



The tip of the iceberg

Derk Kropholler explains how cost savings aren't the only benefit that legal process outsourcing providers bring to the legal industry.

Change doesn't come easily to the legal industry. It has taken one of the most painful recessions on record for both in-house lawyers and outside counsel to take stock of the way they work and come to terms with having to provide a continued quality service with tighter budgets and an ever increasing in-tray of work.

As little as a year ago, the concept of the 'billable hour' was questioned by few, and viable alternatives to recruiting outside counsel to ease the pressure of completing high volume legal work were not considered. But, as the cost-saving eyes of company boards turn to their legal departments, in-house lawyers have been forced to look at the value provided by their law firms. The realisation soon came that it was no longer acceptable to pay hundreds of pounds per hour for a junior associate to carry out tasks that don't necessarily require a legal opinion and provide little clear added-value.

Here marked the renaissance of legal process outsourcing (LPO), and the concept of sending low-level legal work to teams of experienced and highly-qualified lawyers in the UK and abroad at a fixed fee. The idea was naturally met with some scepticism to begin with, and lawyers across the country wanted to see proof of the pudding before eating it themselves.

In June 2009, the first major LPO deal was made public when CPA Global announced a partnership with international mining company Rio Tinto, outsourcing contract review and litigation work to a team of lawyers in India and saving the company more than 20 per cent on its total legal spend. The news caused shockwaves across the industry and it was hotly debated whether others would follow suit. They soon did, and, over the past six months, some of the world's best known corporations and law firms have negotiated new deals with LPO providers – some publicly and others outside of the industry's gaze.

The media has swiftly responded to this radical change. Every week brings reports on how a new company or law firm has started to outsource portions of its work and the significant savings that will ensue. But what haven't been highlighted are the additional benefits that LPO brings to both clients and the sector in general.

Innovation

To some extent, LPO has become associated with the low level, high-volume work, which, over recent years, has rapidly become a commoditised offering. But LPO isn't just about cutting costs; it helps to create transparency and defines how an in-house team and its outside counsel should work.

It brings a clear workflow to an industry that, for the uninitiated, has previously been shrouded in mystery. It helps to increase the job satisfaction of in-house teams and, perhaps most importantly, it can also provide capacity for work to be carried out that has previously had to be left by the wayside. The 'process' element for LPO is critical and brings in levels of process management and performance measurement that have been unheard of in the legal industry. For the leading providers of this service, however, this disciplined approach extends far beyond volume work. In recent months, this broader 'legal services outsourcing' offering has seen providers like CPA Global taking on more sophisticated and strategic projects.

A smart and transparent approach to outsourcing

Outsourcing is not a new concept. For many years, companies and law firms have been sending elements of their IT, HR and customer services work (to name just a few) to offshore business process outsourcing providers. These companies are able to aid their clients in placing their workload into 'boxes' before 'shipping' them to the most suitable teams to complete it at a fraction of the price it would cost for the work to be undertaken onshore.

LPO, in its simplest form, takes a similar approach. However, for the leading providers, it's not just about commoditisation of low-level, high-volume legal work. It's much more about customisation, taking a tailored approach and helping clients to understand those parts of their legal work that should be handled in-house, those that should be undertaken by outside counsel and those that should be completed by the outsourcing provider.

CPA Global uses a process called the 'legal heat map' to do this, analysing client data to determine how the three-way relationship between the client, the law firm and the legal outsourcing provider should work, relative to the amount of money that the client is looking to shave from its legal spend. The output is then used to develop a bespoke legal model for the client, unbundling their legal processes, bringing transparency to their workflows and helping general counsel to develop a clear strategy for the future composition of their in-house function. By doing this, all parties involved are clear on who is doing what work at which price; a notion that has been lacking in the legal industry for decades, but significantly helps in justifying the value of a company's legal department to its board.

This transparency brings other advantages to corporate legal departments, as it enables and encourages a standardised approach across their offices and the different law firms with which they work. With three parties involved in the legal mix, it is essential that in-house teams and corporate counsel collectively use a single method of carrying out their work, so as to avoid delay when the legal outsourcing provider is involved. In a recent media interview, Rio Tinto's managing

lawyer, Leah Cooper, commented on the pleasing side effect that this standardisation has brought to her team: "Our lawyers used to have different systems local to their own offices, but by briefing the work into CPA Global, we've naturally started to standardise the way in which we work and share knowledge, which drives other efficiencies across the business."

