

Outsourcing in UK law firm libraries – opportunity or threat? New management models and future challenges for legal information services

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Abstract:

The terms ‘contracting out’, ‘outsourcing’ and ‘offshoring’ have become well-known short-hand for a range of alternative management models for information services in the UK legal sector, which have flourished over the last decade. Prompted by a need to cut costs, reduce headcount, and rationalise ‘non-core’ functions, and fuelled by the transfer of most legal information sources to the digital realm, this trend has enabled the emergence and growth of a significant group of specialist service providers and vendors.

Drawing on current research in the field, this paper considers the development of outsourcing of information services in the UK, in particular its adoption by the legal sector and other professional services organisations, and its origins in government libraries.

Incorporating first-hand opinions from some key players in the field – both clients and service providers - this paper will reflect on the successes or otherwise of outsourced legal information services, of how the challenges of the outsourcing initiatives are being addressed across the profession.

As digital information providers enhance ever more ‘desk-top ready’ products, the question will also be asked, what future trends can be seen in outsourcing services, and what implications do these have on service provision and the information profession?

Keywords: Law Libraries, Government Libraries, Outsourcing, Offshoring, Contracting-out.

Introduction

Since 2009 a number of large and leading UK law firms have completely outsourced their in-house libraries to external, commercial service providers. In the UK, the Legal Services Act 2007 has allowed non-lawyers to invest in law firms, and to provide legal services as alternative business structures. This has opened the door to more experimental and economical methods of delivering legal services, thus increasing competitive pressure on established law firms to adopt new and lower-cost methods of service delivery. Outsourcing has played a central role in these new service delivery methods.

This paper discusses the impact of outsourcing in the UK legal information sector, first by reflecting on the conclusions of a recent research study by Fiona Brown of Monash University. This is contrasted with the impact of an earlier initiative to contract out library services in Central Government in the 1990s, as recounted by Suzanne Burge in a paper published in 1998. These findings are compared with the views of senior figures in the UK legal information sector and with the conclusions of a recent SLA report on the evolving value of information management, and the role of the modern information professional.

Current Research into Outsourcing

Fiona Brown's recent research study on outsourced law firm libraries in the UK outlines four aspects of the outsourcing phenomenon: 1. the implementation of outsourcing, 2. the reasons given by law firms for choosing this model, 3. the different types of service model provided by the outsourcing firms, and 4. the costs and benefits claimed by both service providers and their clients. This research was based on data collected in July 2012 from a range of significant players in the UK legal sector; these included the outsourced service providers, several of the law firms which had outsourced their libraries at that time, and senior representatives of the UK law firm library sector.

Brown's main conclusions were as follows: the firms who chose to outsource appeared to value library services, and wanted best value-for-money. They outsourced not to obtain a cheaper version of their existing service, but to gain more services for their existing budgets. Owning and operating an in-house library was not seen as either providing them with a competitive advantage against other law firms, nor did they necessarily consider the in-house library to be of strategic importance. Ultimately, outsourcing enabled them to participate in a shared, commercial library service tailored to their needs.

In 2014 there are just two providers of outsourced law library services in the UK: Integreon and Evalueserve. Between them they provide services to around 10 major law firms. Brown estimated that in 2012 approximately 80 law library staff had been directly affected by outsourcing initiatives, but as she notes, there are no existing statistics on the number of staffed law firm libraries in the UK. It is thus, not possible to judge what proportion of these have been outsourced, or to suggest any quantitative measures for the impact of outsourcing on the profession or sector as a whole, or what the market share of the outsourcing companies really represents. Perhaps one should not attempt to quantify the impact of the outsourcing model in this way. Its real impact has been perhaps to demonstrate to the profession that while library and information services often were assumed to be too sophisticated to be contracted out to an external provider in the way that, for instance, building services, facilities management or catering had been for many years, they can be quantified, commodified, and be as subject to market forces as any other non income-

generating activity within the firm. For many in the profession, this is a quantum shift in thinking about library services.

