

This article was first published by LLRX.com on 20 Feb 2010.

Law Firms Now Outsourcers?

Last month, *Legal Week* reported that [Eversheds gears up to launch its own outsourcing business](#) (14 Jan 2010). This raises the question of what exactly is outsourcing and how does it differ from where lawyers are located.

More about Eversheds' Outsourcing

According to the [Eversheds' press release](#),

The firm is doing a six-month pilot of a joint venture with its South African office to provide **outsourced legal services** to clients. The pilot includes a "range of basic scope and commoditised legal work for the firms international client accounts completed in South Africa" This joint venture "is an extension of the firms 'networked law' approach in the UK which longstanding clients of the firm are already familiar with. Eversheds uses its network of offices to move work from higher cost centres to lower cost centres giving clients the benefit of a high quality service but delivered cost effectively."

The release quotes Graham Richardson, who heads the firms Legal Systems Group and who is leading the South African joint venture project: "Whilst historically most law firms decided to off load or re-brand their volume operations, we made the strategic decision to retain ours, which gives us a unique skill set in process and systems management giving us substantial experience of commoditising and breaking down legal work in to a process, thereby ensuring work is done faster, better and more cost-effectively. **We also have the additional option to offshore work to third parties such as Williams Lea delivering the solution that best fits the clients need. Our client base is increasingly global and our clients are unconcerned as to whether the work is done in South Africa, Birmingham or India, as long as it's done cost-effectively and efficiently, and the quality is guaranteed by the Eversheds brand .**" (emphasis added)

Reducing Cost by Shifting Location versus Improving Process

At the risk of stating the obvious, the location of lawyers and legal professional is an important factor in cost. The cost of living in, for example, New York City or London is much higher than in Cleveland or Cardiff. Compensation typically reflects local cost of living, so it's no surprise that lawyers in the former earn more than in the latter. For the same reason, lawyers in South Africa, Israel, and India earn less than in the United States or the England.

Clients can save money by moving work to lower cost locations, even without changing how lawyers do the work (the process). Some US law firms, with offices in high and low cost location, have the potential to shift some work from high-cost cities to low-cost cities. I occasionally hear of firms doing this but I don't have the sense that this occurs nearly as often as it might, especially given client demands for lower costs. To my knowledge, only one firm has actively promoted this idea: I first read about [Lovell's Mexican Wave](#) about a decade ago (Lovells outsources certain routine work to lower cost regional UK firms).

Independent of labor cost, improving the process by which legal work is done can lower cost and reduce risk. My Integreon colleague Matthew Banks explains this in his blog post [What's in a Name? "Legal" + "Process" + "Outsourcing"](#) (Oct 2009):

"The benefits of process include consistency, predictability, quality, productivity and defensibility – these benefits apply across many legal tasks of varying complexity, not just tasks which by their nature are substantively straightforward, standardized and routine... The LPO process brings a method which is common, documented, repeatable and scalable. Beyond labor cost savings, working with an LPO helps the company reduce work volume plus improve consistency and therefore decrease risk."

I think Eversheds is smart in what it is doing. Though the press picks up on the outsourcing theme, the firm's press release explains clearly that it has mastered processes (as well as having the option to work with actual legal process outsourcers).

Don't Confuse Outsourcing with Location

It seems to me that many in the legal market have not yet mastered the distinctions among location, process, and outsourcing. The Legal Week article I cite at the outset, by my reading, glosses over these distinctions, confusing shifting the location of work with outsourcing.

They have good company in the US. A recent *AmLaw Daily* blog post, [Am Law Alums Choose Different Path at Israeli Firm](#) (26 Jan 2010), writes at length about [OCS](#), a law firm based in Israel. The post notes "As opposed to outsourcing firms elsewhere, OCS does not have U.S.-trained attorneys supervising local lawyers. Instead, all of its lawyers are U.S.-qualified." That apposition is inapt; the OCS website clearly states: "OCS is not 'legal outsourcing.' We are your outside source for legal solutions."

