Re-engineering legal services

How traditional law firms are – finally – learning to embrace alternative working practices

A REPORT BY
JOMATI CONSULTANTS LLP
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About this Report

This is the fifteenth Jomati report on key issues affecting the legal market. The report focuses on three market developments where traditional law firms are seeking to update their approaches to legal services delivery: the rise of the law firm-operated low cost centres; the gradual acceptance of client-facing legal project management and process improvement; and the engagement of contract lawyers in addition to law firms' permanent fee earners.

Jomati Consultants would like to thank all interviewees who took part in this research report for their valuable insights regarding the roll-out of their various initiatives.

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About Jomati

Jomati Consultant LLP was awarded the Queen's Award for enterprise: International Trade 2012. The award recognises Jomati's success in growing its international revenues year on year and for advising an increasing number of clients globally.

THE QUEEN'S AWARDS FOR ENTERPRISE: INTERNATIONAL TRADE 2012

Contact Information

Jomati Consultants LLP
3 Amen Lodge, Warwick Lane
London EC4M 7BY
United Kingdom

Principal, Tony Williams. Contact: +44 (0)207 248 1045, tony.williams@jomati.com

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Disclaimer and Thanks

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Introduction

In the past few years, it has become increasingly apparent that legal services can be delivered by methods other than the traditional law firm partnership. For example, legal process outsourcers (LPOs) have demonstrated that it is possible to "disintermediate" low value legal work, and deliver it to clients from a low cost location. Elsewhere in the legal market, a small but dedicated band of law firm pioneers have repeatedly demonstrated that long-established project management techniques can successfully be applied to the legal sector. Finally, the rise of non-law firm entities offering "contract lawyer services" (CLS) have proved there is a clear demand for freelance lawyering, from clients and contract lawyers alike.

Faced with these increasingly established alternative legal services delivery models, a small – but growing – band of traditional law firms have decided to embrace these working practices for themselves. Some mainstream law firms have taken a leaf out of the LPOs' book, and launched their own low cost centres (LCCs). Others have sought to challenge their rivals 'points of differentiation' by developing their own legal project management (LPM) capabilities. And, having observed the recent proliferation of contract lawyer services, a small group of traditional legal practices have decided to launch their own equivalent offerings. Perhaps not surprisingly, many of the firms going down this route are large US or UK-based legal practices – but not exclusively so. Change is also being driven by smaller legal practices operating in locations as diverse as Canada, continental Europe and Australia. Law firms operating in locations where Anglo Saxon firms have a minimal presence cannot, therefore, afford to be complacent that they will remain unaffected by such market developments.

Until very recently, the number of law firms embracing these alternative working practices was exceptionally small. Indeed, it was not unusual for law firm launches of similar developments to be announced years apart. But, in the past few years, there has been a noticeable increase in the number of such roll outs, which are now being announced on a monthly, if not weekly, basis. Given that such developments continue to remain newsworthy due to their novelty, it would be premature to claim they are rapidly becoming a prerequisite for client instruction. However, we have arguably now arrived at the point at which proof of concept has been reached.

Of course, introducing far reaching changes to long-standing working practices is never easy, especially within the particular dynamics of the law firm partnership structure. But, as the number of law firms embracing such changes increases, the strategic options open to them – and the implementation challenges they face – is now becoming better understood. This, then, is the aim of this Jomati report. For each of the market developments discussed in this study, we do not seek to suggest a single "right" delivery model, or offer an exhaustive toolkit for launching such a service. Instead, having interviewed many practitioners with first-hand experience of their own firm's service rollouts, it has been possible to identify some of the most common delivery options open to law firms, and the challenges – and opportunities – which those various options entail. For firms planning their own response to the issues raised in this study, we hope you find our report useful.

Chapter one: the rise of the law firm low cost centre

Today, many of the world's largest legal process outsourcers (LPOs) have offices in numerous low cost locations around the world[1]. But, until very recently, only a handful of law firms globally operated their own "captive" low cost centres (LCCs) – essentially internal, non-client-facing support offices. However, in the past two years, there has been a sustained step-change in new LCC openings. During that time, at least 11 additional LCCs are known to have launched (see table 1, page seven: How large law firms have recently begun to embrace low cost centres).

To date, most firms which have launched LCCs are large US and UK headquartered legal practices, which typically employ at least 1,000 lawyers globally. However, there are now signs that the nature of firms going down this route is broadening, both geographically and also in relation to such practices' total lawyer headcounts. Within the past two years, at least three firms employing fewer than 400 lawyers – US practices Kaye Scholer[2] and Sedgwick[3], and Canadian practice Torys[4], have also opened such centres. The relatively modest size of these firms suggests the LCC phenomenon has the potential to be embraced by hundreds of similarly-sized practices around the world.

These three firms are not only "on trend" in relation to their decision to open an LCC – they are also on trend in terms of their chosen LCC's locations. Historically, Asia was the region of choice among law firm LCC pioneers. For example, both Baker & McKenzie[5] and White & Case[6] now have long-standing LCC operations in Manila, capital of the Philippines, while Clifford Chance's LCC is based in Gurgaon, India[7]. By contrast, Kaye Scholer, Sedgwick and Torys have opted to follow an alternative geographical approach pioneered by Linklaters[8] and Orrick[9] in the mid-1990s and early 2000s: launching "nearshore" operations closer to their main offices. Kaye Scholer's recently-established LCC is in Tallahassee, USA, Sedgwick's is in Kansas City USA, and Tory's is based in Halifax, Canada. Many other firms which have opened LCCs in recent years have also opted to nearshore rather than offshore.

For any firm now considering launching their own LCC, the experience of their competitor practices to date suggests there are a number of discrete drivers of the phenomena, and also a range of options open to them, in terms of what form their LCC should take, how it should be staffed, and where it might be located. The development of such facilities arguably also has wider implications for such firms, notably in relation to the career progression of future fee earners.

1 http://www.chambersandpartners.com/15649/1783/editorial/2/1
2 http://www.kayescholer.com/in-the-market/news/firm_news/20150604-kaye-scholers-tallahassee-operations-center-celebrates-second-anniversary
3 http://www.sedgwicklaw.com/kansascity/
4 http://www.torys.com/about/news/2014/07/introducing-the-torys-legal-services-centre
5 https://bmglobalservicesmanila.silkroad.com/bmglobalservicesmanila/About_Us.html
6 http://www.dsmmanila.com/
7 http://www.oscsl.in/
8 http://www.thelawyer.com/linklaters-it-answers-call-of-essex/95862.article
9 https://www.orrick.com/News/Pages/orrick-s-global-operations-center-celebrates-10th-anniversary-13686.aspx

The different types of LCC – and how they have evolved

Of those LCCs established during the past two decades, arguably the main point of commonality between them is that they are intended to operate as support functions for the firm's main branch network – clients rarely instruct LCCs directly. Indeed, such is the low-key nature of some firms' LCCs that their existence is not always mentioned on their practice's main website.

Around the time of their initial establishment, many LCCs established to date have taken on one of two distinctive forms:

- As a centre for delivering back office support functions, which may include roles such as accounts, document processing, IT, marketing or HR.
- As a centre offering traditional partner or associate led legal services – but typically delivered in a manner distinctive from the main law firm offering. This might include work undertaken on a fixed fee basis or at a substantial discount compared with main office rates.

Among those LCCs which initially launched on a "back office" only basis, some have since gone on to broaden their offering to also include a legal capability. However, the type of work undertaken at such centres, and the type of legal employees recruited, is typically different from those LCCs which were established with a dedicated legal capability from the outset. With one or two notable exceptions, legally focused LCCs tend to focus on work of intermediate complexity, and are staffed by a small number of relatively senior lawyers. By contrast, LCCs which started life with a back office focus and then subsequently developed a legal capability are often much larger, sometimes employing 100 plus law-related personnel. The larger legal headcount of this second type of LCC operation can be explained by its typical workload: frequency, document review, discovery / disclosure and legal research – essentially, matters which might otherwise be handled by an LPO. Perhaps not surprisingly, such operations tend to be highly leveraged. Here, a relatively small number of qualified lawyers will often be responsible for supervising large teams of comparatively junior legal researchers, the majority of whom will not be bar association members.

Where a firm has subsequently extended the scope of its LCC offering to also encompass both legal and non-legal matters, some have chosen to offer both services from the same location, albeit with each function typically managed separately from the other. Alternatively, other firms have opted to establish multiple LCCs in different locations, with each centre performing its own discrete range of tasks. Although many firms who have established LCC operations to date have opted to establish in a city where the practice has no existing offices, some have opted to co-locate their LCC in the same building as an existing branch. This approach typically occurs in locations where the firm's branch office is, itself, already operating in a relatively low cost location, or where the location has a favourable reputation for specialising in shared services. In either scenario, the LCC is typically managed as a standalone entity. This governance regime enables the LCC to experiment with new ways of working, largely free from day-to-day partner interference or obstruction.

TABLE 1: How large law firms have recently begun to embrace low cost centres

Year opened	Firm	Location	Typical non-legal functions	Typical law-related functions
2010	**Wilmer Hale**	Dayton, USA	Finance, information services, human resources, operations, practice management	Document review, e-discovery / disclosure
2011	**Allen & Overy**	Belfast, UK	Finance, information technology, HR	Discovery / disclosure, document review and drafting, due diligence, financial services, litigation review, research, patent work
	Herbert Smith Freehills	Belfast, UK	None	Real estate asset management support, document review, due diligence, commercial contracts
2012	**Pillsbury**	Nashville, USA	Accounting & finance, HR, IT, marketing, risk management, document production	Litigation support / e-discovery
2013	**Ashurst**	Glasgow, UK	Business development, business services, compliance and risk, finance, HR, IT	Document review, due diligence, KM, research
	Kaye Scholer	Tallahassee, USA	Accounting & finance, document processing, HR, IT, marketing	Legal research
2014	**Berwin Leighton Paisner**	Manchester, UK	Accounting & finance, IT, risk and compliance	Real estate, real estate disputes ligation, real estate finance, corporate, litigation
	Fish & Richardson	Minneapolis, USA	Accounting & finance, HR, IT	Patent practice
	Hogan Lovells	Birmingham, UK	None	Corporate, finance, litigation, real estate
	Linklaters	Warsaw, Poland	Finance and accounting, marketing, risk	None
	Torys	Halifax, Canada	None	Contract review and drafting, corporate reorganisations customary banking and securities documentation, `due diligence
	White & Case	Tampa, USA	Finance, HR, IT, KM, Marketing	None
2015	**Baker & McKenzie**	Belfast, UK	Accounting, HR, IT, communications	Professional support lawyers, patent agent, immigration and IP paralegal work
	Latham & Watkins	Manchester, UK	BD, change management, HR, IT, office management	Document review, due diligence, legal research
	Freshfields Bruckhaus Deringer	Manchester, UK	BD and marketing, change management, document support, HR, IT, office management	Transactional legal services support
	Sedgwick	Kansas City, USA	BD, finance, HR, IT, marketing, new business	KM
	DLA Piper	Warsaw, Poland	Administration, finance, HR, IT, marketing	None

A captive alternative to LPOs?

Firms who opt to establish an LCC do not, inevitably, terminate their existing relationships with outsourced service providers. On some occasions, firms simply take a "horses for courses approach", depending on the nature of the work undertaken at the LCC and the type of work previously outsourced. However, on other occasions, the opening of the LCC is specifically intended to allow the firm to bring previously outsourced work back in-house[10].

Irrespective of whether an LCC represents a replacement for, or alternative to, an outsourced provider, the explanations offered by firms who have established their own captive centre often emphasises the fact that the LCC is under direct operational control of the parent practice. This organisational form, it is often perceived, can help ensure the quality of its offering:

> *"Quality control was a big factor in our firm deciding to nearshore, rather than adopt other alternatives. We wanted to have control over the work and the hiring of the people. Cultural fit was also important."*

The decision to establish a nearshore – rather than offshore – LCC can also offer firms an additional level of comfort in relation to quality, where the prospect of establishing a low cost operation further afield is viewed as being a step too far:

> *"Rightly or wrongly, there is the perception that offshore represents a vulnerability in terms of quality. Nearshore is more comforting because you can go there, touch it, feel it, meet the team."*

For some firms, simply launching an LCC facility in order to compete with LPOs was not – in itself – sufficient guarantee of quality. In order to be successful, the LCC has to demonstrate that it is a superior proposition in its own right, in comparison with alternative offerings.

