

Working smarter in-house:
Is it time to lose
your law firm?



Way
ahead.

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Introduction

On 18 March 2015, the LexisNexis In-house Advisory Board met to discuss the topic of alternative legal providers and how in-house legal teams can benefit from implementing different resourcing models. The conversation was facilitated by Nick West, Managing Director of Axiom in the UK. Axiom is a pioneer in the legal services market, working closely with General Counsel and their teams to improve their risk profiles, lower cost, and create more value for their companies.

The following is a summary of the key areas that emerged during the discussion. The objective was to think about different types of work, to consider what might be best suited to different resourcing options and to debate the various benefits and challenges. It explores the factors to consider rather than finding hard and fast rules.

With recent industry research finding that **43% of in-house teams are using new agile service providers, like Axiom or Lawyers on Demand, is it time for you to make changes to the ways you resource work that you or your team can't handle?***

External resourcing - What are the options?

Fluctuating work level demands, the constant requirement to demonstrate value and evolving attitudes to flexible working are changing the way in-house teams allocate their work. The group considered two current models for resourcing. The first, the more traditional model; and the second, the rapidly growing alternative:

“There will always be someone at the prospective client side that wants to be a change agent, who thinks differently and is confident to challenge the status quo.”

The law firm model

In-house teams often need to scale up quickly for a particular project and then dissolve the team. However, internal resource can be inelastic and work is therefore passed to external law firms for the duration of a project.

This is an expensive option. The group raised the question of whether it was possible for law firms to provide a more cost effective service for certain types of work by taking overheads into account. For example, could a law firm provide a budget option where the team aren't situated in a highly sought-after City office?

Organisations often stay with law firms because they have 'corporate memory'. The challenge with leaving a law firm is the difficulty of getting someone new to understand the business.

However, it was noted by the group that corporate memory lies with an individual in a firm rather than with the firm itself. The expense and value of the traditional law firm model needs to be weighed up against the potential effort required to bring an alternative resourcing option up to speed with the business.

The managed services model

This alternative model challenges conventional methods of legal services delivery such as the law firm model above. It aims to offer budget certainty (for example, by using a flat fee as opposed to a law firm's traditional hourly rates), efficient delivery, low levels of risk and guaranteed quality. This model is about 'industrialising' work – using process, technology, project management and offshore resources to deliver specific outcomes in line with service level agreements made with clients.

What is driving the use of alternative resourcing models?

In addition to recognising the impact of general business process outsourcing, the group explored the drivers for using alternative providers and highlighted the following:

- ➔ **Cost pressure:** The pressure to do more with less. This can be prompted by the legal team's desire to demonstrate value to the business or by a CFO scrutinising costs.
- ➔ **Increasing regulatory risk:** Where the business doesn't have a good enough internal knowledge of regulatory risk and the pressure from regulators is increasing.
- ➔ **A specific business objective:** For example, the need to accelerate contracting. Alternative resources may be required in order to meet the objective if the internal resource is not sufficient.

It is important to ask the questions: "What are you trying to achieve?" and "What are you trying to do differently?"

It is important to ask the questions: "**What are you trying to achieve?**" and "**What are you trying to do differently?**" This requires analysis of the types of work carried out by the team and of how different resources are used. Interrogation of current processes may, for example, reveal duplication of effort in the team that could be handled more efficiently by using alternative providers.

Building the business case for alternative resourcing

The group discussed how to persuade the business of the benefits of an alternative provider. It isn't simply about wanting something faster and cheaper; ultimately, it is a decision about risk. Of course, there is a trade-off – if there are significant cost benefits then the case for using alternative resources is easier to sell to key stakeholders.

A starting point to test potential benefits to the business is to conduct a pilot. This could involve, for example, gradually building up the number of contracts outsourced and collecting data on the outcome to demonstrate the benefits against the investment made. The group acknowledged that, even taking this gradual approach, a level of protection against risk to the business still needs to be built in.



“Ultimately it is a decision about risk.”

Analysing current work practices and processes

Different approaches for analysing existing work practices were discussed by the group, including:

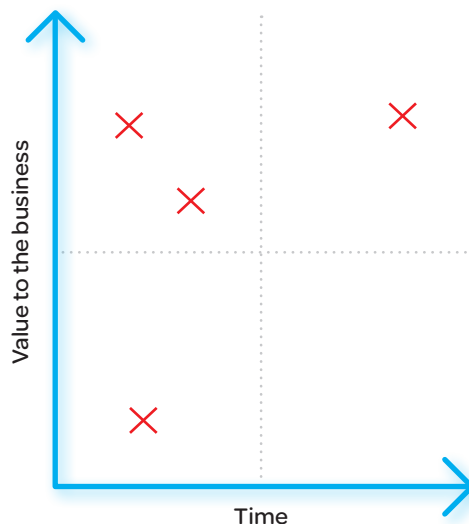
- **Categorise and prioritise:** One board member gave the example of looking across legal, finance, data and sales over an 18-month period to identify then categorise and prioritise types of business process. This was done by someone who was previously a lawyer but who now worked in an operations role.
- **Look at the legal team across the board:** It is important to look at the totality and not at just one area. For example, patterns in spend on external resource may vary depending on the area of work. Analysis is required to understand why this is and what the options are for reviewing processes.
- **Ask lawyers to categorise and rate the work they do:** Does it require transactional or more complex knowledge, internal business or external legal knowledge? How quickly does the work need to be completed? This can highlight if lawyers are doing routine work that is below their expertise or are doing work that they shouldn't be.
- **Plot the complexity of work against the internal knowledge needed:** What can you stop doing in-house because it doesn't require internal knowledge and isn't in the lawyers' job descriptions?

