

In Business

March 2009

IN-HOUSE SPECIAL

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I'M IN BUSINESS
(I'm also a lawyer)

World of difference

In-house counsel talk about how cost pressures will shape the coming year

Billing me softly

Alternative, and better, charging regimes are the way to get more for less

Head for success

Training options available to in-house lawyers who want to raise their games



Offshoring legal work sounds like a threat, but it also holds great opportunities for in-house legal units and law firms alike. *Catherine Baksi reports*

World in action

Lawyers have in the past been reluctant to embrace the idea of contracting out any part of their business to third-party providers – a process known as outsourcing – and this is particularly true when it comes to the legal work. But as law firms have embraced outsourcing areas such as HR or IT, they and their client companies have started to outsource more legal work.

The main fears expressed over outsourcing legal work are a loss of control that could lead to breaches of client confidentiality, a diminution in the standard of work and consequent dilution of a firm's brand. But as the legal landscape has begun to change over the past few years, law firms and in-house legal departments have been forced to look at innovative ways to cut costs while maintaining a high quality of service. The recent recession has added impetus to this economic imperative.

Outsourcing business processes such as IT, HR, reception and telephone services, database management and transcription has become common in many businesses, and law firms have followed suit. Now, as economic pressures increase, it seems almost nothing is sacrosanct – law firms and general counsel are starting to outsource work that has up until now been the domain of their own lawyers. This has given rise to the term 'legal process outsourcing' (LPO) and to a new industry of LPO companies.

As much of the outsourced work is carried out by people based in a different country to the client, typically India, South Africa and the Philippines, the process has fallen under the outsourcing banner of 'offshoring'.

Jack Diggle, a consultant specialising in outsourcing and offshoring at management consultancy OMC Partners, says

commoditised, volume work that has a repeatable and standardised process, is not time-critical and has limited client contact is the most suited to being outsourced.

In commercial law, he says, this has been trademark registration and renewals, real estate standard document agreements, commercial litigation document review, and mergers and acquisition due diligence. In non-commercial work, processes involved in debt recovery, insurance, personal injury, civil litigation, immigration, clinical and professional negligence and conveyancing have been successfully outsourced.

For those considering dipping their toes in the offshore waters, Diggle warns: 'It's not a quick process. A well-put-together outsourcing or offshoring programme will take at least a year.'

There are, he says, two distinct steps to take: 'First, look at your strategy. Understand the drivers for why you are looking to do it, consider the business case and ask whether it stacks up financially. Second, have a detailed design of what you plan to do. Consider how it will work in practice. Selecting the right supplier to work with is crucial.'

Lovells and Eversheds have both offshored work to India, while Clifford Chance has its own offshore centre in the subcontinent. Rumour has it that Slaughter and May is looking into the idea.

Passage to India

Mining giant Rio Tinto caused shockwaves earlier this year when it announced it had entered into a legal services outsourcing agreement with CPA Global to send some of its legal work to India.

CPA Global provides a dedicated team of 12 Delhi-based lawyers who only do work for Rio Tinto to support the company's 100-strong in-house legal team. In addition, Rio Tinto can make use of other shared resources when the need arises.

Initially, the work undertaken by CPA Global will be legal support services including contract drafting, document review, legal research, memo preparation, litigation support and due diligence. But the parties anticipate that the scope of work will expand to cover other routine legal services formerly handled in-house by Rio Tinto or shared among the company's panel of law firms. Rio Tinto hopes to cut its annual legal spend by 20%.

Explaining what prompted the radical move, Leah Cooper, Rio Tinto's managing attorney, says: 'Essentially we're a busy in-house legal team. In today's economic climate we are not in a position to hire additional resources, even at a junior level. So we looked at what our lawyers were

doing and how they added value to the business.

'Some senior lawyers were bogged down doing routine low-value work. If we could get that off their plates, they'd be free to do more challenging and strategic-legal work.'

Cost, she says, was also a key driver. 'It is quite expensive to pay junior lawyers at external firms to do routine work,' she adds.

Cooper explains that the move was not about reducing the in-house legal team, but bolstering it with an additional resource. Accordingly, she says, the internal lawyers were excited by the prospect. 'Not all of our external firms are equally enthused about our decision, but some have understood,' she adds.

Rio Tinto has been using its Indian team since May and has since worked on 135 projects. 'We

are not yet six months in and are still feeling our way through the capabilities of the team. There are no set rules about what work they can do and we are constantly monitoring the quality of their work to ensure it's up to our standards.'

So does Cooper think others will follow her lead? 'I hear general counsel saying the law firm model is

broken and they are tired of paying the costs firms charge,' she says.

'More and more people are getting ready to do something similar to what we are trying, but it's scary. People will be looking to our project to see how it works out.'

IT company HP also outsources some of its more mechanical or repetitive legal tasks to India, freeing up its in-house lawyers to focus on more high-value work and reduce the amount it sends out to external law firms.

