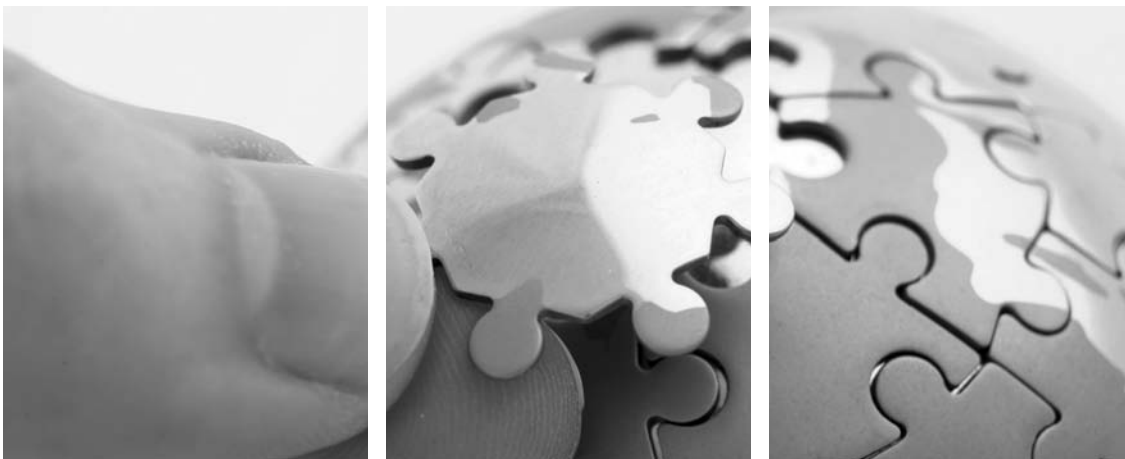


# Implementing a Successful Legal Outsourcing Engagement

MICHAEL D. BELL



# Contents

Foreword .....	VII
Executive summary.....	IX
About the author.....	XIII
Acknowledgements .....	XV
Disclaimer.....	XVII
<b>Part 1: Implementing a Successful Legal Outsourcing Engagement</b>	
<b>Chapter 1: The legal process outsourcing trend .....</b>	<b>3</b>
Types of legal services outsourced .....	3
The benefits and drivers of outsourcing.....	3
Client needs and expectations.....	7
Globalisation.....	9
Technological advances.....	9
Legislative developments .....	11
Vendor maturation .....	13
Maturity in LPO .....	14
<b>Chapter 2: The economic implications of outsourcing .....</b>	<b>17</b>
Corporate change .....	17
Challenging times for in-house counsel .....	19
A summary of clients .....	20
Other further corporate strategies to reduce legal spend.....	20
Law firm performance and strategies for market leaders.....	22
The economic downturn has set a precedent for change.....	24
Trends experienced by outsourcing vendors.....	25
The basis for outsourcing .....	26
<b>Chapter 3: The underpinnings of legal outsourcing.....</b>	<b>29</b>
Principles of delegation .....	29
The underpinning economics of outsourcing .....	30

<b>Chapter 4: The benefits and challenges of outsourcing</b> .....	<b>33</b>
The benefits of outsourcing.....	33
The benefits of offshoring.....	35
Outsourcing challenges.....	37
Challenges unique to outsourcing.....	38
Challenges unique to offshoring.....	41
<b>Chapter 5: Capitalising on outsourcing opportunities</b> .....	<b>45</b>
Outsourced service areas.....	45
Outsourcing non-legal services.....	48
Outsourcing operating models.....	50
Sourcing geographies.....	54
Leading and emerging legal offshore destinations.....	56
<b>Chapter 6: The outsourcing exploration road map</b> .....	<b>59</b>
A vision for change.....	59
Building a team.....	60
Assessing internal core competencies.....	62
Internal cost allocation.....	64
Defining outsourcing objectives.....	64
Service-level opportunity exploration.....	65
Thumbnail service area outline.....	66
Assessing the sourcability of a function.....	66
Decision tools.....	68
The ‘Do Not Outsource’ list.....	70
The outside perspective in solution exploration.....	70
<b>Chapter 7: Solution development</b> .....	<b>73</b>
Translating findings to solutions.....	73
Recognising core drivers.....	73
Engaging stakeholders.....	74
Prioritising outsourcing objectives.....	75
The ‘Four Factor Sourcing’ model.....	78
Documenting and baselining internal process.....	79
Vendor collaboration during solution development.....	82
Solution components.....	83
Building a winning business case for legal outsourcing.....	87
The importance of a global business case.....	89
Outsourcing as a strategy to manage support cost and variable demand.....	91
Future flexibility for the shape of firms to come.....	94
<b>Chapter 8: Managing legal outsourcing risk and ethical compliance</b> .....	<b>95</b>
New opportunities, new risks.....	95
Identifying risk.....	96