The key areas to investigate, to gain a deeper understanding of the work done, were identified as:

- Spend (on external counsel).
- Amount of time taken on tasks (using self-assessment, calendars, timesheets as data points).
- How easy is it to change the process?
- How easy is it to apply technology or more process?
- What is the value to the business?

Value versus Time model

The group went on to discuss the **Value versus Time model**. This plots types of work on a graph using 'value to the business' against 'how much time the work takes' as a starting point for identifying how to resource work. For example, work that is both high value and high time should be the key focus for the team, whereas low value and high time work could potentially be outsourced.



“Do not equate the way you have always done things as lower risk and better quality ... other options could actually be less risky and deliver better quality.”

One argument the group raised against the model was that it was perhaps better suited to those teams operating with no business plan or milestones. When assessing how best to resource work, the focus should be on what the legal team needs to be doing in the context of the business plan and KPIs and then prioritised accordingly. How to define 'value to the business' was also highlighted as a difficulty, one recommendation from the group being to get an 'external' view of what constitutes 'value' from the legal team in the framework of the overall business strategy.

The group discussed practical ways to track data points to measure work processes. Suggestions included a 2-week period of self-reporting and appointing someone external to complete a proper time evaluation. To understand what data is needed, it is important to focus on the objective – for example if the goal is to speed up a process then the time needed to complete various tasks within a process is a key point of measurement. It is crucial to have a system to monitor data and there is a lot of automation technology available for doing this.

The group recognised that the analysis of work processes was about continuous improvement. Lawyers don't like change and they are more likely to buy into it if it is incremental. It is important to consider a strategy upfront for how to present change in a way that resonates with the team and to use a method of data collection that will have minimal impact on their day-to-day work from an administrative perspective. Good quality data drives the best insights – this can be challenging when lawyers tend to believe everything is an art that cannot be quantified!

When does using alternative resources deliver the best business results?

Strategic work:

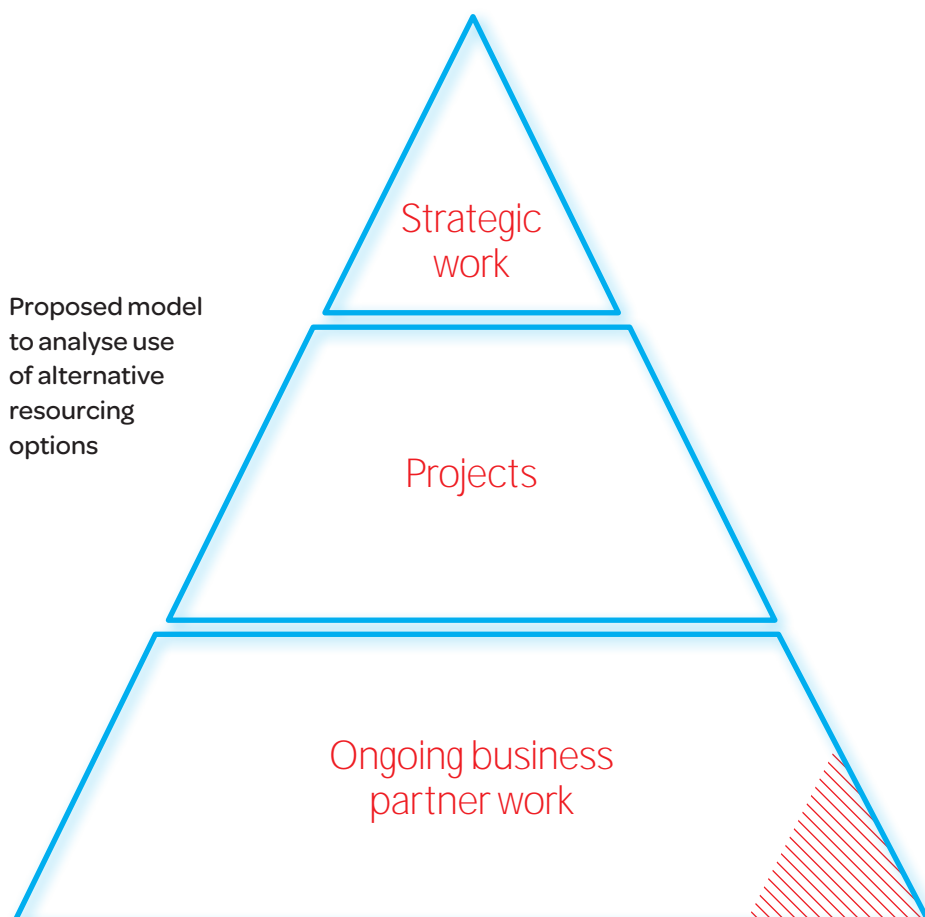
This work is typically high profile, good for career development and likely to involve the C-suite of senior management and the board. It is the type of work the team wants to be doing and is expected by the business to be knowledgeable about. The group broadly agreed that strategic work does not in general lend itself to being resourced through an alternative provider.

