to gain further funding for growth projects in their energy, power and infrastructure sectors. Finance Minister P Chidambaram stated that banks have already invested in power sector projects this year.

As challenges continue to rise in the LPO market, India has the opportunity to show advancements in the upcoming year as it continues to address concerns and its economy improves.

The Philippines

The Philippines is the second largest outsourcing destination in Asia after India. Its history with economic and political stability make the region a strong competitor in the LPO industry. The Philippines legal system derives from British (common) law, as well as Spanish (civil) and Islamic law. Overall, the Filipino economy ranks 47th in the world with sustainable growth patterns.

Since the Philippines have an American legal system, the Supreme Court regulates Bar admission and administers Bar exams. There are about 105 law schools in the Philippines, where law degree programmes are equivalent to graduate programmes. Approximately 400,000 students graduate from college every year, creating an enlarged yet also appealing college-educated Filipino population.

As India and other top LPO locations across the globe, higher education along with cost, time...
According to Deloitte’s 2012 Australian Corporate Counsel Survey, 96 per cent of in-house legal teams outsourced legal tasks to organisations in Australia, while its legal industry’s estimated worth reaches $21 billion.

Although neither nation offers the lowest LPO pricing compared to India and the Philippines, they remain strong competitors by offering valuable skills concentrated on disaggregation and e-discovery for niche services.

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Although both LPOs are growing, Australia’s legal industry has issues concerning graduate job opportunities. The Australian Law Students’ Association (ALSA) fears the effect of LPO on graduates is damaging, with enrollment increasing as legal employment is decreasing.
Allens, a national law firm, plans to reduce its number of graduate employees and fellow firm Clayton Utz has asked graduates to delay taking up their jobs by a year in return for a cash payment. Companies that hire graduates are often assigning them to higher levels of work without the initial experience in hand.

Despite this threat, the commonality of the English legal system is an advantage. Australia and New Zealand also recognise the need for industry training to improve its economy.

New Zealand is also developing its wireless infrastructure for better bandwidth, connectivity and high-volume data transfers. The United Nations International Telecommunications Union recently ranked New Zealand 12th in development of information and communications infrastructure.

According to a 2011 Integreon study, 75 per cent of in-house and law firm lawyers believed using an LPO did not ‘diminish the brand’. Law firms are becoming more public about their relationships with LPO providers as they begin to reconsider their legal strategies. Australia-based firms include King & Wood Mallesons, Corrs Chambers and Blake Dawson.

Australia and New Zealand operations remain small compared to large-scale services in Asia, but they continue to build and expand their infrastructures and offer a large pool of more than 56,000 lawyers. Instead of attempting to conquer every aspect, the LPO markets in Australia and New Zealand may succeed by serving specific needs of law firms while also providing confidence and security.

**Brazil**

Although Brazil has yet to emerge in the LPO industry, it is already established in the business process outsourcing (BPO) and IT industries and its strengthening economy, skilled workforce and political stability suggest it will become an increasingly strong player in the LPO market. LPOs from North America may find Brazil a beneficial location for near-shore opportunities compared to Asian and European countries. Brazil also places importance on labour laws.

Brazil’s legal education system excels. Students are required to study for five years and courses cover subjects from common law to practical disciplines among more than 1,000 possible courses. Brazilian law is based on Portuguese, French, Italian and German civil law, rather than common law, which hinders English competency.

One of the main reasons Brazil is not a major LPO location at the moment is because of Brazilian law outsourcing regulations in Statement 331 of the Brazilian Superior Labour Court. Under this law, companies may outsource ‘non-core activities and business’ and if services ‘are rendered under no personal relation or subordination between the service provider and service taker’.

‘This lack of specific legislation results in an endless source of conflict and litigation involving companies, workers and authorities,’ comments the Association of Corporate Counsel (ACC).

In response, many are advocating Legislative Bill 4330/2004. Among them is congressman Sandro Mabel, who sponsored the reform. The modernised legislation attempts to eliminate ambiguity regarding whether a business outsources core or non-core activities.

Outsourcing regulation would allow for increased LPO activity in Brazil, where Sao Paulo ranked 18th (previously 13th) and Rio de Janerio ranked 38th (previously 30th) in 100 top outsourcing destinations, according to research by Tholons, a strategic advisory firm. Brazil’s top cities suffered two of the top five largest declines this year because of increased labour costs and labour strikes.

Despite rank decreases, Brazil partnered with Intel Corporation this March. This follows IBM’s decision to outsource its IT operations in 2012. Intel will spend $152 million within the next five years to improve Brazil’s research and development sectors. The company will also provide academic researchers and laboratories for Brazilian universities, in addition to curricula updates. Intel also plans to hire 80 engineers and support local software companies and developers.

The collaboration will further stimulate Brazil’s economy after it grew by 1.5 per cent in the second quarter of 2013, according to The Instituto...
Brasileiro de Geografia e Estatística (IBGE).