> *"We are still competing with the LPOs, both externally and internally – so we have to be good. There's no compulsion for our firm's lawyers to use [our LCC] team."*

10 http://www.thelawyer.com/linklaters-moves-10-financial-processes-staff-to-warsaw-after-outsourcing-contract-ends/3031780.article

Drivers of the LCC phenomena

For firms that have already established LCCs, an explanation offered by several was that the move was driven, at least in part, by the need to win new clients or retain existing ones.

> *"The issue of whether or not we had an LCC was becoming a very specific part of requests for proposals (RPFs), particularly in the financial services sector. For some companies, if you haven't got an [LCC], you won't get on their panel."*
>
> *"In pitches, having [an LCC] allows us to answer the question of 'what have you done that's innovative or different?'. We can also tweak our price points in a way that wins the work. Our [LCC] is therefore very much part of our client offering."*
>
> *"Clients told us that, while we remained a key firm on their panel, they also needed us to show a real reduction in our fees and cost base – they were also under cost pressure internally."*

More widely, however, there is also reasonably strong evidence to suggest that many in-house lawyers have little interest in the finer details of the law firm LCC proposition, and therefore cannot be relied on to act as cheer leaders for such innovations. For example, in a 2014 survey among general counsel, conducted by *Legal Week*, only a quarter of respondents said they would question the value of work performed by a law firm which did not operate an LCC[11] – hardly an overwhelming endorsement of the business case for doing so. Similarly, a survey published by UK legal magazine, *The In-House Lawyer*, found that just 11 per cent of in-house counsel have encouraged their law firms to explore "offshoring" or "northshoring"[12] – a reference to the use of lower cost service centres in the northern part of the UK – in order to deliver value services. In truth, the lack of direct client pressure on their law firms to establish an LCC is perhaps not surprising, given the back office nature of many LCCs. Indeed, even among legally focused LCCs, it is rare for a firm's clients to instruct the LCC directly, rather than via the firm's relationship partner. The experience of many in-house counsel of using a firm's LCC is therefore, often, indirect.

Client considerations are, however, just one factor that has driven a select number of law firms to establish their own LCC. And, because back office and legal service-focused LCCs offer a distinctive range of services, it is perhaps not surprising that law firms who have gone down either route tend to offer a range of explanations for why they chose to establish their support offices.

11 http://www.legalweek.com/legal-week/news/2373206/near-shoring-one-in-four-gcs-would-question-value-of-work-from-firms-without-low-cost-option

12 http://www.inhouselawyer.co.uk/index.php/component/content/article/10324

In relation to back office-driven LCCs, explanations for their establishment offered by law firms tend to focus on the revenue saving or personnel utilisation improvements they can offer the firm. These improvements can be achieved by some or all of the following:

- Transferring support functions to lower cost premises, typically in less expensive cities. Real estate cost savings achieved by relocating support functions to lower cost locations can potentially exceed 50 per cent, depending on the location the service is now offered from.
- By recruiting personnel in low cost locations on salaries that are lower to that previously paid. While it is not unusual for firms establishing an LCC in a new city to pay premium salaries compared with local firms, even premium local rates can amount to a 30 per cent saving compared with equivalent labour costs in the firm's main branch office locations.
- Achieving economies of scale by the better utilisation of support personnel. For example, it might be possible for six LCC personnel to undertake the same tasks from one centralised location that were previously undertaken by eight different people in eight different offices.
- As a tool for avoiding duplication of support resources in advance of the firm's planned geographical expansion. Essentially, the establishment of an LCC means that firms can avoid establishing separate support functions in each of the new locations in which they open.

Table 2: Real estate savings possible as a result of UK legal practice nearshoring

City	Firm	Location	Floor space taken (sf)	Advertised rate / price paid for building (psf)	Prime market rate for city – H1 2015 (psf)[13]
Birmingham	**Hogan Lovells**	Colemore Plaza	7,620[14]	£27.50[15]	£30.00
Glasgow	**Ashurst**	Clydesdale Bank Exchange	25,000	£23.00[16]	£29.50
Manchester	**Berwin Leighton Paisner**	76 King Street	8,900	£25 - £30[17]	£32.00
	Freshfields Bruckhaus Deringer	One New Bailey (from 2017)	80,000[18]	£28.50[19]	£32.00
	Latham & Watkins	1 Marsden Street	6,055	£27.00[20]	£32.00

London comparator psf (at 2015 prices): cost estimates range from £45.00[21] to £65.94[22]

13 National Office Market Review: CBRE Research, H1 2015
14 http://www.core-marketing.co.uk/2014/11/colmore-plaza-secures-hogan-lovells/
15 https://www.realestate.bnpparibas.co.uk/upload/docs/application/pdf/2015-02/bham_offices_jan_15.pdf?id=p_1622165
16 http://ukproperty.cushwakeproperty.com/property-type/office/glasgow-waterloo-street/
17 http://www.primelocation.com/to-rent/commercial/details/35142706?search_identifier=992f048f0ff4b77520bbf5aa40fddad5#vPeM9uVJfhiTIMgx.97
18 http://www.manchestereveningnews.co.uk/business/business-news/freshfields-open-long-term-base-10317723
19 http://property.joneslanglasalle.co.uk/property-search/property-details.aspx?t=c&id=JLLATC55879
20 http://www.costar.co.uk/en/assets/news/2015/April/IVG-secure-Latham--Watkins-for-1-Marsden-Street/
21 Law in London – more for less: squeezed fees, focus on costs and intensification of office space. CBRE, 2015
22 http://www.thelawyer.com/the-lawyer-uk-200-2015-which-firms-are-getting-the-most-out-of-their-property/3038936.article

As headline figures, potential real estate savings for opening an LCC outside London are reasonably impressive. However, in order to make a tangible difference to the firm's bottom line, the ability to scale is a vital consideration. Consequently, among those back office-focused LCCs established to date, it is not unusual to employ between 100 – 200 personnel, depending on the size of the parent law firm and the range of tasks the centre is required to perform.

> *"At our firm, we might ultimately hire up to 200 people [to our LCC]… You've got to transfer a lot of roles over time in order to make the whole process viable….If we only transferred 50 people they'd never have been a business case for doing so."*

For firms who offer legal services from their LCC, legal-specific considerations also played a part in their decision to establish the facility. These considerations included:

- The LCC is established as an alternative to, or to replace, the firm's own LPO usage.
- It is established as a defensive measure in anticipation of increased competition from new market entrants. Generically, one source of new competition might include LPO vendors. More specifically, in the UK, it was felt that the market access liberalisation facilitated by the Legal Services Act 2007 would prompt new, lower cost providers to enter the legal marketplace.
- By starting with a "blank sheet of paper" in a new location, a firm had an opportunity to create a new way of delivering legal services within an existing law firm structure. Innovations undertaken by LCCs include offering fixed price rather than hourly-rate based services, and flexible / contract working for LCC personnel.
- Operating an LCC means the firm's main office associates are no longer required to undertake low value, repetitive legal work for which they may be overqualified or not cost effective to deliver.

In contrast with back office-focused LCCs, the financial benefits of launching a low cost legal centre can be different. This is because legal services LCCs tend to be smaller than their back office equivalents, and therefore yield lower overall real estate and labour cost savings. However, savings can be achieved in other ways, depending on the nature of the legal work undertaken. For example, some firms' legally-focused LCCs have decided not to replicate their firm's partnership structure, and therefore do not employ partners in those locations. Other LCCs require their fee earners to be generalists, in order to maximise their utilisation. Some also offer flexible, project-based employment options, which helps minimise personnel costs during quiet periods. The cumulative effect of overhead savings and alternative working practices can be dramatic: clients using LCC services can be offered discounts of 30 – 50 per cent compared with main office rates. These savings can, in turn, enable the firm to win work it would previously have been uneconomical to undertake.

> *"Some clients tell us they're happy to use our main office for some matters, but they can't afford to use us for others, on the basis of our normal hourly billable rate. Here, the discounts we can offer can range from between 30 – 50 per cent."*
>
> *"There are areas of practice where we're just too expensive at our [main office] base. By operating here, we are able to become more price competitive."*

If discounts of 30 – 50 per cent seem dramatic, and also potentially unsustainable, the experience of some firms who have gone down this route should provide reassurance to their peers. One firm, whose LCC discount can reach up 60 per cent in certain situations, told Jomati that:

"We're not making a lower margin [in our LCC] – if anything, we make more money. We can operate as a profit centre, mainly because we're a very lean team. We work in that way because there's always the risk that people will think: 'It's all too much effort – all those people'. The minute we don't make a margin that causes the partners to say: 'Ooh, that's good', it's over."

Nevertheless, one Jomati interviewee insisted that describing their support office as a "low cost centre" was unhelpful, because the reason for its establishment was the firm's desire to undertake work "better and faster". If savings arose out of their centre's launch, they said, those savings were a result of such changes, rather than a key objective in its own right. "If you only look at things from a cost perspective, you miss the much more significant opportunity to improve the way things are done – which delivers benefits both internally and to clients," this practitioner said.

Selecting a location for an LCC

Financial considerations aside, arguably the second most important consideration for any firm considering launching an LCC is the ability to recruit suitably qualified personnel. For back office-led LCCs, locations with a proven track record in shared services are highly favoured. By contrast, for law firms where the focus of their LCC will be legal services, a main consideration is the availability of local legal talent. However, even within this sub-set of LCCs, legal talent requirements vary from firm to firm. Where the legal services to be delivered by an LCC are intended to be associate level or above, firms tend to establish in secondary commercial legal markets in any given jurisdiction, where lawyer wage costs are low but recruits remain easy to source. Alternatively, firms whose LCC legal offerings more closely resemble LPOs have tended to locate themselves in locations which boast a constant supply of law graduates, but which are not – necessarily – major commercial legal centres in their own right. In either scenario, the ability to recruit personnel who are qualified in the specific jurisdiction in which the LCC will operate is not always regarded as an overriding consideration. This is because legally-focused LCCs are typically intended to act as a support function for the firm's main branch offices, rather than serving the local market in which the LCC happens to be located.

"The nature of the work [in our LCC] is such that our team can be qualified in any jurisdiction, because we do not practise local law."

"The location we selected has a highly regarded law school and a large pool of lawyers from which we can recruit. It's also a very liveable city, which makes it easy to attract the right people."

Among those LCCs which are, at launch, intended to be back office only, some have nevertheless opted to establish in locations which offer both shared service expertise and legal capacity, in order to "futureproof" how their LCC might evolve in the future. The alternative to this approach is, of course, to establish multiple back office and legally-focused LCCs in separate specialist locations.

Perhaps not surprisingly, given that most firms who have established LCCs to date are headquartered in either the US or UK, this has often led such firms to look favourably on English speaking jurisdictions as preferred locations for their LCCs. Indeed, for some firms, the desirability of recruiting native English speakers has outweighed other considerations, such as the additional cost savings which could be achieved by establishing in other locations. Essentially, a decision has been made that the cost savings achievable by, for example, establishing in Central or Eastern Europe rather than a regional UK city are not sufficiently large that they can justify such a choice.

"English language capabilities were a crucial consideration for where we ultimately located. When we went to several lower cost locations, including those in Poland and the Czech Republic, it was difficult to find people who were not only fluent in English but also understandable to our lawyers working in our international offices. That's what led us to open in the UK."

Another highly relevant, and commonly cited, preference for firms establishing their LCCs in specific locations was accessibility. Indeed, for some firms that had gone down the nearshoring – rather than offshoring – route, an ideal LCC location was one where it was possible to make a round trip from the practice's main office to the LCC in a single day. In other situations, accessibility was defined by reference to easy airport links to the firm's principal office. And, for those firms establishing an LCC in the mainland UK, a highly-specific – and repeatedly cited – accessibility requirement was rapid rail links to London, on the basis that practitioners could work on the train while travelling to and from the LCC. Ideally, short journey times were preferred. However, this consideration had to be weighed against real estate cost implications, and also the supply of suitability qualified personnel.