Other specific risk areas .....	99
Organisational risk tolerance .....	100
Baselining .....	101
Developing a risk management strategy .....	101
Factors that affect risk of an outsourcing engagement.....	102
Successful risk management and weighing the benefits .....	103
Reducing risk through contractual provisions .....	104
Legal outsourcing: ethical compliance .....	106
Issues specific to the UK .....	108
<b>Chapter 9: Managing and ensuring quality throughout the outsourcing engagement .....</b>	<b>111</b>
Defining quality .....	111
What does quality mean for clients? .....	112
Quality dynamics .....	113
The vendor approach to managing quality.....	114
Assessing vendor-quality performance .....	115
Balancing quality with cost.....	117
Managing quality throughout the outsourcing engagement .....	118
Quality pitfalls .....	119
<b>Chapter 10: Vendor qualification and selection .....</b>	<b>121</b>
The importance of a strong vendor selection .....	121
The six-step vendor-selection process.....	122
Vendor pre-selection and self-selection .....	123
Vendor baseline qualification .....	125
Vendor performance assessment measures.....	127
The proposal process .....	129
On-site due diligence.....	130
Making it happen .....	131
Building a robust vendor-assessment process .....	132
<b>Chapter 11: Vendor management and relationship governance .....</b>	<b>137</b>
Governance defined .....	137
Common challenges .....	137
Selecting and building your vendor management framework.....	139
The importance of vendor governance .....	140
Collaborative approach .....	143
Addressing issues .....	144
Aligning vendor management to outsourcing objectives .....	144
Linking incentives to the success of the engagement .....	145
<b>Chapter 12: Putting the pieces together for a successful outsourcing engagement .....</b>	<b>147</b>
Implementing and adjusting to change .....	147
Building internal buy-in and aligning stakeholder interest .....	149

Outsourcing and social responsibility .....	150
The outlook for legal outsourcing.....	152
<b>Part 2: Case Studies</b>	
<b>Case study 1: Pinsent Masons – Addressing common misconceptions of outsourcing.....</b>	<b>157</b>
The mounting cost of e-discovery .....	157
The solution requirements.....	157
Solution design and implementation.....	157
Outsourcing challenges encountered.....	158
The result for the firm .....	160
Valuable lessons learnt .....	160
<b>Case study 2: Osborne Clarke – Finding the right vendor .....</b>	<b>161</b>
Restructuring internal operations .....	161
Achieving real cost savings .....	162
Finding a vendor – the challenge .....	162
Solution design and implementation.....	164
The firm’s outlook .....	164
Valuable lessons learnt .....	165
<b>Case study 3: MyHomeMove – Growing the business through outsourcing .....</b>	<b>167</b>
Vendor requirements .....	167
Sifting through the pile .....	168
The challenges encountered .....	168
The firm’s outlook .....	169
Valuable lessons learnt .....	170
<b>Case study 4: ISS UK – Reducing cost and risk for in-house counsel.....</b>	<b>171</b>
The drivers for the outsourcing initiative.....	171
Vendor selection and solution .....	171
Challenges encountered.....	173
Results for the organisation.....	174
Valuable lessons learnt .....	175
<b>Case study 5: Underwoods Solicitors – Achieving firm differentiation in a competitive market .....</b>	<b>177</b>
Solution .....	177
Measuring the sourcability of legal services.....	178
Challenges encountered.....	178
Results for the firm .....	179
Valuable lessons learnt .....	180
<b>Index.....</b>	<b>181</b>

# Foreword

By Bruce MacEwen, president,  
Adam Smith Esq.