As Brazil continues to build international relationships, it is becoming an international country, diverse in culture and languages, but also adaptable. Upcoming developments, including preparations for the 2014 World Cup and 2016 Olympics.

**Eastern Europe**

Eastern Europe has many advantages for the LPO marketplace. Close to most major cities in Europe, it has excellent language skills and is important for the ‘near shore’ marketplace.

Off-shoring to Asian countries such as India or the Philippines may have lower costs, but near-shoring still provides reduced expenditures along with the benefits of collaborating with neighbouring countries.

The use of the civil law system may discourage some LPOs, but the issue does not hinder the potential for LPO growth. Eastern Europe offers convenience in location and time-zone similarities, which could produce work more efficiently, as well as cultural understanding that aid communication across the board. Most, if not all, of eastern European countries have a well-educated workforce.

Poland has become a top competitor in the LPO market as one of the leading outsourcing destination worldwide as reported by Jones Lang Lasalle. The city of Krakow was ranked tenth on Tholons’ Top 100 Outsourcing Locations in 2013. The country has a stable, growing economy and strong IT background. Poland’s labour costs are less than half those of western Europe and the country has a skilled and affordable workforce. Many Polish university students study IT and engineering while learning foreign languages, especially English.

Capita, an international BPO based in the UK, established a centre in Krakow in 2011. The city offers low rental prices, ideal for new establishments, and Poland also protects IP rights. The government plans to improve telecommunications and roadway infrastructures in the next few years.

Operating on a smaller scale, the Czech-Republic has a strong economy and infrastructure and is close to Germany and Austria. Prague, where 80 per cent of office space is located, ranked 17th on Tholons’ Top 100 Outsourcing Locations in 2013.

Romania offers the lowest labour and property costs in eastern Europe while improving in BPO and customer service industries. Bucharest, the capital with a population of almost two million, serves as the main outsourcing centre for Romania.

Bulgaria is an attractive geographical location for European partners. The country’s expertise lies in software and call centres, but its workforce is also knowledgeable in BPO, IT and KPO.

Other potential locations include Slovakia and Ukraine, who operate on smaller scales for in-house counsel and native law firms.

Near-shoring alternatives provide a new strategy for global businesses to consider for effective legal services. Eastern Europe offers unique advantages for European countries to collaborate and increase their economies through near-shoring LPO processes.

**China**

China’s success in manufacturing and its improving infrastructure open doors within the LPO market. As law firms become increasingly multinational and use outsourcing to reduce costs while improving performance, China, with its numerous urban centres, becomes an increasingly attractive location. Unlike its competitors in South East Asia, the country has solid structures in terms of transportation, environment and electricity/water supply.

The lack of LPO development in China has partly been the result of linguistic and legal differences. China was built upon a civil law system dissimilar to common law and the country has low proficiency in English. Though, in recent years, language competency has increased because of English language requirements beginning at kindergarten. According to the English Proficiency Index, Hong
Kong received moderate proficiency in 2012. China is the second largest economy in the world and has the potential to take its place in the LPO industry.

At the start of 2013, CPA Global opened its first office in China, providing intellectual property management along with LPO services. ‘With our regional headquarters in Hong Kong and our new office in Shenzhen, we will be able better to serve the needs of our clients in this major global market,’ said Peter Sewell, CPA Global’s chief executive officer. ‘We also plan to open offices in Beijing and other cities in China over the next 12 months.’

Shortly after CPA Global’s announcement, Integreon expanded one of its business development teams into China.

As LPO competition diversifies, China is also improving its BPO and IT capabilities, which could lead to reduced labour costs. In previous years, these served as a barrier for LPOs, but after reaching an all-time high in 2012 they have decreased and are forecasted to reach 107 index points in the next quarter.

Although China has a small presence in the LPO industry, it would be unwise to underestimate the country’s capabilities in this arena.

### Northern Ireland

Northern Ireland has made a major effort to attract law firms and corporates to its shores. Offering UK clients an advantageous balance between the benefits of keeping work onshore whilst reaping the gains of off-shoring, it has attracted a number of law firms in the past few years.

In 2011, two big law firms established delivery centres in Belfast. Allen & Overy outsources the majority of its business support work, along with some legal tasks, and Herbert Smith outsources the high-volume document review associated with dispute resolution. While as yet it is mostly only big law firms and companies (such as Citigroup) that have outsourced to Northern Ireland, given the success of these ventures and the potential of the market, LPO is likely to expand into smaller firms and specific LPO companies.

Another company, Axiom, launched a Belfast base in 2012, with plans to create around 100 jobs by 2014. The recruitment agency cum law firm received £1.1 million for the launch and a further payment of £500,000 is due for skills development.

The centre will focus on client-facing teams which will undertake complex work and the high quality pool of graduates and lawyers helped seal the deal.