James Ormrod, legal affairs

OFFSHORING

director at HP, told the *Gazette* earlier in the year that he was interested in 'out-tasking', as he calls it, 'not as a means of reducing our presence and capability onshore, but as a means of flexing with the business as the business grows'.

Other companies with in-house legal teams that outsource or offshore legal work are more reticent at going public with the fact, but it is a growing trend, according to Andrew Loach, CPA Global's vice-president in legal support services. 'Large corporate organisations have outsourced their IT, HR and back

Global, explains that CPA, which only deals with legal outsourcing, goes into a business and gathers information about their existing operation, looking at its spend, overheads, output, where work is done and so on, then looks at alternative models.

He says: 'We offer a like-for-like service – we just replace their lawyers with ours in India who are cheaper by a factor of 7:1'

He says around 40-60% of low-end work can often be outsourced, letting firms redeploy their resources and save money. Most general counsel, he adds, do not object to paying the partner rates, but they do object to paying for junior lawyers at high rates.

Kropholler adds: 'Senior lawyers are often doing low-level work that can be outsourced, so they are free to do work that is more intellectually challenging and strategic work that would have been sent out to a law firm. It gives them time to get closer to the business.'

To offer some reassurance to those firms on the external panels of large corporates, Loach says: 'There'll always be a place for law firms – outsourcing can't do everything. We're not a law firm – we can't give advice or offer opinions. Lawyers make the decisions.'

New markets

When people think of outsourcing and offshoring, most tend to think of India, but not all roads lead there.

In 2008, Ali Tyebkhan co-founded Sri Lankan LPO company LegalBase, which provides legal services to corporates and law firms. Its core areas of work are corporate and commercial, litigation and

document review, banking and finance, employment law, intellectual property and brand protection, and legal research.

'We're structured as an offshore law firm doing legal work only, but at a vastly reduced cost compared with City firms because we are based in Colombo,' says Tyebkhan.

'I hear general counsel saying the law firm model is broken and they are tired of paying the costs firms charge'

'Corporates instruct us instead of going to an external law firm. Some have in-house legal teams, but with others we deal directly with the business managers. Law firms also instruct us to support their business when they need extra capacity.'

The work is carried out by qualified lawyers, and the service includes front-end tasks such as negotiating with the other side's lawyers. All end results are supervised by senior lawyers who are either barristers or solicitors.

Tyebkhan says the problem the company faced when it launched was explaining to lawyers in the UK what LegalBase did and how the process worked. 'In the US people knew about LPO, but most people in the UK hadn't heard about it.' But now, he seems pleased to note, that's changing – 'everyone is looking into it,' albeit often discreetly, he says.

As the focus on cost increases, the use of legal process outsourcing will probably grow, and this will naturally take work away from law firms and possibly even in-house legal departments. But Tyebkhan agrees with Loach that 'there'll always be a role for specialist lawyers'.

'For instance, if someone wanted specialist advice on tax law, we wouldn't be able to help them.' But, he adds: 'It's important to avoid overselling yourself.'

Some offshored legal work is taking place in a hybrid civil-common law jurisdiction just on the edge of the Mediterranean: Israel.

Westmans Law offers an interesting take on offshoring – it sends legal work to Israel. The firm grew out of a virtual practice in the UK and has a database of fully qualified lawyers whose services it

offers to UK and US lawyers who need extra capacity.

Jonathan Weinberg, co-founder and manager of Westmans Law, explains: 'We create mirror files and take on a case from start to finish. We take over the case and act as though we are in the next room. We have a very sophisticated telephone

system so clients can call us using a London number and pay for the call at local rates. The only difference is that they can't come in and see us.

'The cost of living in Israel is much lower than in the UK or US, so we can charge cheaper rates for the same quality of work. Once the market picks up we're an option instead of firms having to take on extra staff.'

Assersons does much the same thing. This firm, headed by former City solicitor Trevor Asserson, has offshored its whole practice to Israel. 'All our clients enjoy the benefit of highly experienced City lawyers at very competitive prices,' says Asserson. 'And our local clients get the added benefit of experienced UK lawyers on their doorstep as well.'

Contented in his warm Jerusalem office, he says: 'Lawyers are attracted by the entrepreneurial vibrancy and great quality of life Israel offers. Also, 365 days a year of sunshine and proximity to some of the world's best beaches and greatest archaeological sites somewhat dulls the attraction of London suburban life.'

So there are plenty of options for lawyers willing to be a little creative with their careers – it's a matter of finding the right option for you. And there will undoubtedly be big cost savings to be made by some of those brave enough to give it a whirl. In the near term, all eyes will be on Rio Tinto to see how things go there.

But, as Lee Ranson, managing partner at Eversheds, which successfully offshores work on a client-by-client basis, says: 'Not everyone who takes the journey will find it a success.' ■



office, but legal departments have got away by saying "we're legal", he says. 'But as belts have to be tightened, companies are asking what their legal departments are doing.'

'There is more pressure to apply the concept of outsourcing. "Legal" is the last bastion to be put under the microscope.'

Derk Kropholler, vice-president of business development at CPA