

# Ally or adversary?

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# Optimising processes

Law firms should drive efficiency by optimising their business processes, say Tim Hanson, Rob Millard and Simon Thompson

In our article 'Prize fight' in the March issue of *Managing Partner*, we discussed the increasing relevance of legal services outsourcing (LSO) to law firms. We described how this is but one symptom of structural changes underway in the legal services market, which is also characterised by:

- price pressures and margin squeezes;
- increased regulation (not just of legal services directly but of client industries too);
- shifts in the world economy and where clients are investing; and
- new competitive dynamics caused by new sources of investment, including through alternative business structures (ABSs).

We showed how progressive law firms and in-house legal teams are seeking innovative new ways to become more efficient, while maintaining margins and protecting profitability.

In this second article in the series, we address how law firms can go about optimising their business processes. These are different to legal processes and the approach to optimising each also needs to be different. We will address legal processes in the third article in this series. A fourth and final article will address how law firms should go about integrating different systems between different firms, for instance following a merger.

## Business vs. legal processes

For more than a century, the debate has raged on about whether the practice of

law is a profession or a business. It is time to unmask this for the false dichotomy that it is.

The practice and business perspectives of a law firm are inseparable and equally important – and each has its own processes. Overlaps exist, but much harm has been done by trying to apply identical techniques to optimising business and legal processes.

- Business processes relate to the key business and practice management activities of the firm. They are the processes that support the delivery of the work product and drive the efficient and effective operation of the business.
- Legal processes relate to the key professional activities that deliver the actual work product to the client. Getting these processes right is critical to ensuring that the quality of the services provided meet client expectations, while delivering adequate returns to the firm.

The uniqueness of a law firm that stems from its practice of law does not extend unreservedly to its business processes. That is not to say that a law firm's business functions operate identically to those in other industries.

The differences can be stark, as many an executive imported into a law firm's business functions from other industries has discovered, sometimes to their cost. Many such differences are self-imposed, though, and may be costly luxuries in today's hyper-competitive markets.

It is probably fair to say that they

also survive at least in part because the hearts of senior lawyers do not typically beat faster with excitement when thinking about their firm's business functions. Many could do more to keep themselves better apprised of the range of options that the firm may have to improve its business processes, given the significant and direct impact of these on their firm's financial performance and competitiveness.

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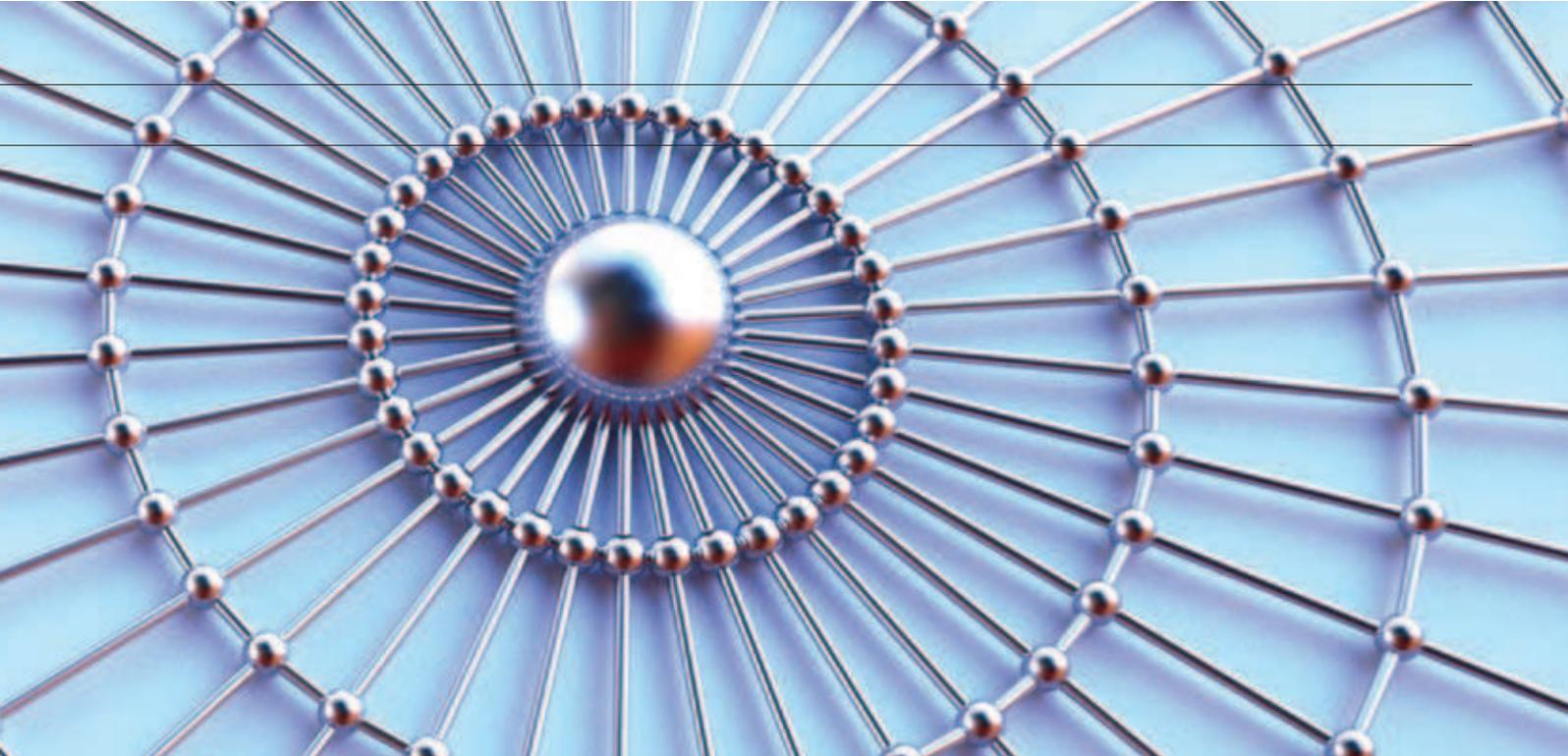
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## Client-responsive processes