> *"Our [LCC] office had to be based in a low cost location, so that ruled out most locations within the M25 [motorway]. Guildford might have been an option, but we felt it didn't have enough lawyers. In order to recruit, we had to choose a major legal centre."*

UK firms' particular preference for travelling to LCC centres by rail also had a knock on effect on the specific buildings within a given city that some firms were willing to consider. Although grade A offices were often readily available on the outskirts of candidate cities – sometimes at considerably lower cost than their city centre equivalents – those responsible for deciding precisely where their LCC should be located nevertheless tended to reject this option. Two access-related reasons for preferring a city centre location were offered: firstly, a more central location would make it more attractive to potential recruits; and secondly, that the additional cost saving that could be made by basing the LCC in an out of town location were not sufficiently large to justify the inconvenience for firm employees, both locally and also for those visiting from the firm's main branches.

> *"Lots of people can get to the city centre. As soon as you place yourself on the outskirts of the city centre, you're limiting the talent pool of people that are likely to want to come to work for you. Also, considering the amount of space we need, saving an additional £8 - 10 per square foot doesn't make a huge amount of difference."*
>
> *"We have regular two way traffic to and from [our LCC]. Therefore, being within walking distance of a railway station was a key consideration. Being in a central location also means that we're round the corner from other law firms."*

The LCC location: other factors which firms say are – and are not – relevant

Overall, financial, personnel and accessibility considerations appear to be the "big three" drivers of firms establishing their LCCs in specific locations. However, other considerations identified by individual law firms who have gone down this route include:

- Data protection considerations: in which locations would law firms – and their clients – feel comfortable / permitted to store the data?
- IT latency – the amount of time it takes data to travel from one location to another. Even very small delays caused by data travelling large distances can irritate users of IT systems.
- Local employment laws. One firm interviewed by Jomati had actively decided against establishing an LCC operation in a mainland European jurisdiction because local labour laws made it difficult for the practice to hire and fire LCC personnel as required.
- Tax considerations and currency risks. Operating an LCC in a jurisdiction where the firm already operated helped mitigate against tax complexities and exchange rate fluctuations.

The availability of Government grants were described by various Jomati interviewees as being a "nice to have", but "not near the top" of their firm's LCC location selection criteria. Although headline figures for grants awarded are often substantial, it is worth noting that they are typically offered on a multi-year basis, and therefore do not have a very high value annually.

Table 3: State support given to law firms when establishing their LCCs

Firm	Location	Benefit received
Allen & Overy	Belfast, UK	In 2011, Invest Northern Ireland provided £2.5 million of state-backed assistance to fund up to 300 jobs at Allen & Overy's soon-to-be launched Belfast-based LCC[23]. More recently, in 2014, Invest NI has also provided additional funds, worth a further £860,000, to the firm in order to support 100 additional jobs and associated training[24].
Ashurst	Glasgow, UK	Shortly after launching in Glasgow, Ashurst was awarded a grant of £2.4 million from Scottish Development International to part-finance the further expansion of its LCC. The grant, issued under the regional selective assistance programme, was intended to fund 10 per cent of LCC employees' salaries over a two-year period[25].
Baker & McKenzie	Belfast, UK	In 2014, Invest NI provided £1.28 million of support to Baker & McKenzie's Belfast-based LCC. The funding was intended to support 256 jobs at the centre[26].
Herbert Smith Freehills	Belfast, UK	HSF initially received £208,000 of support from Invest NI to help fund the first 26 jobs in its Belfast-based LCC[27]. This was followed by additional support worth £734,000 to fund a further 49 positions over a five-year period[28].
Kaye Scholer	Tallahassee, USA	Kaye Scholar's new Tallahassee LCC benefitted from Florida's Department of Economic Opportunity qualified target industry (QTI) tax refund, a financial incentive linked to local job creation. The incentive was worth around US$448,000[29].
Orrick	Wheeling, USA	The state governor's "guaranteed work force program" helped fund the first 73 employees of Orrick's Wheeling-based global operations centre in 2002. Additional support under the same scheme has since been provided[30].
Sedgwick	Kansas City, USA	Press reports suggest Sedgwick's 100-employee Kansas City launch benefited from up to US$2.87 million from the Missouri Department of Economic Development under its Missouri Works Programme[31]. Funding was reported to be conditional on the firm meeting job creation targets[32].
White & Case	Tampa, USA	In 2014, White & Case's new Tampa LCC benefited from a US$300,000 incentive package under Florida's QTI programme. The incentive was worth US$3,000 per role created over a six year period[33].

23 http://www.investni.com/news/foster-announces-major-investment-by-international-legal-firm.html
24 http://www.investni.com/news/law-firm-allen-and-overy-announces-100-new-jobs.html
25 http://www.thelawyer.com/ashurst-set-to-receive-24m-grant-for-glasgow-as-development-agency-targets-law-firms/3034038.article
26 http://www.investni.com/news/world-s-largest-law-firm-baker---mckenzie-announces-256-jobs-in-belfast.html
27 http://www.investni.com/news/leading-international-law-firm-establishes-base-in-belfast.html
28 http://www.herbertsmithfreehills.com/news/news20110630-hs-belfast-office-official-opening
29 http://www.floridajobs.org/business/EDP/EconomicDevelopmentIncentivesReport.pdf
30 http://www.wvcommerce.org/business/successstories/governorsguaranee/ohsgoc.aspx
31 http://www.bizjournals.com/kansascity/news/2014/02/07/287m-in-state-incentives-helped.html
32 http://missouribusinessalert.com/industries/41311/2014/02/10/state-incentives-help-lure-law-firm-bringing-100-jobs-to-kc/
33 http://tampaedc.com/white-case-opens-services-center-in-tampa/

In light of law firms' preference for nearshoring rather than offshoring, it is perhaps not surprising that time zone considerations were not generally regarded as a significant LCC location criterion.

> *"Our location means we arrive at work a bit earlier than our firm's other offices – but this wasn't a big factor in us deciding to locate here."*
>
> *"I just don't think time zones are a big issue. If you're taking the type of work that can be insourced to [our LCC], it isn't usually very time sensitive anyway – you're normally given 24 hours to complete the work."*

Perhaps reflecting its increasingly Asian focus, Herbert Smith Freehills' recently announced[34] LCC launch in the Western Australian city of Perth is perhaps not surprising. But, in the medium term, most firms contacted by Jomati showed little interest in pursuing a similar strategy, and launching nearshore operations to serve all of their offices globally. Various explanations were given for this reticence, including that their main focus was currently on getting their first LCC established. And, while it was recognised that establishing an LCC in Asia might allow European and US focused law firms to "follow the sun", this consideration has to be balanced against the fact that most of these firms' Asian operations were simply not large enough to warrant such an investment.

> *"At the moment we have no concrete plans to open [an LCC centre] in Asia, but we will continue to review our strategy as our existing centre develops and grows."*
>
> *"Between the US and [our EU LCC], we can cover most of the working day for 95 per cent of our lawyers. And, while these operations can only cover part of the working day in Asia, the demand in that region just isn't strong enough for us to justify opening another LCC locally."*

One law firm representative, however, took a radically different view to the Asian issue. Their preference was to open an Asian LCC – but not simply to provide nearshore support for the practice's regional offices. Instead, they said, such an operation would represent the next step in the gradual decoupling of the LCC tasks performed and the specific location from where that work was undertaken. Effectively, the practice's first – Europe based – LCC has operated as "proof of concept" for a new way of working, which the firm was now exploring how to globalise. For this individual: "it doesn't matter where the work is performed – what matters is that the work is done well, that it's well managed, and that it is delivered in a cost effective way. In light of that, I absolutely am looking at Asia, so that we can leverage time zones to further improve our service."

Launching an LCC – employment considerations

For firms who have chosen to establish an LCC, the next logical step is to decide what form the establishment of the centre should take. There are, essentially, two options:

- The "big bang" approach: the LCC is launched with a large number of personnel from the outset. This is typically accompanied by large scale redundancy in the firm's main offices for existing employees who are unwilling to relocate to the new LCC.
- The gradualist approach: essentially, as the LCC slowly expands its capabilities as personnel working at the firm's main branch offices depart.

In recent years, many of the LCC openings have adopted the "big bang" approach, particularly in situations where the roles being transferred are back office, rather than legal practice, related. Perhaps inevitably, this approach has often proved controversial[35]. Here, a particular source of consternation has arisen when branch office redundancy

34 http://www.lawgazette.co.uk/practice/herbert-smith-freehills-opens-pop-up-support-centre/5051501.article
35 http://www.rollonfriday.com/TheNews/EuropeNews/tabid/58/Id/3842/fromTab/58/currentIndex/14/Default.aspx

announcements are accompanied by confirmation that the firm will receive state subsidies to part-finance replacement roles in the newly-established LCC[36]. In reality, the level of subsidy per employee offered in many grants awarded to date is often quite small – typically in the low thousands of pounds per role – and also short-lived (see table three, page 14: State support given to law firms when establishing their LCCs). As a result, any financial benefit the firm receives from such a subsidy is unlikely to significantly mitigate against the cost of the associated main office redundancy programme. Nevertheless, it should also be appreciated that state subsidies typically incentivise firms to undertake a big bang LCC relocation. This is because grant funding is often conditional on certain headcount targets being met within agreed timescales.

Among those firms which opted to adopt a more gradualist approach, it was accepted that – by doing so – significant cost savings would take longer to materialise, because those savings were dependent on the LCC achieving a certain scale:

> *"We wanted to avoid hiring lots of people in one big hit, because we wanted to prove our case before we scaled up. Ultimately, the roles in our existing offices will be replaced, but we also wanted to avoid a big redundancy wave. In the short term, we know our approach is going to cost us money, but in the long term it'll be sustainable when we achieve scale."*

Once established, it is perhaps inevitable that a firm's LCC will impact on the career opportunities available in the firm's main offices. Not all roles now undertaken at the LCC will entirely disappear at the firm's main offices – out of necessity, some tasks can only be undertaken on-site. However, there is often a shift in the allocation of such roles between the firm's branch offices and its LCC. For example, some law firms have now begun to offer training contracts at their LCCs, while also hiring fewer trainees in their principal office locations.

For firms who have launched LCCs, the question of internal labour mobility will invariably arise. Should new recruits be recruited with the explicit intention of developing their career in the LCC, or should internal redeployments be permitted? Here, attitudes vary between firms – and also show signs of changing over time.

> *"We make it clear to new recruits that they've been recruited to work in [our LCC]. We don't really want people moving to [our other offices]. Their career is here."*
>
> *"When I started [our LCC], I said you're coming to work for me here – don't expect to go to [our other offices]. That's proved to be completely wrong!"*
>
> *"We operate as a single global law firm with a consistent culture. A regular flow of people between [our LCC] and our other offices is essential in maintaining that."*
>
> *"There's a high level of inter-office integration. In the past two years there have been at least 50 incidences where our [LCC] legal professionals have worked for an extended period in our other offices. So far, we've had around seven permanent relocations and around 10 three to six month secondments."*

Although different firms take different views on whether recruits to their LCC should be able to relocate to the practice's main offices, there is a higher degree of consensus about the ultimate career track for a typical LCC employee: for most firms interviewed by Jomati, an LCC-based career was not one likely to result in partnership. For support service focused LCCs, this is perhaps not a surprising observation – even when bar regulations permit, few firms currently offer partnership to non-legal employees. But, even among legally focused LCCs, it is perhaps understandable why partnership is often not a realistic prospect. For firms whose LCC are specifically intended to

36 http://www.thelawyer.com/news/people/cuts-and-redundancies/ao-confirms-up-to-155-london-layoffs-ahead-of-belfast-launch/1007825.article

operate in a different manner to their parent practice, it would arguably be illogical to offer the prospect of partnership to senior LCC employees. Additionally, for firms who regard the ability to generate new work as a prerequisite for partnership, the fact that LCCs generally do not have their own clients will tend to preclude LCC employees from that particular career trajectory.