Where necessary, GCs take strategic external advice and package and message this advice to the C-suite. Here, GCs demonstrate their skill in pitching to non-legal commercial colleagues in a way that focuses

them on the right issues. This skill for distilling information is specific to the GC role.

In addition, the GC is the legal risk manager and needs to make judgements based on their knowledge of the business and understanding of business objectives, strategy and vision. Again, this knowledge is specific to the GC working within the business and is unlikely to be substituted by an alternative/external provider.

Proposed model
to analyse use
of alternative
resourcing
options



Projects-based work

This type of work is typically high pressure, time bound, visible, often gets an internal project name, probably requires internal stakeholder management and is well suited to senior mid-level members of team.

It was agreed by the group that for this work there are more options for alternative resourcing because of the range of providers available suited to various project scopes. Often the work is flexible and can be done onsite, offsite, onshore

or offshore. Communicating the management of the project is vital to its success. External companies are suited to this as it is a more operational function. In short, there are more options than ever for in-house counsel to leverage and take advantage of.

Using an alternative legal provider for a project requires a business to invest time and take a potential risk.

Communicating
the management
of the project
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its success.

The group made the following observations:

- The challenge is to not equate the way you have always done things as lower risk and high quality. Other options could actually be less risky and deliver better quality. However, it is important to be clear on how to measure quality and risk – upfront analysis (where possible) can be well worth the investment.
- An alternative resource can be beneficial when a specific skill is needed to focus on a specific project. It can provide quick, no-nonsense cooperation and answers that are otherwise difficult to obtain if that expertise is not available internally.
- Consider using multiple law firms on the same project and leverage their specialisations. This is driven by what is required and the cost restrictions, for example the right name on the letterhead for the opinion work and the smaller firm for the volume work.
- If evidence of the benefits is required, look at testing smaller projects first.

Business as Usual

This includes a much wider range of work, usually routine, large volume, process driven, and detracts from time available for providing advice. BAU affects business partners and can make more of an impact when demonstrating the legal team's value. It is not the work to be using traditional law firms for. The better options are to look at technology, alternative outsourcing, or using the existing in-house team more effectively.

For BAU, the resourcing options are prolific. Internally the focus should be on pushing routine

work back into the business and empowering colleagues to self-serve by providing them with training, templates and processes. As part of reviewing and changing work processes in this way, it is important to ensure that commercial colleagues fully understand what constitutes risk to the business.

Externally the focus should be on outsourcing the day-to-day hard slog work to an alternative provider, putting them in direct contact with commercial colleagues if possible. The in-house lawyer is then freed up

to provide an 'overview' role, reviewing the process being implemented and playing a strategic role in its continuous improvement.

The group highlighted the need for a proper understanding of the problem that is being solved when reviewing where and how to resource BAU work to best meet the needs to the business.

The below considerations can be helpful in assessing the options available:

- **Volume:** For small volumes of work, an internal solution is more feasible, whereas if the volume is large, an external solution is preferable.
- **Cost:** Evaluate the full cost of the employee (including overheads) and compare this to what it would cost per hour using a law firm or to outsource the role/work.
- **Law firms:** If considering using a law firm for BAU work, it is crucial to question why. Will value be derived from leveraging their expertise and relationships? Using law firms for this type of work is likely to be more expensive so the benefits need to be clear.

Whichever option is decided upon, it is essential to set in place measurable metrics that will allow the solution to be monitored.

Conclusions

The group engaged in a very wide-ranging discussion and it was clear that there were no rules or fixed answers when it comes to resourcing decisions. The right fit was dependent on the type of business, its scale, the specialisms and size of the in-house team, and the type of project driving the demand.

The provision of alternative legal services is a fast-growing market. A wide range of alternative providers are emerging, looking to find a point of differentiation and a niche, whether that's in the business model, the type of lawyer, or the ancillary services that they offer. Traditional suppliers are testing these waters and finding new and innovative combinations of models. Lawyers increasingly have the opportunity to approach this market in a highly businesslike fashion, focusing on efficiencies, driving value, and an objective and results-based approach. To do so lawyers may need to accept that legal services are not an art form and can be treated as a commodity.

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