Besides force-fitting the same approach to both legal and business processes, another mistake that we frequently see firms make is to focus on shaping processes to fit today's reality, without thinking enough about how they need to be able to flex in response to future client demands.

It doesn't make sense to make a whole lot of people redundant (paying them good money to make them go) when demand falls, only to have to re-recruit and re-train when demand rises.

Law firms have very heavy fixed cost bases. Cost reduction strategies should include business process efficiency enhancements and the appropriate sourcing of business processes, if they



are to deliver sustained results. Headcount reduction opportunities will fall out of this, while leaving the firm more effective and with a more flexible cost base (primarily through sourcing, as discussed in our first article).

We do not believe that talk of a 'new normal' of permanently-depressed demand for legal services is logical. It is true that fundamental forces are reshaping legal services generally, but business demand for legal services tracks economic growth. As the economy cycles out of the current downturn and into the next growth cycle, so demand for legal services will recover. There is no logical reason to anticipate otherwise.

Progressive legal service providers have already started to learn from and emulate other professional services such as accounting, banking and financial services that have, for some time now, successfully integrated business processes across their firms and used shared services, offshore captives and outsourcing. These other professional service firms have also successfully adopted standardised processes and systems for many of their back and front office business processes, driving down costs and enhancing efficiency.

### **Breaking down silos**

When compared to how business functions are aligned and integrated in most other kinds of business, one might be forgiven for describing the inter-function relationships in many law firms as 'feudal'. Fiefdoms can be rife and, at an extreme, individuals may even dispense or withhold

information according to the degree to which it advances their own agenda.

The transformation from a separatist, silo-like approach to business processes that are well integrated and aligned across functions requires deep changes in both human behaviour and, frequently, in the firm's IT platforms. This is particularly true in firms that have grown by merger, where legacy processes and systems are rife and integration is still, at best, work in progress.

It does not have to be that way, though. Some law firms have made great strides in developing a single, firm-wide business process platform.

In 2000, for example, Linklaters took the radical decision to implement SAP which, according to Gartner, is still the world's leading enterprise resource planning (ERP) software solution, to meet its global finance, HR and marketing business process needs.

At the time, the firm was undergoing a period of rapid growth. Within the space of a few years, a quite diverse range of law firms in very different jurisdictions merged with Linklaters, creating the global giant that the firm is today.