Measuring success

Given the level of investment which the establishment of an LCC may require – which may run into millions of pounds – it is perhaps not surprising that law firms who have launched their own low cost centre typically produce a detailed business case for doing so. As a result, firms are often able to evaluate the success of their new operation in terms of metrics such as labour and real estate costs savings or space utilisation achieved. However, there was also a marked divergence of views among several firms interviewed by Jomati regarding whether it was appropriate to expect their LCC to adhere to detailed performance metrics or service level agreements [SLA] once it had been opened. To the extent that any pattern of behaviour could be established, it was arguable that firms were more willing to enforce performance metrics on LCCs which has a predominantly back office focus, compared with those LCCs which mainly or exclusively focused on legal tasks.

> *"There are pretty clear service level agreements between [our back office LCC] and the rest of the firm, but there aren't for the legal services side. In a sense, the legal side is just another office."*
>
> *"Although we track our performance within our new centre, we don't operate any specific performance metrics or SLAs to measure how it supports our teams across the globe. The whole ethos is that the centre is integrated into the rest of the firm, and is therefore an office like any other."*
>
> *"We treat [our LCC] as being one of our offices – when someone picks up the phone, you want to feel a cultural connection with the person you're speaking to. At the same time, we also have SLAs in place, and measure them tightly."*
>
> *"Within our processes [at our legally-focused LCC], we do a lot to clarify roles, responsibilities and expectations in writing, but it's not like a contract. It's our way of saying 'this is what we do, and this is how it works'."*

Conclusions

Today, law firms which operate an LCC remain a minority, even among the world's largest practices. What is more, the establishment of such centres typically require a great deal of effort: a lengthy evaluation of numerous possible locations, the careful weighing of considerations, difficult decisions regarding possible redundancies, and – often – a partial departure from firms' familiar partnership-focused career structure. But, as the number of firms who have gone down this route continues to grow, and the savings that can be achieved becomes more apparent, there is a real danger that firms who do not explore their LCC options will become progressively less cost competitive. Clients may not be demanding that law firms establish LCCs, but they clearly do care about the ultimate outcome of this phenomenon: law firms' ability – or not – to offer more for less.

Chapter two: legal project management and process improvement

The trend by law firms to establish low cost centres is a highly visible form of legal practice innovation. By contrast, another emerging change – the rise of legal project management (LPM) – is a noticeably more low-key development. While the LPM concept occasionally enters the profession's consciousness as a result of reports in the legal press[37] and specific law firm marketing initiatives[38], evidence of this below-the-radar phenomena is more typically hidden away in job adverts placed by law firms[39] and legal recruitment agencies[40] which are now actively seeking LPM specialists.

In itself, the use of project management in law firms is not new. Historically, however, project managers with legal sector experience tended to be based in law firms' IT departments, often working on the rollout of new legal IT solutions. But recently, legal sector project manager roles' have begun to diversify, to also include assisting law firm fee earners on client matters[41]. Interestingly, this trend is not jurisdiction or firm size-specific: practices adopting client-facing LPM include a 250-lawyer firm based in mainland Europe and a 750-lawyer North American practice.

What is LPM?

In order to understand what role legal project managers perform, and how LPM can benefit law firms, it is necessary to first understand the basics of project management, as understood in the legal sector. As a concept, project management encompasses a wide range of methodologies and individual components[42]. However, the essence of LPM is fairly straightforward: a legal matter of any significance is treated as a standalone "project". Each project is then broken down into a series of overarching phases and, within those phases, individual tasks. When a matter is decompiled in this way, the intention is that it should be relatively straightforward to staff, and therefore produce a defined budget for – often a key LPM objective.

Initial responses to LPM from fee earners

Among those firms interviewed by Jomati who had embraced LPM, several admitted the innovation was often met with a mixture of incomprehension, suspicion or hostility:

> *"When talking about LPM, one of the first hurdles I have to cross is the perception that: 'what I do isn't a project – why do you call it a project?'"*
>
> *"When I tried to explain that our firm had an LPM resource, and what LPM was, I received what I describe as a 'village idiot' stare – people were asking me: 'what do you mean?'"*

At the other end of the spectrum, one practitioner observed that some lawyers already believed they were skilled in project management. Unfortunately, evidence from other departments within the same firm told a somewhat different story.

> *"Over many years, I've had numerous conversations with corporate lawyers who claim to be good at project management. As a non-corporate lawyer, my rejoinder is: 'in that case, why is it that I'm often called in to produce a couple of key documents – vital to allow the deal to go ahead – at the last minute?'"*

37 http://www.legalweek.com/legal-week/news-analysis/2419956/efficiency-drive-top-firms-ramp-up-investment-in-legal-project-managers-to-meet-client-demands
38 http://www.seyfarth.com/legal-project-management
39 https://www.allhires.com/dentons/PositionDetail.aspx?id=386
40 http://www.totumpartners.com/insights/project-planning
41 http://www.thelawyer.com/exclusive-hsf-to-roll-out-legal-project-managers-across-firmwide-practice-groups-this-summer/?nocache=true&adfesuccess=1
42 https://en.wikipedia.org/wiki/Project_management

In light of this unfortunate mixture of suspicion or overconfidence towards LPM, it is perhaps not surprising that several firms who have launched formal LPM programmes in recent years have done so with caution. This caution typically manifests itself in a reluctance to become overtly wedded to specific project management methodologies, or to bombard practitioners with an excessive amount of project management jargon. Instead, several practioners interviewed by Jomati explained how they had "customised [existing PM techniques] to fit in the legal space…so it doesn't just sound like text book speak". Effectively, what is often rolled out is "project management light", or "just enough project management" to allow for the "structured delivery of legal services."

> *"[LPM] is not going to work if it just adds overhead to a lawyer's day. From the very beginning I said: 'we have to eliminate the jargon from this effort – Six Sigma, black belt, yellow belt, scrums, adroit. We have to make it look like common sense'. LPM actually works quite well. It's very simple: you need to scope the project; you need to plan it; you need to monitor it; you need to do a briefing after the event to review how it's gone. At our firm, LPM really does boil down to those four things."*

The role played by clients in relation to the LPM phenomena

In light of the frequently-encountered resistance to the LPM concept among a firm's fee earners, it would arguably be helpful if there was a clear client demand for its deployment. However, research undertaken by Jomati suggests that explicit client demand for LPM is, at best, patchy. Certainly, several firms regarded their LPM capabilities as a point of differentiation compared with their peers, which in-house lawyers were often keen to learn more about. However, there was also a perception that, because awareness of LPM varied hugely within the corporate counsel community, LPM often remained a curiosity rather than an essential prerequisite for instruction.

> *"I wish there was pressure on the client side..but they're not there yet. One of our clients that is doing it, who are keen – they are already a project-driven company."*
>
> *"Three years ago, many people didn't even know what LPM was – you'd have to spell it out in an email. To the extent that potential clients asked about our LPM capabilities in their RFPs, they were asking us to 'tell us about your LPM capabilities' – you could tell they weren't even sure what the right answer might be. It was very random. Now, something like 90 per cent of the RFPs we receive ask us about our LPM capabilities. They also often ask very specific questions."*
>
> *"Now, clients are frequently asking if we have a project management person or team. But sometimes, they ask us questions which suggest they don't know what they're looking for. It's something they want their outside counsel to focus on, but I don't think they're necessarily looking for a specific solution."*
>
> *"[Interest in LPM] depends on the sophistication of the client. Financial institutions are there, they want it. We get RFPs that not only ask us if we do project management but also our specific methodology, and how many matters we have under administration."*

In reality, it is perhaps not surprising that client demand for LPM is, at best, partial and often exploratory. In much the same way that clients consistently demand "more for less", but are noticeably less interested in the method by which law firms achieve that objective – for example by establishing low cost centres – so client pressure in relation to LPM is mainly focused on outcomes, rather than internal mechanisms by which that outcome is achieved. Here, a commonly cited explanation offered by law firms for embracing LPM is the ability to offer clients pricing certainty and transparency – for which there is tangible demand, especially following the great recession of the late 2000s. Often, therefore, LPM is viewed by law firms as a mechanism for achieving that object, rather than – necessarily – an end in itself.

"Our LPM initiative started as a result of client demand, due to legal departments trying to manage their legal spend…they wanted cost predictability."

"When the great crash came, clients started telling us 'we need to have a budget'. Well, in order to have a budget, you need to understand the scope of the work you're asking us to undertake."

Other drivers of LPM

Although client pressure can sometimes – indirectly – prompt law firms to adopt LPM, research undertaken by Jomati suggests that additional internal and external drivers have also played a part in its increasing usage.

Internally, the need to maintain the firm's profitability was cited by several firms interviewed by Jomati who have embraced LPM. For one firm, a key driver for their LPM initiative was to avoid a repeat of a scenario where a "botched quote" for a major piece of litigation, undertaken by the practice on a fixed fee basis, had "hurt the firm a lot", and resulted in the "complete evaporation of our profitability". This practitioner described the event as being akin to "a train wreck", which has transformed the firm's finances from being "a really good year" to one where "people began yelling 'bring out your dead'." Another practitioner offered a less extreme explanation for why their firms had embraced LPM, but which arguably represented a more pernicious threat to their practice's profitability – write offs and write downs.

Developing this point, one practitioner explained how their practice deployed a carrot and stick approach regarding write-downs, as they sought to impose their firm's LPM methodology:

"[Our LPM team has] begun to show our teeth a little bit. Now, we say to our lawyers: 'If you've done a file outside LPM and there's a write off of any significance, your next file has to be within LPM'. If the next matter shows that the discipline is worthwhile – which we hope it does – it will prove itself again and again."

Another law firm representative suggested a rather different driver for LPM within their own firm: a need to standardise working practices between offices, in light of multiple mergers and branch office acquisitions. For this individual, the lack of consistent working practices among their practice's legacy offices offered them a window of opportunity to re-engineer legacy processes, and introduce innovations – such as LPM – as part of the firm's wider integration process.

The final driver of LPM arguably does not affect all large legal practices globally, because it is both practice area and jurisdiction specific: court–mandated costs budgeting in relation to litigation conducted in England and Wales[43] for disputes worth up to £10 million. In common with other drivers of LPM, costs budgeting is intended to provide clarity in relation to legal costs, by requiring that practioners estimate their planned legal expenditure in advance of the substantive litigation to be conducted. The prescribed format in which the costs budget is required to be submitted – Precedent H[44] – contains many attributes which will be familiar to LPM professionals. Firstly, the legal work is broken down into a series of distinctive phases[45], and secondly estimated costs must be broken down, at a fee-earner-by-fee earner level of granularity, in relation to each of those phases.

Indeed, such is the anticipated demand for legally-qualified specialists who can undertake this niche form of LPM that the costs lawyer profession, one of the UK's smallest regulated legal professions, is now actively positioning its members as the go-to expert advisors for this form of work[46]. In truth, this LPM expertise is something that the wider English and Welsh legal profession is likely to be only dimly aware of – noticeably, because costs lawyers tend to work in standalone practices, rather than within conventional law firms. Nevertheless, UK-based law firms wishing to develop their own litigation-related project management expertise may wish to monitor the evolution of this small sub-branch of the country's legal profession closely, going forward.

43 https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part03/practice-direction-3e-costs-management#1
44 http://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/precedent-h.pdf
45 https://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/new-precedent-h-guidance.pdf
46 http://www.managingpartner.com/news/business-development/costs-professionals-are-new-legal-polymaths-says-acl-chief

Structuring an LPM function

For firms wishing to embrace LPM within their own practice, the experience of early innovators to date suggests that there are, essentially, two alternative approaches:

- One that is LPM support team-led. Typically, a standalone LPM function is established, which then assists fee earners with their LPM administration.
- One that is fee earner-led. Effectively, LPM work is undertaken by fee earners already working on a matter.

