



# MAKING LPO WORK

*As the LPO business grows in scale and scope the pressure on organisations at least to investigate its potential benefits is simultaneously increasing – but not everyone in-house sees this as a positive development. We take a look at some of the impacts of the rise of the LPO model – and how to make it work for you...*



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The UK and US legal markets are in the throes of change. With depressed economies, rising client exasperation with the status quo and, in the UK, the entry of new competitors following liberalisation this year, traditional law firms are facing a range of challenges. It is this backdrop which makes the rise of the still-nascent legal process outsourcing (LPO) industry so potent.

who are actually doing anything of interest with LPO, ignoring that one time where the client twisted their arm to use a team in India for a week-long project, is markedly lower.

Interestingly, the vast majority of progress in this area has come from in-house legal departments. They have not only done the highest-profile deals, but by being actually motivated to work smarter since they aren't paid by the hour, have made the most

will have to re-engineer their organisations (and economic models) to keep up with the demands of clients and the brutal reality of a better and lower-cost way of delivering legal services.

The tension today, though, between most law firms and the LPO model is stark. Legal process outsourcing is not like the typical outsourcing industry, replacing the non-core back office work. Despite the protestations of the industry, LPO is a direct attack on the

### THE SLOG PART OF DISCLOSURE EXERCISES HAS FOR YEARS BEEN SEEN AS BELOW THE PAY-GRADE OF QUALIFIED LAWYERS, AND HAS BEEN SUBJECTED TO A NUMBER OF PROCESS AND TECHNOLOGY IMPROVEMENTS. LPO IN THESE AREAS IS JUST THE NEXT LOGICAL STEP – AT LEAST TO THE CLIENTS

LPO's growth has to date been fuelled by one-off large document review projects, usually for litigation disclosure exercises, but increasingly for merger and acquisition due diligence. These types of projects are important, and certainly lucrative to the suppliers, but of limited interest to outsourcing connoisseurs. The slog part of disclosure exercises has for years been seen as below the pay-grade of qualified lawyers, and has been subjected to a number of process and technology improvements. LPO in these areas is just the next logical step – at least to the clients.

However, LPO providers offer a broader range of services, with suppliers moving up the food chain to provide sophisticated commercial contract support. This work is far more potent in terms of LPOs challenging the core work of law firms and is the type of service we are focussing on in this article. This work may be being performed either on- or offshore by the supplier.

#### LPO'S PLACE IN THE MARKET

The number of law firms who have declared that they are "happy" to use LPO providers is high. Some have even gone so far as to set up a panel of preferred suppliers, raring to go at the first opportunity that comes along. However, the number of law firms

progress in adeptly moving services outside the organisation.

And, while statistics on the use of LPO by in-house legal departments remain relatively scarce, some estimates show that the global market for LPO is approaching USD\$1 billion annually and rising at a rate of 25-35 per cent per year.

Our perspective is relatively unusual. Alex and a number of other former (and repentant) big law partners set up a law firm in London specialising in outsourcing that was premised on fixed fees and using LPOs for junior work to support senior onshore lawyers. Kevin, a former big law lawyer in New York and advisor on outsourcing, spent six years on the leadership team at a major LPO provider as GC and head of the provider's Corporate Practice, before recently joining a boutique firm in New York that also uses LPOs for junior work. Kevin's former company now employs over 1,000 lawyers in the US and India.

What we have seen actually work in practice has convinced us that standardisable junior legal work is going offshore (or to low-cost onshore centres) whatever the opinions of lawyers in the UK and US as to how the world should be. So although this still feels like frontier territory right now, we are convinced that law firms

law firm market, replacing some of the most profitable work for law firms (lots of junior lawyers spending thousands of hours on disclosure and due diligence exercises) that law firms traditionally considered "core" services. The "process" component of LPO alone is a significant mind-shift to most US and UK practitioners, and when coupled with rates that are often discounted by 70-80 per cent from their law firm counterparts, it is clear that LPO is not as easily embraced by the affected practitioners as we've come to expect in the traditional ITO and BPO outsourcing paradigms.

#### SO HOW CAN YOU MAKE LEGAL PROCESS OUTSOURCING WORK?

##### What are you trying to achieve?

Like all outsourcing projects, the starting point is a clear definition of goals. These can vary widely for LPO and may lead to very different arrangements, but without understanding why your organisation needs to do LPO, you are preparing for failure.

LPO is currently thought of primarily in terms of labour arbitrage and short-term savings. But the standardisation and process that LPO both requires and provides mean that risk management can be a goal in its own right; one that increases in relative importance to your organisation over time. Another goal may be to improve

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"You cannot do today's job with yesterday's methods and be in business tomorrow." – Nelson Jackson



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### STATUS CALLS SHOULD OCCUR WITH REGULARITY (AND TYPICALLY MORE FREQUENTLY IN THE BEGINNING OF THE ENGAGEMENT) AND BOTH PARTIES NEED TO COMMIT TO ADDRESSING ACTION ITEMS AS QUICKLY AS POSSIBLE

the productivity (and happiness) of your organisation's lawyers who can focus on more satisfying, higher-value work and assume a more strategic role in the business aspects of such transactions.