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Many legal commentators believed that implementing SAP was a step too far, but today that platform is the backbone of the firm's ability to manage itself successfully as a fully integrated, well-aligned global business.

More than a decade after it was implemented, it remains clear that the decision to trade legal-specific customisation against proven, world-class business processes and the underpinning technology has paid off handsomely.

SAP would probably not be the appropriate ERP solution for any but a handful of the largest, most complex law firms. But, other systems of more modest scale also exist that allow firms to develop global processes and views of their business key performance indicators (KPIs).

The difficulty in many firms is that the capacity does not exist internally to be able to effectively assess the possibilities. Function leaders are too close to their own responsibilities to view the issues holistically and too personally involved for objectivity to be possible.

In particular, development of a firmwide approach to business process optimisation cannot be seen solely as an IT initiative, even if the focus of the solution is perceived to be primarily technological. The technology needs to support and drive processes and human behaviours, so it needs to be designed around the objectives that the firm seeks to achieve.

### **Improving business processes**

Business processes are not restricted to the firm's business services. Lawyers play

**FIGURE 1: BUSINESS PROCESSES REQUIRED TO OPERATE A LAW FIRM**

STRATEGY & PLANNING	MANAGING FINANCES	MANAGING MATTERS	MANAGING CLIENTS	BUSINESS DEVELOPMENT	MANAGING PEOPLE	EXECUTION
Market research	Budgeting	Plan matter economics	Client take-on	Manage and communicate brand	HR operations	Source work
Competitor research	Accounts payable and receivable	Manage matter lifecycle	Client financial reporting	Strategic BD research	Career planning	Plan legal processes
Legal sector trends research	Cash management	Record time	Account planning and reporting	Client analytics	Training Elections	Execute legal transactions
Strategic planning	Capturing expenses	Manage WIP	CRM and contact management	Campaign management	Recruitment	Record and classify content for re-use
Business planning	Control and report	Bill	Communicate and report with/to clients	New product identification and development	Internal communications	
	Pay employees	Manage debt				
	Contract management	Report				

key roles in many of them. Likewise, legal processes may also fundamentally involve members of the firm who are not solicitors.

The ways in which firms seek to manage and develop business processes varies but, broadly speaking, one can distinguish between two types of approaches:

1. business process improvement within business support functions; and
2. business process improvement within the execution of legal services.

**1. Business support functions**

Business process improvement within business support functions involves optimising those ‘back office’ business processes that support the management and efficient operation of the firm.

This allows the firm to be more efficient, make the correct decisions more quickly (for instance around strategy, people and clients) and to execute those decisions more effectively.

It also allows the firm to make the right choices as to what resources to use to execute those processes (human and technological) and to source those in the most appropriate, flexible and efficient way.

**2. Execution of legal services**

Business process improvement within the execution of legal services involves optimising the business processes that directly support the delivery of the firm’s

legal services. These are the activities that support the execution of a matter, for example low-level legal services, due diligence, document reviews, organising signings, communications, and so on.

This starts to bring other contributors into the transaction (including LSO providers) and requires new skills to be applied to the management of a transaction (for example, project management skills).

It also involves lawyer-driven business processes such as matter opening, time recording, billing and debtor management. Optimising these processes makes the execution of a transaction more efficient, allowing the firm to pass on those efficiencies to the client, protecting or growing its market share, or to retain margins.

The business processes required to operate a law firm can be summarised in seven primary areas. They are the activities required to:

1. develop the firm’s strategy and business plans;
2. manage the firm’s finances;
3. open, run and close matters;
4. manage client relationships;
5. develop the firm’s business;
6. manage the people that work in the firm; and
7. deliver a legal transaction, or advice.

Figure 1 provides a breakdown of the key components of each of these.

**Re-examine re-engineering**

Optimising business processes is not primarily about ‘re-engineering’ them. Business process re-engineering (BPR) as a concept was pioneered by Michael Hammer and others in the early 1990s. Its basic premise is to eliminate work that is undertaken by the organisation but does not add value to customers.

The idea of taking an objective view of a company’s processes from the perspective of whether or not it adds value for a customer is an appealing one, but one that has less relevance to business processes in a law firm. It may be more applicable to legal processes, particularly as the type of legal work becomes more complex, but that remains a topic for the next article in this series.