Of those law firms interviewed by Jomati, most had opted to establish a standalone LPM support function from the outset. And, for firms whose LPM offering is support-team led, this has typically required a substantial investment in personnel over a relatively short period of time. Indeed, within a few years of establishment, it is not unusual for firms to employ one LPM employee for every 20 – 25 lawyers. However, it should also be appreciated that specialist LPM functions often include not only personnel with expertise in project scoping and management, but also legal pricing. Consequently, the skills set of the personnel working in a firm's LPM function will often be broad. Pricing specialists will tend to have a financial analyst background, while those working on "live" client projects are often certified project managers.

For those firms who opt to launch a standalone LPM function, the question of how that function should earn its keep has prompted a variety of outcomes. For some firms, their LPM function is mainly regarded as a "value added" service differentiator, the costs of which are absorbed by the wider practice. Others have raised the issue of charging separately for LPM services with clients, only to retreat in the face of retorts stating: "that's your overhead". Some firms, though, have been bolder, treating their LPM function as a profit centre in its own right – a strategy that is possible where legal project managers are permitted to be client facing.

> *"I am 100 per cent a profit centre – all of my hours are billable. I earn just as much as some of the firm's partners in other practice areas. I have some clients who instruct me directly."*
>
> *"Our firm's legal project managers are billable, because part of their role is to help clients re-engineer their internal legal service. We often do that in conjunction with our lawyers, but sometimes we work with clients for whom our lawyers have no relationship."*

In contrast with those practices that have established standalone LPM functions, some firms who have embraced a fee-earner driven LPM approach have actively decided to avoid what one practitioner describes as "a new priesthood" of LPM professionals. Indeed, some suggest that the ability to scope and manage a project should be part of their fee earners' core competencies – not least because lawyers often do not like being told how to manage their workloads by non-lawyers:

> *"I really don't understand why law firms hire people to fulfil [an LPM] capacity. It should be something that you train all of your lawyers on, because it's part of the way you do business."*
>
> *"We do employ three people in our LPM office, but their main role is to teach the teachers. I'm strongly of the view that lawyers need to manage their own projects. If [LPM] requires someone who is not a participant on the matter to wield the whip, it'll fail."*

Of course, this latter approach also allows firms to save on the direct costs of employing dedicated LPM personnel in a support capacity. However, this overhead saving must also be balanced against indirect costs of training fee earners in LPM techniques, which is likely to be considerable. Indeed, one firm which had adopted a fee earner-led approach stated how they had initially trained every single partner in the basics of LPM, while another had offered similar training to 200 senior associates. Perhaps ironically, one firm which initially took a fee-earner-led approach to LPM, and offered LPM training for that reason, later switched to mainly operating on an LPM support team-led basis, having concluded that the fee earner-led approach had not proved particularly effective.

The role of technology in LPM deployment

In deciding whether an LPM initiative should be support team-led or fee earner-led, cultural factors are clearly relevant – but so is a firm's underlying technology and billing infrastructure. Because LPM is currently in its infancy, some firms admit that their LPM functions are effectively managed using off-the-shelf software solutions, such as Microsoft Project or Excel. And, given many lawyers' "allergy" to using such software, dedicated legal project managers use these solutions on their behalf. By contrast, other firms have shown a greater willingness to allow their lawyers to take day-to-day charge of their LPM initiatives – party because the firms' technology infrastructure enables its fee earners to run every aspect of the project, from initial scoping to conclusion, largely unaided.

Whatever operational approach firms take in relation to LPM, the aim of the software deployed to assist with the process essentially has the same intended objectives. Firstly, the software is intended to help fee earners to devise a clear, and also competitive, budget for a new project; and secondly, that a project is then monitored and, if necessary, re-scoped or repriced.

> *"Using Microsoft Project, I can show [our partners] various ways of looking at a project from a financial perspective. I don't see it as my role to tell them they haven't staffed a project correctly – but I will warn them if I think the overall budget isn't competitive. I'll ask if we alter the scope of work for those phases where the proposed costs seem disproportionate to what has been promised."*
>
> *"Our web-based LPM solution allows us to monitor and manage projects in real time. If a matter gets a red flag, we can now say: 'Let's stop for a minute, and re-price and re-scope'. That's an approach that was previously foreign to our culture."*
>
> *"To help with the buy-in for our LPM initiative, we've just rolled out a system which shoves the profitability of fee earners' work in their face. By offering them real time financial information, our software alerts fee earners if a client's matter is about to hit a defined financial milestone."*

The use of technology can certainly aid the roll out of any LPM initiative. However, some practioners who have been involved in their firms' LPM roll out warn against over-complicating any IT-led solutions which are intended to help achieve this objective. Here, one practitioner recalls how their firm had developed a sophisticated LPM tool kit, which included "awesome, colour-coded status reports, which included project milestones and completed tasks". Unfortunately, the practitioner also recalls, the firm's partners were simply not interested in using this tool – but nevertheless complained they were not being kept up to date with their project's status.

"The partners' reactions caused us to ask ourselves, 'do we just abandon the disciplines we have established, the technology we have put in place?' In the event, we discovered what was important was to send the partners project update information in a form they were actually willing to read – which was an email. This experience told us that we had to be extremely flexible in the way we use technology when seeking partner buy-in for our LPM initiative."

The second technology-related over-complication that some practitioners indicated it was important to avoid related to task codes – the codes given to individual matters that are undertaken as part of a wider project phase. Superficially, a technology-led LPM solution positively invites law firms to break their projects down into thousands of individual tasks, for two reasons: firstly, "because they now can"; and secondly, because there is a perception that collecting highly granular data regarding time spent on specific tasks may enable the firm to generate more robust project estimates in the future. However, practitioners who have experimented with this approach suggest this highly granular LPM methodology may simply not be worth the effort:

"A matter might have four or five phases, but also contain thousands of separate tasks. If you insist on having task codes, you quickly get lost. We've banished the use of task codes in our LPM initiative unless a client requires us to do so. Our new approach has hugely simplified what we do, but still provides us with rich project data. What is important is how long a phase takes to complete. By contrast, you get nothing from trying to undertake a granular analysis of task codes."

"I am not a fan of task codes. People think there's pricing magic about them. But, after reviewing thousands of matters, I can tell you – there isn't."

Ensuring buy-in for a firm's LPM initiative

Among those practitioners interviewed by Jomati, there was no consensus regarding how they ensured their various LPM initiatives were initially accepted, and then used, by their firms' fee earners – largely because the initial drivers for various firms' LPM initiatives were so diverse. However, it is arguably possible to identify three distinctive approaches to ensuring fee earner buy-in, which LPM practitioners have so far made use of:

- A grass roots approach, where buy-in is driven by word-of-mouth recommendations within the firm.
- A fait accompli approach, in which clients were informed that the firm intended to offer an LPM solution despite, in reality, the mechanics of that solution being work-in-progress.
- A mandatory approach, where fee earners were given little choice but to use the firm's preferred LPM methodology.

For some firms which had adopted a grass roots-led LPM deployment approach, this methodology was sometimes deployed in preference to a department-by-department roll-out:

"When we started out, we didn't know if [our LPM] initiative was going to work – so we started with a few partners who were willing to try it out with us. We wanted to develop a reputation for getting stuff done and being effective."

"Initially, I had planned to roll out [our LPM solution] on a practice area basis, but I decided to pull the plug on that approach. Instead, roll-out was driven by who needs it and who wants it. That way, it doesn't matter if just one corporate partner says they want it, but 10 say they don't."

Those who took a fait accompli approach accept it was a risky strategy:

> *"Our firm actively stoked demand for our [LPM] capabilities from the outside – we advertised them while we were still in pilot stage, so it was basically a gamble. We bragged that 'we can' in confidence that 'we could'."*

For some firms, LPM remained optional for small, non-repeatable matters. But, once a trigger point of defined complexity had been reached, the presumption switched in favour of LPM usage.

> *"If a matter can be undertaken in four hours, then you don't need the 'song and dance' of a project plan – just get it done. But, if the work involves more than two people, more than one office, or more than $25,000 – it's a project. At which point, at our firm, you need a reason not to use LPM."*

For one firm interviewed by Jomati, obtaining buy-in for LPM – and the manner in which it was rolled out within the firm – were effectively part of the same process: having provided fee earners the basics of project management, and encouraged them to use it, a dedicated support team was then made available, in the event that fee earners found the method of working useful.

Projects completed: lessons learned, processes mapped?

In theory, breaking down complex legal work into defined project phases should provide an ideal framework for undertaking a "lessons learned" exercise once a matter is complete. These lessons can then, in theory, feed into subsequent project plans and draft project budgets. And, among those firms interviewed by Jomati who have embraced LPM, there was certainly an aspiration to undertake such reviews for this purpose. More challenging, however, were project managers' ability to turn this aspiration into a routine occurrence.

> *"We do this – and it's a formal part of our model – but intermittently. It's great in theory, but lawyers are so anxious to get on to the next matter that it's really tough to get them to engage in this exercise."*
>
> *"I think most firms involved in LPM try to engage in after action reviews – but it requires input from the responsible partner or a key member of the attorney team to provide qualitative details on the results of the engagement."*
>
> *"At our firm, we have tried to embed feedback mechanisms throughout the matter. The idea is that, when a significant phase or deliverable is completed, we will conduct an impromptu 'what worked well, what can we do better' – often including the client. Going forward, we are working to formalise the retrieval of those lessons learned in order to apply them."*
>
> *"A few firms are delving into the issue of 'lessons learned'. But on the whole, the industry is behind the curve on this. Post action review is a very important aspect of project management. I think once LPM takes hold in a more meaningful way, greater use of post action reviews will follow."*

LPM allows law firms to scope work for individual projects. An additional 'lessons learned' project phase has the potential to give firms insights into how they should scope and staff future works of a similar nature, going forward. However, a small number of firms interviewed by Jomati had opted to extend this methodology still further, using a technique known as 'process mapping'. In essence, process mapping seeks to disassemble individual projects into their component parts, and display those project components in a diagrammatical form. This analysis is undertaken on the understanding that, while each matter a firm advises on will be unique in terms of the specific legal issues it raises, broadly similar matters will nevertheless share common elements regarding which legal tasks are to be undertaken, and the order in which those tasks should be carried out.

There are, potentially, two key outputs of process mapping. Firstly, with the right software, a process map can be transformed into a draft project plan for a new, similar, matter at the "click of a button" – thereby making the whole project planning process quicker and more straightforward than starting each new matter from scratch. Secondly, process mapping can also facilitate process improvement. Once a matter has been mapped, its individual elements can be reordered or re-engineered, in order to improve the way they are handled.

Perhaps not surprisingly, the benefits of process mapping is often greeted with scepticism from fee earners at large commercial law firms, despite the concept being well established in other business sectors and even – to a limited extent – among some of the more process-driven legal practices.

> *"I've now facilitated more than 200 process mapping sessions at my firm, and most start out with the fee earners explaining why it won't work. They suggest that, even if process mapping works in other groups – such as those which are engaged in more repetitive work – it won't work in theirs, because what they do is more complex. To which I say: 'well, just humour me. Let's just talk through what you do.'"*

As with legal project management, the key to success in any process improvement initiative is the successful collaboration between those advisors who facilitate a process mapping programme, and the fee earners who will then make use of any re-engineered processes which arise from it.

> *"If I just told [partners and associates] how they should implement process improvements, they'd just tell me where to go. The problems with the existing processes, the ideas for improvement – they have to come from the fee earners themselves. If you follow that approach, you get much greater acceptance for those efficiency improvements which you then suggest."*

For one Jomati interviewee, the outcome of a large-scale process review had highlighted just how little time their fee earners spent on what was described as "creative lawyering" – the value that clients were truly prepared to pay for. This research, the representative revealed, suggested that some fee earners were spending roughly one third of their time undertaking creative lawyering, with the remaining two thirds spent on either "administration" or "pushing the matter along". Armed with this knowledge, the firm's process improvement group had created a software solution which project managed certain matters' workflows automatically, in response to certain trigger events, including service level agreements or regulatory requirements. Indeed, the firm's system then pre-populated certain matters for junior fee earners to work on, further automating those processes. This practitioner suggested that, as a result of these process improvements being introduced, it transpired that the firm may now have "two thirds too much capacity" in certain practice areas. However, although this firm's efficiency improvements were now being driven by technology, this practitioner noted that undertaking an initial process review was a prerequisite for the solutions being deployed: "process review comes first, software comes later", they said.