I'M afraid that at times, the ongoing debate over outsourcing legal work brings to mind the unhappy and unproductive – but high-decibel level – debate over US involvement in the Vietnam War at the height of the late 1960's domestic schism. You may recall that a slogan of strenuously flag-waving war supporters – not subtly accusing the anti-war activists of treason – was 'your country – love it or leave it'. And so at times it seems to be so with outsourcing.

Professor Richard Susskind recently devoted an entire book to the argument that outsourcing and associated technological innovations threatened the very underpinnings of the legal profession in *The End of Lawyers* (Oxford: 2009).

Consider this nuanced, modulated and subtle view of Lou Dobbs, anchor and managing editor of *Lou Dobbs Tonight* on CNN: "Outsourcing amounts to sending American jobs overseas or choosing to employ cheap overseas labor instead of American workers... The ultimate message in outsourcing is this: America be damned. It's all about the lowest cost. I can't accept that."<sup>1</sup>

Even firms in the industry acknowledge the attacks, although they keep the rhetoric cooler: "Some firms are spreading fear, uncertainty and doubt," said David Perla, co-chief executive of Pangea3, an offshore legal-services company based in New York and Mumbai. "They see any competition as bad

and they'll raise any issues as to why you shouldn't go offshore."<sup>2</sup>

Can we all just take a deep breath?

My own view of outsourcing is this: it's not a religious war; it's a business decision. These conversations distract us from focusing on what really matters, which is the entirely familiar and utterly non-ideological management question commonly called make or buy.

Adam Smith himself had something to say about this, using terminology we could easily employ today: "It is the maxim of every prudent master of a family, never to attempt to make at home what it will cost him more to make than to buy...What is prudence in the conduct of every private family, can scarce be folly in that of a great kingdom."<sup>3</sup>

Although in the cited excerpt, Smith was developing an argument in favour of international trade, the same holds manifestly true for whether a firm chooses to 'make' a service within its own four walls or to buy it on the open market.

Another categorical mistake too many people make is to treat outsourcing as monolithic. Outsourcing covers many processes, which are so familiar and taken for granted, that we don't even realise that these services are classed as outsourced.

Does your firm run its own copy centre, mail room, cafeteria and conference room catering? Is it outsourcing delivery to FedEx?

The following are some examples of what other law firms are outsourcing.

Orrick has famously relocated its HR, accounting, IT, and much of word-processing to its own facility in Wheeling, West Virginia, which is conveniently in the Eastern US time zone and has a population of native English speakers.

Milbank, by contrast, has outsourced its word-processing to a third party in Bangalore, India. How did they convince the lawyers to endorse the switch? Simple: during a six-month test period, word-processing jobs were sent, blindly and at random – either to Bangalore or to Milbank’s office in downtown Manhattan – and the quality and timeliness were then graded upon the return of the job to the lawyer. Bangalore won hands down and resistance evaporated.

The point is to take the hot blood out of the discussion. This is not, again, a religious war.

I am, as usual, on the side of what the investor Benjamin Graham famously labelled ‘Mr Market’. Mr Market will tell us the optimal mix of the who, what, where, when, why and how of outsourcing. We will learn, often through trial and error, and experimentation.

Do I believe, à la Susskind, that a combination of commoditisation of legal expertise and the relentless onslaught of technology portend the end of lawyers? Not on your life. Do I believe, conversely, that outsourcing is a threat to the venerable traditions of the profession? Not on your life.