#### Are you ready for this?

Before leaping into working with an LPO supplier you should have a real think about whether your firm or department, as an organisation, is ready. Despite the claims of law firm marketing departments, declaring that you are willing to work with LPO suppliers, or that LPO providers are to be used going forward, is really not the same as being prepared to implement. We can assure you that many forward-thinking companies have failed at LPO simply because they themselves were not ready to invest the proper amount of time and resources in the undertaking.

LPOs are highly process-driven and metric-focussed companies. They actively look for ways to standardise processes and are excellent at managing variation. They are looking to make work repeatable, not bespoke. This approach can be a jarring contrast to the traditional western model of law as art, where every lawyer is an artist and commoditisation is a mortal sin. To lift and drop activities outside the four walls of the firm or department requires that the work is at least recognised as repeatable and there are some processes in place to implement the same. Similarly, do you have – and properly use – document management, workflow and other tools in place that can help manage this flow?

#### Doing your research

As a relatively young industry doing your research on the suppliers is essential. You should talk to your peers (recognising that there are major differences between legal



departments in some industry sectors) to get a real view of what works and what doesn't. There are also now a few consultants in the market who can offer a nuanced perspective on what works, what questions you should be asking your colleagues and suppliers and which suppliers should be on your list.

As with ITO and BPO, a lot will come down to finding a supplier who is right for you and your organisation. This is a long-term investment requiring real commitment and daily interaction. So most important of all is making sure that you and the team who are going to lead the interactions are really happy with the supplier. This means site visits and talking to more than just the sales team. You're also going to want to look at:

- the size and capitalisation of the organisation, as there are more than a few suppliers operating out of bedrooms;
- the security standards that the supplier has adopted (although a level of pragmatism should be applied here, given that the major LPO providers are now operating to standards far higher than your average external law firm);
- the culture of the organisation, including recruiting and training standards and methodologies, the career paths of the lawyers and the turnover rates. Does the company actually understand legal services or is it an ITO or BPO supplier that has bolted on some law graduates? Conversely, does this company actually understand process, because purely lawyer-driven organisations haven't historically been particularly strong on this front!

#### MAKING LPOS WORK

In parallel with assessing your readiness, establishing your goals and doing your research, you will need to understand, with a fair degree of detail, what the relationship



"Even when laws have been written down, they ought not always to remain unaltered." – Aristotle

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with the LPO will need to look and feel like on a day-to-day basis.

Typical items to implement include:

● **Communications protocols:** the best LPOs are masters of structured communications, so much so that it may be jarring at first. Be clear on how instructions and feedback will be given, and how issues will be escalated and resolved. Status calls should occur with regularity (and typically more frequently in the beginning of the engagement) and both parties need to commit to addressing action items as quickly as possible.

● **Perform activity analyses on your most common transactions:** this is not as difficult as it sounds, and should probably be occurring within every legal organisation anyway. The value of doing this exercise in the context of LPO is that it provides the foundation for both parties to understand which activities need process improvement, and which of those process improvement initiatives can be turned over in whole or in part to the LPO.

● **Preparing playbooks (also referred to as guidebooks):** playbooks are often key to the success of the overall LPO initiative, and even where they are not, both parties learn an immense amount about the client's approach to risk management and negotiation tactics just by undertaking the exercise. There is often a stigma around playbooks that assumes they're only valuable in the most simple, most commoditised of transactions. Our response to this is that if your firm is comfortable using a form document for a transaction, then that transaction is also perfectly suited to the use of a playbook. The playbook is essentially the form document plus a significant level of transactional guidance. Who wouldn't want to have that as a tool for managing risk and creating contractual



consistency across various stakeholders and jurisdictions?

● **Ownership of the relationship:** less tangible but nonetheless critical, there must be clear relationship responsibility on both sides of the engagement. Much like ITO and BPO, we have found that these relationships often end up serving as advocates for the other party with their own teams, and this can be critical particularly for the client. Not every lawyer embraces LPO; many view it as a threat to their career. The fact is that it is not a threat to anyone who provides value to their employer, and that must be stressed to everyone involved in the relationship. We've seen far too many LPO engagements sputter due to "jealous guardians" at the client who look for ways to question the value of the engagement. These people should instead be encouraged to become "benevolent custodians" of their work, secure in the knowledge that the success of their own interactions with the LPO provider will improve their standing with their employer.

### CONCLUSION

The value and advantages offered by LPO are clear when you see it in action. However, this is an area that requires a close long-term working relationship with the supplier and you can't just throw a problem over the wall. LPOs are perfect for ramping up over time; there is no need for a big bang transformation. Our recommendation is therefore to start early and get going on learning how to make this work for you. 📌

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#### EVEN MORE

For much more on LPO, see our regular online column "The LPO Perspective" by Mark Ross, indexed at <http://www.outsourcemagazine.co.uk/mark-ross> – and numerous other articles on the Outsource website

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@EpicFacts: Crazy Law: It is illegal to hunt for whales on Sundays in Ohio.