Increased job satisfaction

It's no secret that in-house teams have had to send increased amounts of high-level, strategic work to external counsel in recent years, as corporate legal departments' in-trays fill up with more and more regulatory work, and the heads of corporate legal departments continue to battle with the challenge of internal capacity. This approach has been known to cause difficulties, with in-house lawyers feeling like they are stuck with the grunt work, while their outside counsel gets to work on 'the good stuff'.

By transferring work such as contract review, legal research and litigation support to an outsourcing provider, in-house teams are freer to concentrate on the higher level, more strategic work, helping them to develop their careers and encouraging a higher level of job satisfaction. This, in turn, drives the team's competence and helps to secure a happy and productive working environment.

The lawyers on the legal outsourcing side of things don't get a bad deal out of it either. CPA Global's main offshore delivery centres are based near Delhi in India, where more than 500 qualified attorneys and specialists form an extension to the legal teams of a wide variety of corporates and law firms across the world. India currently produces more law graduates than there are jobs available in firms and corporations. Those who do end up working in-house or for outside counsel don't get the same opportunity to expand their careers by taking on international work across a range of industry sectors in the same way as they would working in legal outsourcing. This makes outsourcing industry an attractive option for both graduates and experienced local lawyers, and enables CPA Global to pick some of the most able professionals in the country to provide an exceptionally high quality of service to clients.

Multi-shore outsourcing

For a legal services outsourcing provider to really be able to service its clients effectively, it's essential that not all roads lead to India. One of the key components of effective legal outsourcing is flexibility, and with law departments increasingly having to manage work in multiple jurisdictions, the ability for their supplier to offer a multi-shore approach significantly boosts the opportunity to outsource. Additionally, clients feel most comfortable when they have options. Some are happier to outsource locally, and then branch into off-shoring when they've grown more confident in the concept. For others, strong onshore relationship management plus high quality and cost efficient offshore delivery capability is a great combination.



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New opportunities for legal services outsourcing

As new outsourcing deals have settled in over recent months, and the effects of the resulting transparency and standardisation have begun to take hold, more opportunities have also been revealed for outsourcing providers to supply additional value other than cost savings. Of particular note is the prospect for outsourcing providers to identify areas where clients are exposing themselves to risk, having been forced to shelve certain aspects of their legal work in the past. As workflows for corporate legal departments have increased, in-house teams have found themselves prioritising work to get the most important projects done. Inevitably, less pressing or visible work, such as contract management, has to be left undone, rather than being sent to outside counsel, where the return wouldn't match the investment.

This sort of situation can easily expose companies, and it has done for years. There are instances where corporations have thousands of historic contracts stored out of the way in remote warehouses for example, which in-house legal departments have never had the time or capacity to properly review. This sort of job can be too expensive to hand to outside counsel, but can cause significant potential risk if no one is aware of which contracts are valid, which are causing them to lose money and how an individual contract could be located if it was needed at short notice as litigation evidence. Legal outsourcing providers are able to pick up on these risks and offer a solution for a manageable and fixed price, by making electronic records of each document and informing the client of which of them may cause an issue in the future.

As legal outsourcing providers begin to identify additional methods of adding value to clients' work, a new door opens to their future potential. Over the coming year, it seems more

and more likely that legal outsourcers won't just take on clients' volume legal work, but will assume a consultative role, offering services and advice on aspects of work that don't necessarily require a legal opinion.

Outsourcing providers are perfectly placed, for example, to cost effectively partner with corporations, helping them to structure their records and improve their legal risk profile. As in-house legal departments continue to face an increase in regulatory work, the need to prepare for the threat of litigation – instead of reacting to it – becomes a priority. The cost of bringing outside counsel to carry out this work can be astronomical, yet the risk is too great for the issue not to be addressed.

Six months ago, in-house legal departments were the champions of legal outsourcing, attempting to avoid the pitfalls of the billable hour. Today, we are seeing law firms proactively partner with outsourcing providers in a bid to offer a complete fixed-price package to clients who need support in dealing with low-level legal work. In the future, it is likely that legal services outsourcing providers will take on an additional consultative role for clients. There's no denying that legal outsourcing can significantly reduce overheads for corporations and law firms alike, but as this young and rapidly developing industry continues to grow, the potential additional benefits of a legal outsourcing provider also gain in number. Cost saving is just the tip of the iceberg. *FDLegal*



Derk Kropholler is vice president of legal services outsourcing at CPA Global. He can be contacted at dkropholler@cpaglobal.com

Matthew Flinton and Kelly Hendley outline the benefits of partnering with a legal services outsourcing specialist.