I may disappoint you to report that what I believe is far more parochial: the adoption of outsourcing will be firm by firm, activity by activity, year by year. Like much of the march of progress, change will be less drastic in the short run than many imagine, and more revolutionary in the long run than most can foresee.

Hang on, it’s going to be a long, but only episodically bumpy, ride.

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2. ‘US firms outsource legal services to India’, *The New York Times*, 21 August 2007; can be found at: <http://www.nytimes.com/2007/08/21/business/worldbusiness/21iht-law.4.7199252.html>
3. *The Wealth Of Nations*, Book IV Chapter II, pp. 456-7, paras. 11-12.

## Executive summary

THE LEGAL industry is undergoing profound change. Legislative and regulatory changes, firm consolidation, increased competition, and global expansion have dramatically altered the legal landscape. Rising fees, cost-conscious clients and increased areas of risk exposure have forced legal professionals to adjust former business models to remain competitive. Recent economic volatility has accelerated these issues and law firms and corporations are struggling to adapt to new challenges presented by a changing economy. For legal services firms in the UK, these challenges are compounded by the Legal Services Act 2007 that essentially deregulates the legal profession. One of the most compelling strategies to meet these challenges is legal outsourcing – the transfer of legal functions to external providers both domestically (onshore outsourcing) and to foreign locations (offshoring).

Outsourcing is particularly relevant today as law firms and organisations position themselves to survive the peaks and troughs of a volatile economy. The depth and breadth of the recent economic downturn demonstrates that the reactionary ‘survive-and-get-through-it’ strategy employed by many firms, is neither sustainable nor advantageous to the long-term competitiveness of the firm. As the case studies in Part 2 of this report demonstrate, using outside vendors to support – not supplant – internal teams can help organisations grow their business even in an ailing economy. Outsourcing is a proactive organisational strategy that can

help firms survive and thrive in both lean and prosperous times.

Legal professionals in the UK, the US and across the globe are leveraging outsourced legal services to manage business variability, reduce costs and maximise firm resources. Outsourcing is an innovative strategy for legal organisations of all sizes, from the solo practitioner to the mid-size corporation, to the global law firm.

One of the most significant benefits of outsourcing is the cost savings achieved through labour arbitrage. Outsourcing can reduce costs by 10 per cent to 40 per cent compared to performing the service internally. Outsourcing typically saves corporate counsels at least 20 per cent of their total annual legal budget and, in some cases, a savings of up to 70 per cent from law-firm billing rates. As a result of outsourcing, law firms are able to reduce costs internally, thereby increasing profit margins while lowering client fees. However, cost is by no means the only advantage to outsourcing. Additional benefits include, but are not limited to:

- Better management of workflow variability in a declining or recovering economy;
- Enhancing efficiencies without incurring excess capacity or firm overhead;
- Managing risks by leveraging solutions previously too costly and uneconomical to pursue; and
- Leveraging outsourcing as a change agent to restructure inefficient internal processes.

Offshoring to legal providers overseas offers additional benefits including:

- Substantial cost reductions;
- Alternative time zones allowing around-the-clock service;
- Access to a global pool of talent, including access to technical skills, emerging global markets and low-wage labour; and
- Insight into new and different ways of delivering legal services.

These benefits must be weighed against the risks of outsourcing and offshoring. Challenges such as security, confidentiality, the ethical practice of law, professional liability and quality of the legal services rendered must be addressed when making outsourcing decisions. This report provides a balanced perspective of the outsourced legal services market, analysing both the advantages and risks of outsourcing.

Legal outsourcing is fraught with misconceptions. First, many believe that legal outsourcing is a dramatic departure from the existing law firm model. However, legal professionals have a rich tradition of outsourcing legal services known as delegation. By applying the principles of 'highest and best use', corporate counsels routinely delegate work to outside law firms. Similarly, law firm partners delegate work internally to associates, paralegals, and externally, to contract lawyers, legal vendors and, more recently, litigation support firms and e-discovery vendors. Legal outsourcing is merely an extension and logical next step of the delegation process.