For firms wishing to undertake equivalent reforms within their practices, where should they start? Now, process mapping is still a relatively unknown concept among many large commercial law firms. As a result, there does not appear to be any consensus regarding when its usage is appropriate. As one practitioner, whose firm has now mapped numerous processes, admits: "in our naivety, we just went and did it everywhere…we didn't say 'it's only going to work in litigation', or 'It's not going to work in transactions'." However, this same practitioner also insists that – whether by accident or design – the results of process mapping were beneficial across all departments. By contrast, other firms have focused their process mapping efforts on large-scale matters only, on the basis that "quick turnaround" projects

do not benefit from such an analysis. An alternative approach, mentioned by two Jomati interviewees, was to focus on work where there was a need for efficiency improvements – i.e. where profit margins were currently being squeezed. Finally, another option may be to undertake a process review of individual – but also predicable – sections of a department's workflow, such as due diligence or discovery.

> *"It would be meaningless to map the whole of what the corporate department does, for example. If you've followed that approach, all you've done is create a headline that you've 'done' process mapping. But, in reality, having wasted everyone's time creating them, most of the resulting process maps would probably just simply sit on a management system somewhere. It would be much better to pick a component of what the corporate department does, one that's amenable to process improvement, and just map that instead. That way, you'll get some value from the whole exercise."*

Whatever approach firms ultimately take in relation to this issue, the observation made above makes the point clearly: process mapping should be regarded as a means to an end – be that to facilitate quick and robust project planning, or to enable process improvements – rather than an end in itself. Only by focusing on the practical benefits for fee earners will legal project managers and process improvement specialists be able to overcome inevitable scepticism from fee earners.

The allocation of work under an LPM / process driven regime

The discipline of LPM and process mapping means that firms who engage with this process often have a reasonable understanding – from the outset – of the specific tasks that are likely to be undertaken within any given project, and also those tasks' likely duration. This, in turn, opens up the prospect of a more systematic allocation of work. Indeed, this approach has long been a feature of some of the more process-driven legal practices, where a new matter is evaluated for its complexity at the outset, placed in a "work queue", and then simply picked up by the next available fee earner. But, for more bespoke matters, the question of which person should lead on the initial allocation of work remains contentious. Should the initial allocation of work be carried out by the lead fee earner – who will typically be the "face" of the matter to the client, or a dedicated project manager? For firms who have opted for a fee-earner driven LPM approach, these individuals may be the same person. But, where roles are split, a decision must be made regarding who should take the lead.

Perhaps not surprisingly, LPM professionals interviewed by Jomati were acutely aware of any perception that they were attempting to remove control of the work allocation process from fee earners, especially partners. In general, co-operation between lawyers and LPM practitioners was the favoured approach. However, some LPM practitioners were also keen to stress that project planning and legal expertise were distinctive specialties. Ideally, therefore, both parties should play to their strengths, in terms of their respective involvement in this process.

> *"We do not wrestle resource allocation control from the partners in charge. That would not be a winning strategy. What we do do, though, is start with a blind allocation of resources to the file – what level of professional is best suited to do the work – and then allocate those roles with people who have the requisite experience and skill. Partners can then play the scenarios by substituting participants as they think fit. But they are very explicitly confronted with the financial implications of their substitutions."*
>
> *"In my experience, partners appreciate the assistance provided by project managers, who can take some of the administrative burden from their time – but I think it has it be a collaborative effort on both parts."*

"We are very focused on leveraging process mapping to break the work down, analyse who is best to deliver each task, how long the individual tasks should take. The LPM role being fulfilled by a professional project manager instead of a practitioner is very challenging – you must have the fortitude to assertively influence the lawyers to plan the work, work efficiently, communicate and report out regularly and adhere to a budget and scope. Positively, because LPM is completed by project managers at our firm, it allows the legal team to practice at the top of their licence."

One practitioner interviewed by Jomati, who had worked for multiple law firms, framed the debate regarding workload allocation from the point of view of the power relationship between junior fee earners and partners. The practitioner noted that, once a fee earner had proved their worth to a partner, the fee earner tended to "get stuck" with that partner, which limited their ability to gain a breadth of experience. For this legal practice veteran, engaging a resourcing / project manager as an intermediary between the fee earner and partner had, in their experience, "worked extremely well". This approach also helped reduce the likelihood that junior fee earners would commit to taking on excessive workloads, due to their general reluctance to say "no" to partners.

The knock on effect of LPM – pricing and compensation

Non-fee earner involvement in work allocation may be a difficult concept for some law firm personnel to accept. Nevertheless, those involved in this process say the outcome has an important advantage from the client's perspective: work is allocated on the most cost-effective basis, rather than as a result of fee earner preferences.

"It's always tempting to staff a project on the basis that you've worked with someone for five years – but the reality is, it's now five years on and that fee earner now costs twice as much as when you first met. As part of our LPM roll out, we made a key decision to embrace resource-based, experienced-based, work allocation. We work out what's to be done, and then find people to fill those roles. As a firm, we decided that we had to get this issue right, or clients will find an alternative."

For this particular practice, this highly disciplined approach to task allocation was not without its risks, because it also has knock-on implications for fee earner compensation.

"Compensation reform is the big issue that has cascaded down as a result of our LPM initiative – how do you reward fee earners for their LPM contributions? In particular, what happens when a partner brings in work but, because of our new approach to resource allocation, that work is no longer undertaken by him or her – even though they need the hours – but by a three year associate? The compensation issue is a hugely difficult issue and touchy – because compensation system changes are highly risky. But it's an essential part of the exercise."

Some law firms who have embraced LPM have also, in parallel, rolled out technology solutions which provided partners with real-time financial data relating to specific projects, to help them ensure projects remain on budget. Other firms have introduced a more low-tech, but equally important, parallel initiative: pricing guidelines. Effectively, pricing discipline was the quid pro quo expected of partners in return for LPM support. In order to adhere to a project budget, and staff it appropriately, it was essential for the LPM team to be kept informed about what the project's budget actually was.

"We no longer allow our partners to discuss discounts with their clients without obtaining permission, especially if those discounts are material in nature. To enforce these disciplines, we've had a lot of support from both our CEO and CFO. Without that support, we're aware we would have received a lot of resistance."

Conclusions

To date, firms who have begun to manage their workloads on a more structured basis have done so for specific reasons, be it the need to avoid future disasters, to differentiate themselves from their competitors, or to provide clients with greater pricing certainty. But, as they have done so, many have discovered that what is, in theory, a simple concept, has often required significant resources and training, the deployment of unfamiliar technologies, a degree of trial and error in relation to "what works" – all in the face of internal cultural resistance, often from partners. For these firms, the end result – legal work that is more precisely scoped, more robustly priced and more appropriately staffed, is clearly worth the effort. Nevertheless, it should now be appreciated that, in order to reach these desired outcomes, implementing such an initiative is often a significant project in its own right.

Chapter three: the rise of the contract lawyer

In recent years, a growing number of non-law firm entities have begun to offer "contract lawyer services" (CLS) – typically delivering freelance lawyers, on demand, to the business community. Perhaps the best-known of these entities globally is Axiom, which now operates 16 offices in three continents[47]. But, in recent years, Axiom has been joined by providers such as Caravel Law[48] and Conduit Law[49] in Canada and AdventBalance in Australia, Hong Kong and Singapore[50]. Arguably, these providers are not market-changing in terms of their global headcounts – even Axiom currently boasts just 1,500 employees. What these offerings do, however, represent is proof of concept: that high quality legal advice can be delivered to demanding business clients by lawyers working on a flexible basis. Indeed, the delivery model has become so well established that the Law Society of Upper Canada, whose jurisdiction includes Toronto, now includes a section on its website dedicated to the phenomena, including an anonymised contract lawyer directory[51].

The rise of contract lawyering has not gone unnoticed by traditional law firms, several of whom have launched their own offerings in recent years. Until now, the UK legal market appears to be the focal point of this law firm fight back, with at least 11 new services launching in the past five years alone (see table four, page 30: Selection of contract lawyer services launched by conventional law firms). However, this law firm-led development is now gaining traction in other countries. The trend is partly being driven by UK law firms rolling out their own CLS internationally[52]. But, in addition, practices such as Australia's Corrs Chambers Westgarth[53] and Singapore's Rajah & Tann[54] have also launched similar offerings in the past 18 months. And, in a sign that the concept is reaching market maturity, one law firm which recently launched its own CLS – DLA Piper – has announced its intention to partner with Lawyers on Demand[55] (LOD) in delivering its CLS offering. Notably, the founding and majority stake investor in LOD is another traditional law firm – Berwin Leighton Painser.

47 http://www.axiomlaw.com/contact-us
48 http://www.caravellaw.com/
49 http://www.conduitlaw.com/
50 https://www.adventbalance.com/contact
51 http://www.lsuc.on.ca/For-Lawyers/About-Your-Licence/Equity-and-Diversity/Tools-to-Hire-a-Contract-Lawyer-or-Paralegal/
52 http://www.eversheds.com/global/en/what/publications/shownews.page?News=en/uk/Eversheds_launches_Consulting_arm_in_Asia
53 http://www.corrs.com.au/news/new-legal-resourcing-company-launched/
54 http://sg.rajahtannasia.com/news/news/media-release-rajah-tann-singapore-launches-contract-legal-service-for-clients-seeking-in-house-freelance-lawyers
55 https://www.dlapiper.com/en/us/news/2015/11/dla-piper-and-lod-collaborate/

Drivers of the contract lawyer phenomena

Law firms which have embraced contract lawyering are, in effect, benefiting from the same type of flexible resourcing which they currently offer their own clients: that is, access to a specialist legal resource, paid for on a usage-only basis. Helpfully for such firms, it transpires that there is a rich seam of lawyers who are willing to swap the relative security of well-paid permanent employment within a law firm for the risks and rewards of working flexibly on a contractor basis.

Table 4: Selection of contract lawyer services launched by conventional law firms

Law firm	Contract lawyer services	Launched
Addleshaw Goddard	AG Integrate	September 2015[56]
Allen & Overy	Peerpoint	November 2013
Berwin Leighton Paisner	(LOD) Lawyers on Demand	January 2007
Corrs Chambers Westgarth	Orbit Legal	December 2014[57]
DAC Beachcroft	People Pool	July 2013[58]
DLA Piper	Unbranded – now operated in association with LOD	June 2015[59]
DWF	DWF Resource	June 2015[60]
Brauw Blackstone Westbroek	FlexPool	November 2013
Eversheds	Eversheds Agile	October 2011[61]
Freshfields	Freshfields Continuum	May 2012[62]
Lewis Silkin	lewissilkinhouse	April 2013
	rockhopper	July 2014
Pinsent Masons	Vario	February 2013[63]
Rajah & Tann	R&T Asia Resources	August 2015[64]
Simmons & Simmons	Simmons & Simmons Adaptive	October 2014[65]

Several law firm representatives contacted by Jomati suggested that the launch of so many CLSs in recent years meant it was in danger of becoming a "me too" phenomena. But, in terms of the drivers of their own CLS initiatives, some spokespersons suggested their offering had been developed as part of a wider review of their firm's working methods, such as the roll out of a legal project management initiative or following an evaluation of whether the practice should

56 http://www.addleshawgoddard.com/view.asp?content_id=8797&parent_id=5780
57 http://www.corrs.com.au/news/new-legal-resourcing-company-launched/
58 http://www.dacbeachcroft.com/news-and-events/press-releases/dacbeachcroft-launches-the-people-pool
59 http://www.globallegalpost.com/big-stories/dla-prepares-to-launch-uk-contract-lawyer-unit-58065895/
60 http://www.dwf.co.uk/news-events/dwf-press/2015/06/dwf-launches-integrated-services-and-delivery-models-to-transform-client-service/
61 http://www.eversheds.com/global/en/what/articles/index.page?ArticleID=en/Press_Office/eversheds-agile-launch
62 http://www.thelawyer.com/freshfields-turns-to-former-lawyers-to-fill-fee-earning-gaps/1012636.article
63 http://www.pinsentmasons.com/en/media/press-releases/2013/pinsent-masons-to-launch-next-generation-flexible-resourcing-business
64 http://sg.rajahtannasia.com/news/news/media-release-rajah-tann-singapore-launches-contract-legal-service-for-clients-seeking-in-house-freelance-lawyers
65 http://www.simmons-simmons.com/en/News/2014/10-October/Firm-Launches-Adaptive-Alternative-Delivery-Model

offshore some of its work. By contrast, other firms interviewed by Jomati had launched their CLS in response to more straightforward resourcing considerations. Some had concluded they were losing too many senior fee earners, who were departing in search of a better work-life balance. Additionally, it was becoming clear that some firms' reliance on permanent employees was leaving them unable to deal with rapid shifts in client demand. Creating a CLS, largely staffed with the firm's former personnel, would allow firms to address both of these challenges simultaneously.