In-house legal departments are increasingly recognising the value of partnering with legal services outsourcing specialists, such as CPA Global, to build flexible and reliable networks to support their busy in-house teams. Such was the case with Bupa Care Homes, which turned to CPA Global to provide a contract review solution in 2009.

Bupa Care Homes is one of the UK's largest providers of care to older people and it forms part of Bupa, the UK's leading independent health and care organisation.

Operating in such a fast-moving and heavily regulated industry sector, it's not surprising that much of Bupa Care Homes' legal department's time and resources are expended on keeping up-to-date with industry regulations. Matthew Flinton explains: "By far our biggest area of work relates to regulation, compliance and government relations. With, on average, four or five consultations taking place at any given time, keeping up with government and legislative requirements is a key challenge for us."

Flinton says that the Bupa Care Homes' internal legal team has been developed and organised in such a way as to specialise in the company's specific legal needs – for example, in the areas of property, regulation and dispute resolution. It also calls upon external counsel to take on some forms of specialist legal advice, particularly major litigation and acquisitions, that the team can't manage in-house or specific practice areas, such as insurance claims. However, Flinton says that all core legal work is managed internally, "as we have the day-to-day expertise and inside knowledge in our core specialisms that law firms just wouldn't be able to master".

This can put high levels of pressure on the internal team at busy times, which in turn can result in lower-value, routine tasks being delayed, potentially exposing the organisation to a higher level of risk or resulting in internal customers experiencing delays in service delivery.

"The challenge with managing core work in-house is that the team often has other more pressing work to complete, so tasks like contract review can easily fall down the list of priorities," Flinton explains. "On the whole, this isn't a massive issue, but it can be critical in some instances – for example, contracts need to be signed before adult residents can be admitted into any of our homes, so any delay on our part can impact on them profoundly."

Kelly Hendley agrees: "Many of our residents are funded by local authorities or the NHS, which requires us to manage a vast number of contracts. In theory, we should have a contract with every local authority and NHS trust in England and Wales, and the vast majority in Scotland. If these contracts

were standard across the regions then they would be simpler to manage, but in fact they can vary greatly."

Part of Hendley's role when she joined Bupa Care Homes in 2007 was to consolidate the company's contract management practices. But, she says that she quickly discovered that there were not only a lot of contracts to review and process, but that they also tended to be very hefty in size.

The team decided to partner with a legal services outsourcing provider to deliver contract review support services in order to assist the internal team and increase turnaround time. "It was a first toe in the water for us," Flinton explains, "but the potential benefits outweighed any doubts I may have had. We were instantly comfortable that CPA Global was the right organisation for us. The implementation has been faultless and the team is a pleasure to work with".

Since November 2009, Bupa Care Homes has had three dedicated CPA Global lawyers in India and one UK-qualified lawyer in London. The team reviews 15-20 contracts a month on behalf of Bupa Care Homes, generating a report to a specification defined by the in-house team and guaranteeing a minimum three-day turnaround time.

"CPA Global reviews the contracts for us and produces a report that replicates the work that our in-house team used to do," Flinton explains. "The process is very streamlined and reliable. CPA Global spent a lot of time scoping out our requirements and continues to deliver on them."

Hendley agrees: "We drew up a detailed review profile with the CPA Global team at the beginning that outlined the key things that we wanted to know from the contract and particular areas that we needed to assess before proceeding to signature. That means that rather than having to review the entire document ourselves, we just need to look at those elements we are most concerned about. You would not believe how much time the project has released for me."

Flinton has been so impressed with CPA Global's delivery that he has recommended legal services outsourcing as a solution to other areas of Bupa's business. "I can't speak about legal services outsourcing companies in general," he concludes, "but I would definitely recommend CPA Global as a provider. There's no real limit on what the company could do from a legal support service perspective". [FDLegal](#)



Matthew Flinton is head of legal and Kelly Hendley is a legal adviser at Bupa Care Homes.