Outsourcing to Belfast entails a host of advantages unique to keeping legal services in the UK: there are no linguistic or cultural obstacles, the legal system is extremely similar, travel is cheap and quick, and currency and infrastructure are the same.

The primary benefit for UK lawyers outsourcing to Northern Ireland is that they retain the quality that they would have if the work was kept in-house. The skill of the local workforce and a surplus of high calibre graduates are attractive to outsiders. Additionally, with more than three times as many law students graduating each year than there are graduate places in law firms, Belfast has a significant number of skilled young lawyers looking for work.

Northern Ireland does not have a price advantage for LPO, compared to India or The Philippines but is still substantially cheaper than other regions around the UK. Salaries in Northern Ireland are 20-40 per cent less than in the rest of the UK, or the Republic of Ireland whilst property prices are also substantially lower.

Northern Ireland is also keen to promote its LPO industry, offering financial rewards to companies investing there. Allen & Overy was granted £3 million in public funding from Invest Northern Ireland for the creation of 300 jobs, and Herbert Smith was given £734,000 to create £3.1 million annually in salaries by 2016. Its office focuses on large scale document-intensive aspects of litigation, arbitration and regulatory investigations.

It was reported that UK firms Simmons & Simmons and Eversheds had also considered heading for Belfast but decided against the move.
Republic of Ireland

Well-established in IT-BPO, the Republic of Ireland has just topped the Global Legal Post survey, beating India, the US, the Philippines and Australia to name a few as the country where lawyers globally would be most comfortable outsourcing work to. It came second in a survey of corporate legal department, beaten to the post by the US. Dublin has also been ranked 9th on Tholons’ 2013 Top 100 Outsourcing Destinations.

The country has yet to make a significant mark in the LPO market, but has signalled its interest, hosting an event in London last year to discuss the topic. With a legal system based on Irish Law and English Common Law, the Republic of Ireland has developed into a global destination for international companies, many from the USA.

Recently this year, US cloud-based management tools provider, Clio, established a centre in Dublin to expand its services across Europe. The market demands are providing job opportunities and economic growth. After establishing a centre in Poland in 2011, Capita created offices in Dublin and is preparing to employ 300 people over the next three years.

However, with a strong background in business process outsourcing -- especially at the high-end, high-skill end of the spectrum -- the country has an immediate advantage for legal outsourcing. Dublin, in particular, is known for its young and well-educated population, and Cork and Kilkenny are also active in the outsourcing industry.

Like its Northern neighbour, the Republic of Ireland can offer a variety of ‘nearshore’ advantages to UK clients. The two countries share a time zone, language and culture, making communication and shared work easy. Additionally, travel to and from Ireland is straightforward: between London and Dublin there are over 300 flights a week, lasting just over an hour, often at low prices. Furthermore, the Republic of Ireland can boast an excellent infrastructure, with the technological and telecommunications systems necessary to support international work.

The Republic of Ireland has a strong background in knowledge-based BPO and IT outsourcing. Irish BPO companies have successfully made the transition into knowledge process outsourcing, being already established in high-skill areas such as the outsourcing of health research. The demand for Irish BPO is also increasing, with the market growing at 10-20 per cent a year, and an annual turnover of €250m. Given the confident grounding in outsourcing of many Irish companies and professionals, full-on expansion into LPO seems likely to gradually occur.

Many Irish cities, especially Dublin, already have an appropriate body of legal professionals for LPO work. While the industry has ultimately limited scalability, due to the fairly small population of the Republic of Ireland (certainly when compared to places like India), there is currently a surplus of trained lawyers. Dublin’s population is renowned for being young, skilled and well-educated, and the city’s economy predominately relies upon the services industry. Furthermore, the universities are highly regarded globally.

A severe property crash, as well as an estimated 20 per cent real estate vacancy, means that the costs of setting up office in Ireland are relatively low. Although labour costs are significantly more expensive than in certain other LPO destinations, they are still favourable when compared with the cost of London workers. Additionally, pro-business government policies and a favourable tax regime -- including only 12.5 per cent corporate tax -- ensure that there are economic as well as qualitative benefits to outsourcing to Ireland.
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Events

The Luxury Law Summit
In association with the International Herald Tribune - London May 2014
The Luxury Law Summit is the new event for the international luxury and legal calendars looking at the developing challenges which will impact the business of luxury brand development and retail, providing clear analysis and positive solutions for business leaders and their legal teams. The Luxury Law Summit brings together luxury business leaders, luxury legal experts and regulators for high level networking, debate and informative roundtable sessions.

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In association with the International Herald Tribune – London 2014
This new event for the energy sector will look at the impact on companies operating in this highly visible market, examining risk and regulation, climate change, the changing political landscape and the implications of the developments in shale oil and gas. The Energy Law Summit will bring together energy business leaders, general counsel in energy companies and regulators.

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- The General Counsel Excellence Report 2013
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