> *"As a firm, we decided that we needed a more grown up way of resourcing our business that could deal with peaks and troughs in demand. We decided that the existing approach – of having a fixed asset base in a variable income business – just didn't make sense."*

The financial rationale for establishing a CLS

Law firms may, in part, be motivated to launch a CLS for broad strategic reasons. However, the CLS is also expected to contribute to the practice's bottom line. One way in which a CLS can achieve this objective is by providing contract lawyers to clients on a "costs plus" basis. Here, firms interviewed by Jomati typically retained between 20 – 30 per cent of the contract lawyers' overall bill as a management fee for providing the service. Arguably, this approach means that such practices were operating more like a recruitment consultant or a tendering service than a law firm, because their income was derived from the supply of a specialist legal advisor, rather than the specific legal advice delivered by that advisor. Indeed, the UK-based LOD service has, in common with alternative providers such as Axiom[66], taken this business model to its logical conclusion: the practice explicitly describes itself as a "a legal resourcing business".. that "is not regulated to provide legal services"[67].

The amount of revenue and profit a CLS will generate will, of course, depend on the number of contract lawyers working for it, how many hours those lawyers work per year, and also how much they charge for their services. For those law firms who consistently engage dozens, if not hundreds, of contract lawyers – working largely full time on matters capable of generating respectable hourly rates – income may be substantial, stretching into the millions of pounds[68]. By contrast, if the firm's contract lawyer pool is small, and its practitioners only work part time for clients with limited legal budgets, the service's revenue and profit generating capabilities will be modest. Small-scale CLSs may not generate substantial profits for their parent law practice. However, several Jomati interviewees who operated such services specifically stated that their contract lawyer services were revenue positive.

> *"We make a bit of money – our [CLS] is definitely not a loss-leader. But we're not going to retire off the back of the income that it brings in."*
>
> *"I'm not expecting to have made much money from [our CLS] – but I am to expecting to end the year with happy clients and better resourced assignments."*

Of course, even large-scale CLSs have to be given sufficient time to prove their value to their firm. And, for one contract lawyer veteran, an important consideration prior to launch was that the service should quickly be able to "wash its face" – i.e. not cost the firm money. This specific objective, the practitioner suggested, initially made the initiative "easy to say yes to". And, helpfully, this firm's CLS gamble has since paid off to a significant extent. Today, the service now generates millions of pounds of additional revenues and profits for its parent practice.

Positive revenue generation is one way in which a CLS can add to a firm's bottom line. However, a CLS can also be used to generate additional income for the practice indirectly. This is because, as several Jomati interviewees explained, their firms were under sustained – and also financially unsustainable – pressure from clients to provide them with ever more secondments. These demands were proving problematic for law firms, because the most popular candidates for

66 http://www.axiomlaw.co.uk/credits-and-disclaimer
67 http://www.lodlaw.com/legal-notice
68 https://www.blplaw.com/media/press-releases/blp-announces-strong-financial-results-201415/

secondments were also the most profitable type of law firm fee earner – senior associates. Sending a contract lawyer on secondment instead of a senior associate therefore allowed the firm to retain its key revenue generators in-house, while also meeting clients' need for additional support.

> *"The cost to a firm of putting someone out on secondment is not their salary, it's the opportunity cost of them not working on revenue-generating matters."*
>
> *"We once had a situation where, if we had accepted all of the secondment requests we received, we would have taken a quarter of our non-partner resources out of the business in one go."*
>
> *"[Prior to launching our CLS]..we were servicing as many secondment requests as possible. But there comes a point when you just can't give away any more people for free or at cost when they should be doing billable work."*

Of course, operating a CLS does not entirely put a stop to client demands on law firms to provide them with secondees. What it does, however, is give law firms options regarding how its secondment should be staffed. For key clients, where the law firm will always be expected to provide an exemplary service, it may be preferable for the firm to supply senior associate secondees, irrespective of the opportunity costs of doing so. Essentially, when on secondment, the functions of a senior associate often goes beyond providing the client with expert legal advice – they also fulfil a secondary role of being an ambassador from the firm. By contrast, where a client merely requires "bums on seats" to assist with specific projects, a firm-approved contract lawyer may be regarded as an acceptable alternative. Effectively, law firms who offer their clients contract lawyers in such circumstance have identified a gap in the market, which neither in-house legal functions nor mainstream legal practices would otherwise be willing or able to fill.

> *"As a firm, we noticed that some clients had work which needed doing that – as much as we'd like to think otherwise – wasn't giving them value at the £300 - £400 per hour we'd normally charge. Clients would happily do this type of work in-house, but they often just didn't have the resources or the range of expertise. We noticed that some law firms were almost hiding from this type of matter, saying: 'Oh no, I think the client is going to try to get this work done by us via a cheeky secondment request'."*

More generally, sending a contract lawyer, rather than a senior associate, on secondment, did not just make financial sense for firms – it also meant that the partners who rely on those senior associates for support were less likely to be left short-staffed.

> *"A senior associate will tend to have a number of client relationships, in addition to the client they're seconded to. So, when they go on secondment, partners who don't work for that client tend to get pissed off because a person they've been relying on for help suddenly disappears."*

Providing contract lawyers directly to clients is an important component of the CLS phenomena. However, on some occasions, law firms will utilise contract lawyers internally within their own practices instead. Sometimes, these contract lawyers will provide the firm with a niche legal speciality, where there is insufficient demand for the practice to employ a permanent fee earner to undertake such work. For example, a firm may have sufficient in-house capabilities to advise clients on private sector outsourcing matters, but opt to draw on the expertise of a contract lawyer with public procurement expertise when advising on outsourcing matters specifically involving the public sector. Alternatively, a contract lawyer's main role may simply be to supplement a firm's mainstream capacity during periods of peak demand.

Here, certain types of legal work, such as lease reviews, are particularly well suited to be undertaken remotely by contract lawyers. Of course, the utilisation of external specialists to help an organisation manage peaks and troughs in demand is routine in many sectors, including the construction, media and farming industries. To a large extent therefore, the use of contract lawyers by law firms should be regarded as the legal profession playing "catch up" with other sectors, rather than being regarded as a truly novel form of working.

A standalone brand or an internal resource?

Prior to launching a CLS, law firms must make two important decisions regarding the public positioning of its service. Firstly, will the CLS be clearly branded as an offering within its parent practice, or as a standalone service, marketed separately? Secondly, will it be managed from within the firm partnership, or as a separate entity? The decisions made by law firms in relation to either of these issues suggest that, at present, there is no consensus regarding the best course of action.

In relation to branding, most CLS services identified by Jomati had opted to operate under the "wing" of their parent legal practice. Specifically, the CLS's brand name often refers to the parent firm's name. In addition, details of the CLSs offering can be found on the main practice's website.

> *"Some firms have chosen to operate their [CLS] as a self-sufficient brand, whereas we absolutely put our firm's brand name in front of everything. We see our offering as being part of the firm: clients get access to our partners, to our know-how."*

However, a small number of CLSs identified by Jomati had taken a different approach: instead launching a CLS that has a brand identity distinctive from its parent practice. Firms launching CLSs with their own standalone branding include LOD – originally part of BLP, the rockhopper service offered by Lewis Silkin, and the Orbit Legal offering operated by Australia's Corrs Chambers Westgarth (CCW). In taking this approach, such CLSs have been able to differentiate themselves, not only from their parent practice, but also from traditional law firms in general.

> *"Our [CLS] is very different to our mainstream legal service. You won't see it mentioned on our website because we don't want to confuse our brand."*
>
> *"In order to get the right lawyers to work for us, [our CLS] needed to feel different from a traditional large law firm. We decided that it should not mimic our existing offering."*

In light of these two alternative approaches to CLS branding, it is perhaps not surprising that the two models also obtained broadly different outcomes in terms of revenue streams. Among those firms whose CLS brand operated under the wing of the parent practice, the overwhelming majority of these services' revenues tended to come from existing clients – and indeed, most commonly via internal referrals within the firm's own partnership. By contrast, those firms whose CLSs are branded separately from their parent firm appeared – anecdotally – to be somewhat more likely to generate income from their own distinctive client base. In some cases, this latter strategy is deliberate, because the entire nature of the CLS offering is intended to be distinctive from the parent firm.

Curiously, there does not appear to be an unambiguous link between CLS branding and CLS governance. One might have assumed that separately branded businesses would also be more likely to be separately managed – perhaps so as to facilitate the service's ultimate divestment. Equally, one might have assumed that CLSs whose brand was closely identified with its parent law firm would be managed directly from within the firm's partnership. In fact, the decisions made by law firms to date suggest that no consistency on this point is evident. Certainly, LOD is separate from BLP –

its majority shareholder – both from a branding and also a governance perspective[69]. However, both Lewis Silkin's separately-branded rockhopper service and CCW's Orbit are, effectively governed from within the firm. R&T Asia Resources, meanwhile, derives its brand identity from its parent law firm – Rajah & Tann Singapore – but nevertheless operates as a wholly-owned subsidiary. Whether future CLS launches adopt a more consistent approach to both these issues, or continue to behave in a "horses for courses" manner, remains to be seen.

The nature of the contract lawyer relationship

Within the context of the UK labour market, two key engagement options are available to law firms wishing to establish their own CLS. Using one approach, the firm's contract lawyers are engaged on a genuinely freelance basis. Alternatively, contract lawyers can be regarded as employees, and therefore receive employee benefits such as maternity pay or life insurance. A common feature of both types of arrangement, however, is that a firm's contract lawyers are not obliged to accept all assignments offered, or work a set number of hours. Perhaps not surprisingly, the flip side of this arrangement is that the law firm is under no obligation to provide its contract lawyer with any work either.

> *"A significant amount of work undertaken by our contract lawyers is project work. It therefore would not be appropriate to require them to work a minimum number of hours."*
>
> *"Our clients don't want to use our [CLS] for a minimum number of hours, so why should we impose a minimum number of hours on our contract lawyers? If it works, and people are happy with it, let's just do it."*

Among those firms interviewed by Jomati, most had opted to retain their contract lawyers on a freelance, rather than an employee, basis. As a result, their contract lawyers were not expected to work for the firm's CLS exclusively. In the UK context, the right of contract lawyers to work for multiple clients may be beneficial from a tax perspective, particularly if they choose to operate via a "personal service company" (PSC) rather than as, for example, an employee on a "zero hours" contract. Operating on a freelance basis via a PSC may result in contract lawyers paying a lower rate of tax than they would otherwise be liable for if they worked as either a sole trader or as a firm employee. Indeed, this particular tax advantage is one that the UK government is currently reviewing[70], with a view to exploring if existing rules should be tightened. Helpfully for contract lawyers, a lack of exclusivity to any one client has historically been treated as a factor that the UK government's tax authorities have considered when determining whether an individual should be treated as an employee or independent contractor for tax purposes. Nevertheless, given that the UK government's recent tax reform consultation document specifically used lawyers to illustrate the difference in tax payable by employees and PSC practitioners[71], this is an issue that UK law firms in particular should follow closely.