A second common misconception is that outsourced solutions are only available to mega-global law firms. On the contrary, firms of all sizes and practice areas can reap the benefits of an outsourcing strategy.

Large firms gain operational efficiencies and cost savings while small and mid-size firms gain access to scale and expertise that may not exist within their four walls. The ability to quickly scale up operations levels the playing field and allows smaller law firms to showcase their individual strengths such as low overhead costs, niche expertise, highly-personalised service and organisational flexibility, while not being hindered by capacity constraints.

A third misconception is that legal outsourcing entails insurmountable barriers that outweigh any potential benefits. However, these perceived barriers can be overcome and the benefits of outsourcing have never been greater. This report addresses outsourcing obstacles and provides valuable guidance, through discussion, expert analysis and case studies, in overcoming outsourcing hurdles – both real and perceived.

A final misconception is that outsourcing to remote geographies – particularly in times of a challenging domestic labour market – robs domestically-based employees of job opportunities. This report details the social responsibility aspects of outsourcing and outlines, through analysis and case studies, how successful legal outsourcing solutions engage an outsourcing provider as an extension, rather than replacement of existing legal staff.

This report serves as a comprehensive reference guide for legal professionals considering a legal outsourcing engagement. Legal professionals currently outsourcing will learn how their engagement stacks up against others and what they can do to ensure that they are not undershooting the potential value of their engagement.

Part 1 of this report examines every aspect of the outsourcing engagement,

details best practices and examines the benefits, opportunities and challenges posed by outsourcing. Part 1 also provides an in-depth guide to selecting vendors, managing quality and risk, ethical compliance, relationship governance, training staff and a host of other issues encountered in outsourcing. Moreover, Part 1 discusses the changes within and outside law firms that set the stage for the emergence of legal outsourced services, and the recent economic events that are shaping the industry.

Part 2 of the report offers case studies of law firms and organisations of a variety of sizes, locations and practice specialties, highlighting how they tackled an array of outsourcing challenges. While many firms and corporations are currently engaging in, or piloting legal outsourcing opportunities, the majority of engagements are not publicly recognised due to privacy concerns. These case studies provide an insight into the legal outsourcing space and reveal what outsourcing strategies law firms and corporations are adopting, and how they have achieved success. Case study organisations highlighted in the report include:

- Pinsent Masons;
- Osborne Clarke;
- MyHomeMove;
- ISS UK; and
- Underwoods Solicitors.

This report aims to help legal professionals gain a comprehensive understanding of the industry, recognise new opportunities, gain insight from leading experts in the field, learn the right questions to ask and build successful legal outsourcing solutions based on industry precedents.

Given the challenges of today's global legal marketplace, outsourcing

is a compelling solution for firms and corporations of all sizes and practice areas. Moreover, the staffing flexibility provided by outsourcing allows organisations to better manage workflow variability due to seasonal demands or economic conditions. This report provides a foundation on which firms can build outsourced solutions tailored to their specific organisational directives and strategic objectives, and outlines how to capitalise on a changing market to achieve revitalising success. As outsourcing continues to impact the landscape of the legal industry, it is a viable business solution that should not be overlooked.

## About the author

Michael D. Bell is the founder and managing principal of Fronterion LLC, a management consulting firm exclusively focused on assisting law firms and corporations in all stages of the legal outsourcing life cycle. Bell's expertise covers the full spectrum of legal outsourcing advisory services including solution development, onsite vendor due diligence/selection, risk management/ethical compliance, solution implementation, and ongoing vendor relationship management.

Fronterion was the first firm to take a highly-structured approach to the evaluation of the legal outsourcing vendor marketplace, and Bell has conducted more than 40 on-site assessments of offshore legal services vendors.

Bell's work has been published in bar journals and referenced in research publications on the legal outsourcing industry. He is also the author of the 'LPO Source' blog (can be found at: <http://www.lposource.com>).

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