At a superficial level, the approach may uncover redundancies and other inefficiencies, but the opportunities for improvement are not as radical as they would be in a company where those processes are the primary conduits for delivering products or services to clients.

BPR has also been criticised as dehumanising the workplace (which is obviously wildly inappropriate in any professional service firm), increasing management control and as being an excuse to justify downsizing.

A key issue here is that the optimisation and sourcing of a law firm’s business processes should not usually take the form of a bottom-up re-design from ‘scratch’. This takes too long, is

expensive and assumes an unnecessary level of 'uniqueness'.

Instead, a law firm needs to combine processes that reflect commercial best practice with industry-specific requirements to create a smaller set of simpler, consistent and integrated enterprise-wide processes that make the most sense for its own needs.

Automating business processes is also not always the right approach. Very often, businesses try to apply highly complex workflow and automation strategies to business process improvement initiatives when much simpler organisational or sourcing approaches would be more suitable.

The legal sector is full of failed, extremely expensive workflow projects. This does not mean that workflow isn't important, but rather that the use of other techniques can often be a far more effective solution.

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## “Business processes do not respect organisational boundaries”

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### Governance and support

Optimising business processes to the point where the impact on the firm's profitability is significant can involve radical changes in behaviour in both business services and the practice. That can be uncomfortable.

This initiative cannot be delegated to IT, HR or any other function. It needs to be strongly driven from the top and supported by acceptance of the need for this by the partnership, if resistance is to be overcome.

The following is a useful framework for tackling the issues.

1. Identify the result that each particular business process is intended to achieve.
2. Analyse business processes from end-to-end, but do not get bogged down by spending too much time mapping them out in detail.
3. Identify processes that currently have an obvious negative impact on fee earners.

4. Create quick wins and grow support by fixing those, then roll out to tackle new areas.
5. Avoid over-engineering solutions or defaulting quickly to automation.
6. Simplify, simplify, simplify.

### A single platform

An integrated business systems platform provides the backbone for an organisation to operate effectively within the new legal environment. By using a single platform to support optimised, consistent business processes and associated organisational structures, a law firm can provide its fee earners with the insight and capabilities that they need to deliver the most efficient and well-informed services to their clients.

Effective implementation of an integrated business systems platform enables the number of business processes across the firm to be minimised, reducing complexity and so, too, the level of management required to maintain the processes.

It can also eliminate wastage caused by redundancy or conflicts between processes that are poorly aligned.

The single, firmwide view of the firm's business processes and KPIs that such a system delivers improves business insight and visibility of key profit-driving issues. It drives better compliance and risk management.

It can allow for consolidation and simplification of the firm's infrastructure and also more effective sourcing of business services.

Integrated business processes are heavily dependent upon achieving a one-enterprise view of clients, money and people. The majority of processes touch these three key dimensions of the firm at some point.

Utilising an integrated business systems solution also enables the firm to implement best-practice business processes in what are non-traditional (but in reality key) areas for law firms. These include:

- procurement;
- contract and asset management;
- resource management;
- talent management and development; and
- advanced client relationship management.

Where a firm operates in more than one jurisdiction, the right solution should provide for multi-ledger, multi-currency and multi-language support. It should support:

- international accounting standards;
- US/UK gaps;
- local jurisdictional compliance; and
- local tax rules.

This enables simplification and removes duplication, including the need for local accounting systems in each jurisdiction.

### Look beyond legal

The legal sector does have specific nuances that make it unique, but it is a myth that the core business processes in a law firm are so different that they can function only with specialist legal sector software platforms or outsourcing providers.

While some excellent products do exist that are specifically tailored to legal services, it may be that other solutions that have been proven in other professional services (or other business sectors) are as good or even better to a particular firm's particular needs.

'Best practice' precedents from outside the legal sector can and should be incorporated into the firm's thinking, especially given the degree to which many firms perceive these changes to be moving into uncharted waters.

For any chance of success, though, an environment needs to be created that allows the topic of business process alignment, integration and optimisation to be approached in a deeply cross-functional, holistic way.

Business processes do not respect organisational boundaries. The initial assessment of the desired results and how they are to be achieved needs to be accurate and objective if the changes are to be correctly focused. ■■

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