Clients striving to lower cost must clearly understand the differences. They should consider both moving work to lower cost locations and improving processes.

Should Law Firms Wear the Outsourcing Mantle?

Once clients decide they want a lower cost location and improved processes, they must ask, who can best provide these. With a day job at a legal process outsourcing company (LPO), I'm not entirely unbiased. I voted with my feet, however, in consciously deciding that LPO is the right answer.

I have worked inside of two large US law firms plus sold software and consulted to many. I regularly talk to my lawyer and management friends in large US and UK law firms. While there are exceptions, and Eversheds seems one, few law firms focus on process. I've previously blogged that lawyers view themselves as artisans whose craft is not subject to analysis or reduction to a series of steps. Most lawyers are pretty much the opposite of process engineers. They simply don't have the right mindset or skills to improve processes systematically.

So, if I were a client, I would lobby my firm to shift work to its lower cost offices but I would also use an LPO for high-volume, process-oriented work.

And if I were a law firm, I would be cautious about my strategic positioning. I read with interest James Dunning on this point. Dunning consults now and formerly was a solicitor at Herbert Smith and several large companies. In his blog post [Eversheds and Outsourcing: Cunning or Crazy?](#), he questions Eversheds' move. He writes "successful outsourcing is based on rigorous cost control where staff do what they are told within a strictly designed and standardised process. Try applying that to a law firm corporate team." And he suggests that this could divert the firm from its core business.

Dunning has a point. Shortly after the Eversheds announcement, the firm had to fend off criticism, as reported in [Eversheds defends latest outsourcing](#) (The Lawyer, 18 Jan 2010). A Legal Week editorial, [Editor's comment: In the firing line](#) (27 Jan 2010), makes the same point as far as I could read without a subscription.

Should Law Firms Accept Legal Outsourcing?

Of course, not all law firms want to wear the LPO mantle; some appear more cautionary. Two [Mayer Brown](#) partners published (12 February 2010, firm website) [Is Legal Process Outsourcing Right for Your Company?](#). They acknowledge the potential benefits of legal outsourcing but remind us of regulatory and ethical constraints.

The ethical issues are real but managed with appropriate effort that is neither difficult nor costly. By now, enough US and UK law firms and law departments have offshored work that, in practice, many lawyers have developed sufficient comfort with the ethics rules and how to comply with them. This experience has developed in tandem with a lively legal profession discussion over several years of LPO ethics in articles, conferences, and webinars.

For example, most recently, my colleague Mark Ross' article, [Ethics of Legal Outsourcing White Paper](#) (LLRX.com, 14 Feb 2010), provides a detailed analysis of the ethical issues and how to comply. Mark discussed the several half-dozen or so bar opinions on the topic and analyzes in detail how to comply. Another example is several years old, a *The New York Times* article on 14 Mar 2004. [Corporate America Sending More Legal Work to Bombay](#) quotes leading legal ethics expert Prof. Stephen Gillers: "There is no problem with offshoring because even though the lawyer in India is not authorized by an American state to practice law, the review by American lawyers sanitizes the process." This sound bite oversimplifies but Mark's article provides the necessary detail.

The Mayer Brown article focuses on *offshore* outsourcing. It is not clear where the authors come out on *domestic* outsourcing. Some LPOs offer services based in the US or UK domestic locations. I think that many of the concerns they raise do not apply or take on a very different flavor for onshore outsourcing.

As a general matter, given client agitation for lower costs and more efficient service, my view is that law firms should be receptive to working with LPOs. That Mayer Brown even raises the

issue publicly is a step forward as only a few US firms have done so. Firms that resist LPO may preserve business short-term but risk longer term client relationships.

Conclusion: Reduce Legal Costs

Semantics and slicing aside, it's clear the clients want lower legal costs. And it's clear that shifting work location and improving processes achieve that result. After negative press about LPO several years ago, it's ironic that both the legal press and some law firms now view it as a badge of honor. Clients should be happy that they have a choice of providers. And society should be grateful that lawyers are finally taking cost control seriously.