Whatever their contract lawyers' official employee or tax status, most firms interviewed by Jomati also were keen to stress that the intention was that these practitioners should be made to feel like "part of the firm". In terms of practical integration, this meant granting the contract lawyer's limited access to the firm's training, know-how and intranet. More generally, some firms encouraged their contract lawyers to attend their social events and visit their offices, in order to connect with the practice's personnel. This was because, for many contract lawyers, a law firm site visit would otherwise be a rare event: most would typically be expected to spend the majority of their time working from home, or at the client's own premises.

69 http://www.legalweek.com/legal-week/news/2179611/blp-votes-retain-80-stake-lawyers-demand-spinoff
70 https://www.gov.uk/government/consultations/intermediaries-legislation-ir35-discussion-document
71 http://www.thelawyer.com/government-tax-clampdown-threatens-contract-lawyer-market/

Intriguingly, some firms offered what might be described as multiple "tiers" of CLS services, depending on the nature of the work to be undertaken, the type of client the service was offered to, and the contract lawyers' employment status. For example, one firm effectively engaged two different types of freelance lawyer, depending on whether those lawyers intended to largely work on long term assignments or on more ad hoc, piece work projects. And, although both of these services were marketed under a common brand to clients, they were nevertheless marketed as distinctive offerings to potential recruits. Another firm took the multi-tier CLS a step further: not only did the practice operate multiple CLS brands, it also engaged its contract lawyers working for those different brands differently – sometimes as employees, and sometimes as freelancers. This firm's rationale for doing so was simple: its various CLS offerings were targeted at different clients, and charged out at different rates. Where the firm's contract lawyers worked for its mainstream clients, those lawyers were engaged on an employee relationship basis. By contrast, where the contract lawyers provided "ultra low cost" legal services to organisations such as start-ups or SMEs, those lawyers were freelancers. By adopting this tiered approach, the firm representative explained, the practice could avoid cannibalising its own current client base – yet also help nurture up-and-coming clients who might ultimately wish to use its mainstream services.

In light of contract lawyers' tendency to be engaged on either a secondment or piece rate basis, it is perhaps not surprising that law firms tend to eschew hourly rate billing when charging for their services. Instead, daily or half-daily rates were generally favoured – although even here, evidence of flexibility was clearly apparent. One firm explained how, on the one hand, their US clients tended to favour monthly rates when engaging long-term secondees, whereas work undertaken on a piece rate basis might be rounded up over several days in order to be invoiced in half-day increments. Several firms said their daily rate charges for their contract lawyers also varied between clients, typically on a sector-by-sector basis. Indeed, the only unifying observation that can be made in relation to all of these disparate billing approaches is that contract lawyers do not tend to account for their time in six minute increments.

Sourcing and quality controlling contract lawyers

While a handful of CLSs now boast dozens, even hundreds, of contract lawyers on their books, most retained a far fewer number – sometimes as little as ten. Indeed, as one veteran practitioner noted, the best way to evaluate the scale of any law firms' CLS capabilities is not to base such an evaluation on the total number of practitioners that the firm notionally has access to. Rather, the evaluation should be based on the number of contract lawyers the firm is utilising at any one time.

Given that many law firm CLS offerings are currently quite small, and also recent innovations, it is perhaps not surprising that many firms have chosen to recruit from within the practice's alumni network – although former clients were also mentioned by several practioners interviewed by Jomati. This approach has two distinctive benefits: firstly, because the contract lawyer is already a known entity from the law firm's perspective, it makes it easier for them to be deployed on a largely remote basis. Secondly, and notwithstanding their typically self-employed status, law firms generally regard their contract lawyers as representing the "face of the firm" to clients. When placing a contract lawyer with a client, it therefore helps to be familiar with their personality type, expertise and work ethic.

"We started with a pool of around 20, made up of alumni, friends of friends, clients, people that had been made redundant – even some who just couldn't afford to live in London. When we started marketing our CLS, everything grew really quickly."

"We started with our alumni network – but some of our alumni are alumni for a reason! The others in our pool are friends of the firm: people we know, people we've worked with before."

"When we launched [our CLS] we were very conscious that this was our brand. If the people we recruited weren't right, and the service wasn't right, it would reflect badly on the business as a whole. That's the main reason we decided to recruit exclusively from within our network…people that have worked for us, alongside us, or have been a client."

However, some of the larger CLSs took a different approach – not least because they wanted to avoid any accusation that they were "poaching" their parent practice's key contacts or personnel. Indeed, it was the overwhelming response to these practices' more wide-ranging recruitment drives during their start-up phase that helped convince them that the entire CLS concept was viable. One law firm representative told Jomati they turned down "thousands" of applications to work for their CLS, before ultimately recruiting more than 100. Another said: "we figured that, if our recruitment drive yielded just a handful of responses from people we didn't want to work with, the whole thing would be over before it began. Actually, we received a very large number of really great CVs."

Given the nature of work to be undertaken, most law firms contacted by Jomati tended to have minimum experience requirements for their CLS – typically at least four years PQE, and often considerably higher. However, one firm interviewed by Jomati took a rather more expansive approach to the practitioners employed within their CLS: not only did their service engage the services of highly experienced freelance practitioners, it also engaged freelance paralegals – some of whom were currently waiting to start their training contracts. The firm's rationale for this approach was twofold. Not only did clients benefit from the much-needed administrative support that the paralegals could offer, the firm also benefited from having paralegals with in-house work experience obtained prior to the commencement of their training contract.

Drawing heavily on alumni and "friends of the firm" forms an important part of the quality control process when the contract lawyers are initially engaged. However, all firms interviewed by Jomati also appraised their contract lawyers' performance at the end of each assignment. Additionally, when a contract lawyer was provided to a client on a long-term basis, the firm also typically offered periodic reviews – for example, shortly after the contract lawyers' monthly invoice had been submitted, to ensure the client was happy with the work they had been billed for. On some occasions, clients pushed back in relation to feedback requests: one firm representative told Jomati that one of their clients had effectively said: "you've provided us with a great lawyer, we'll be in contact again if there is anything you need to know." Nevertheless, the firm's offer of regular feedback remained.

The future of contract lawyering

Those practitioners interviewed by Jomati were generally of the same opinion regarding the future of contract lawyering: it represented a structural change in the way that legal services were delivered, rather than a temporary response to the recent economic slowdown. If true, this development raises some profound questions for law firms regarding their future resourcing requirements. In the long term, should they continue to mainly recruit new fee earners on a full-time, permanent contract basis? Alternatively, should they seek to move towards a more mixed resourcing approach, in which contract lawyers feature more heavily? And, having initially launched their CLS offering based on their alumni networks, should firms now consider offering their existing workforce – particularly those with caring responsibilities – the option of working on a similar basis?

More specifically, within their own firms and wider networks, various practitioners interviewed by Jomati envisaged that their existing CLS offerings had the potential for further expansion. For some firm representatives, whose CLSs were currently limited to a handful of practice areas, their firm was now considering expanding the breadth of its CLS offering to also include other legal specialisms. Others were considering how to expand their services geographically – either via the firm's branch office network or among firms they regularly worked in partnership with. Here, the main potential obstacles to international CLS expansion identified by practitioners were local employment law regimes and rules of professional conduct in their target expansion jurisdictions. In some countries, for example, the ethical rules of the local bar association already require that lawyers should be self-employed notwithstanding that, in reality, many junior lawyers working in those jurisdictions behaved as if they were employees.

In addition to practice area and geographical expansion, some CLS managers suggested that they were actively considering branching out into non-legal services – indeed some had already done so. Here, employing suitably-qualified HR professionals was an obvious brand extension.

> *"If a client is undergoing a major reorganisation, then they want access to not only an in-house legal resource but also HR professionals. We've therefore decided that our service should not only offer lawyers of five or six years PQE upwards, but also HR consultants, some of whom will be former HR directors."*
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> *"We're always being asked to provide HR consultancy services or HR support. Historically, we just put our clients in contact with HR people we knew. But we could develop this idea into a separate service – it would be a no brainer."*

In terms of whether more firms would launch their own CLSs going forward, some CLS representatives believed that this was, indeed, likely. However, it was also suggested that some firms may decide to broadly follow the DLA / LOD approach, and instead outsource the provision of their CLS offering to a third party. In fact, many law firms have already adopted this approach – but currently outsource their CLSs to alternative providers, rather than ones owned by another law firm. Following the DLA / LOD announcement, UK law firms in particular arguably now face a three-stage dilemma regarding how to respond to the CLS phenomena. Firstly, they must ask themselves if there is sufficient internal or client demand to launch their own CLS offering. Secondly, assuming that such demand exists, they must then ask themselves whether the financial rewards for "owning" such a service internally outweighs the operational costs of doing so. And finally, in the event that the financial or wider strategic considerations do not provide a compelling case for such firms to launch their own CLS, these practices must then consider which type of third party provider should deliver their CLS service: either an alternative provider, or another law firm.

> *"There's clearly a third way by which law firms can deliver a CLS. You don't have to build it - or not do it. Alternatively, you can just borrow it."*

Conclusions

After a slow start, the UK legal profession in particular has begun to embrace the CLS concept with some enthusiasm. It remains to be seen whether contract lawyering will become a viable business proposition for a large number of law firms and contract lawyers alike going forward, given that – by its very nature – the demand for contract legal services is unpredictable. Nevertheless, it is just possible that law firms may have stumbled on a way of working that suits them, their clients, and their own personnel, some of whom are in search of a better work-life balance. And for that discovery, law firms have the alternative providers – and the law firm pioneers within their own ranks – to thank for demonstrating that this method of working is, indeed, viable within the legal services sector.

Final thoughts

The number of law firms that have deployed the changes to their working practices identified in this report have increased markedly in recent months and years – albeit from a very low base. Nevertheless, the wider significance of such deployments should not be underestimated. In the legal world, a common justification for operational inertia is that "law is different", and that business practices that are considered standard in other sectors are not applicable here. Therefore, the actions of the small group of pioneers identified in this report suggests this particular justification for inaction is no longer valid – if it ever was. First came the alternative providers and the law firm outliers, who proved that alternative working practices could, indeed, be applied in the legal profession. Then came the mainstream law firms, who demonstrated that these working practices could also be adopted by law firm partnerships the world over. At present, it is unclear just how widely the operational changes discussed in this report could be implemented by law firms globally. But, based on the examples uncovered by Jomati, evidence suggests that any law firm employing more than 400 lawyers may, potentially, benefit from an LCC or LPM programme. For CLS offerings, the barrier to entry appears to be even lower.

Perhaps one of the most curious aspects of the operational changes discussed in this report is the piecemeal way in which many of these changes have been introduced. Among those firms examined by Jomati, the majority of law firms which – to date – have launched an LCC, an LPM programme, or a CLS, appear to have done so as a distinctive standalone project. By contrast, examples of law firms adopting a "big bang" approach, and rapidly rolling out "new model law" initiatives in parallel with each are harder – but not impossible[72] – to find. But perhaps the piecemeal approach to operational change by traditional law firms is inevitable: unlike new market entrants, existing legal practice firms do not have the luxury of starting with a blank sheet of paper when deciding on their future methods of working. In effect, they are attempting to "change a wheel on a moving car".

Ultimately, it is quite possible that a select group of otherwise traditional law firms may succeed in transforming themselves into entities which operate in a fashion that is largely indistinguishable from their new market entrant competitors. But, given the challenges of implementing just one operational reform within an existing law firm structure, such an evolution is likely to take years, rather than months. In that regard, it is arguably helpful that overt client demand for law firms to undergo such significant operational change remains – for now – sporadic. Firms therefore continue to enjoy a window of opportunity to explore their options and, if necessary, introduce those reforms deemed most beneficial to their practices. But, as alternative providers continue to become ever more established, and an ever-increasing number of law firms also seek to capitalise on the efficiency improvements they have introduced, it is unlikely that this window of opportunity for reform will remain open forever. At some point in the future, it is likely that client sentiment will change, and delivery models that are currently regarded as "nice to have" will become a "non-negotiable must have". Law firms must therefore consider such an eventuality, and carefully evaluate their reform options accordingly.

72 For example, www.dwf.co.uk/about-us/approach/

Jomati Consultants LLP
3 Amen Lodge
Warwick Lane
London
EC4M 7BY

Tel: +44 (0) 20 7248 1045

www.jomati.com

jomati
consultants LLP