UK Response to Outsourcing: For and Against

To put this into context, over the years, librarians working in the larger law firms in the UK have benefited from relatively generous remuneration and career development opportunities, combined with the less tangible but no less attractive benefits of working for a high-profile organisation attached to a prestigious profession. To suggest that one's work might be transferred on whatever financial or strategic grounds to another unfamiliar type of organisation without a guarantee that any of those benefits, tangible or intangible, might be retained, is a blow to both personal and professional self-confidence. Indeed Brown's literature review suggests that much of the profession's initial response to outsourcing was understandably emotive and defensive. Ongoing criticisms of the outsourcing model include the following: the ability of an external service to provide a superior service is doubted on the grounds of an absence of loyal in-house staff with personal knowledge of the work of the firm; in-house services have been sacrificed simply for financial gain, and the intrinsic value of an in-house service is not understood by fee-earners and partners; the qualifications and training of the staff in outsourced service providers is considered to be inferior to those in-house particularly, but not exclusively, when off-shore service centres are involved; more importantly the ability of outsourcers to deliver savings in the cost of information resources is doubted; outsourcing is also believed to have damaged professional networks and created unemployment. Brown notes that the evidence for this final claim is unconvincing and anecdotal, and it appears to have arisen from an isolated and geographically specific example. The other claims continue to be repeated in various forms by practitioners across the sector.

Conversely, the benefits of outsourcing to the law firms in Brown's study were expressed by the firms as follows: service quality following outsourcing (quality being expressed as a combination of accuracy and timeliness of information delivery) was satisfactory, and offshoring or remote supply was not perceived as a problem; the ability to access additional research services such as business intelligence was considered an advantage; cost savings were indeed reported, although so far these had been recorded in terms of comparative staff salaries, while the hidden costs of ongoing management and training were not commented on, and only one law firm interviewee mentioned any savings in purchasing hard copy or digital resources; however it was commented that while the initial time required to manage the initial transition of the library service to the outsourcer was considerable, the ongoing administration of the contract required less management time than that required for the in-house service.

The impact of outsourcing on the profession, negative or otherwise, is harder to quantify, as Brown notes. Speaking as myself, as a recruiter with professional contacts in both camps, law firms and outsourcers, the picture is also unclear, and has to be taken in context against the wider economic landscape. The UK law firm outsourcing initiatives took place against the background of the economic downturn in 2008 - 2010, with widespread job losses across all industrial and service sectors, and a general increase in unemployment. As a specialist recruitment agency, we certainly spoke to numerous people at the time either at threat of or directly experiencing redundancy or a transfer of employment conditions. Four or five years after the main events described by Brown, the economic climate has again changed. Brown notes that without speaking to those staff who now work for the outsourcers, it is not possible give a complete view of the success or otherwise of the experience. I would

add to this that as there are only two outsourcing companies in the UK providing legal information services, any such research could only be seriously considered as individual company case studies and not as indicative of wider industry trends or tendencies.

What may be more useful would be to consider first the recent historical context of outsourcing and subsequently, what changes legal information professionals have made to their professional practice in the few years following the initial outsourcing initiatives.

UK Outsourcing: the historical context

UK law firm libraries came to outsourcing relatively late in the game. In the United States, outsourcing came to the profession's attention in the mid 1990s with the activities of Baker & Mackenzie and Pillsbury, Madison & Sutro. Since then outsourcing in various permutations has become part of the established US professional landscape. Brown notes that while the wholesale outsourcing of entire library and information services may have had its day in the US, two sector surveys in the last eight years indicate that (a.) domestic US companies have long offered outsourced legal research and drafting services, and some of these activities were increasingly occurring offshore and more recently (b.) law libraries have been streamlining library operations by centralizing and outsourcing administrative operations such as digital content procurement, cataloguing, library systems and acquisition of print resources.

The UK Financial Services sector has seen contracting out parts of their in-house information and research services from the mid 1990s onwards. However, this UK precedent to outsource, or to contract out seems to have come not from the private sector but rather, the public sector, and in particular, from Central Government.

UK Government and Market Testing

In the early 1990s, a number of UK government libraries went through a process of what at the time was called "Market Testing". This might now be seen as an experimental stage of what emerged in the legal sector some 15 years later as outsourcing. An account of the Market Testing initiative was given by Suzanne Burge in her 1998 paper "Much pain, little gain: privatisation and UK government libraries". The Market Testing initiative commenced in late 1991. The phrase first appeared that year in a government white paper 'Competing for Quality', being defined as the "management process whereby managers seek to achieve their objectives by systematically reviewing the components of their business, thus ensuring that services are delivered at best value for money (VFM) ... the aim is to establish whether [private sector contractors] are both able and willing to provide an equal or improved level of service more cost effectively than can be achieved in-house (i.e. improved VFM)."¹ At least four departmental libraries were market tested during the early 1990s, including HM Treasury & Cabinet Office Library (HMT CABLIS), a library service which I joined in 1991 as an Assistant Librarian in my first professional post.

Despite a central directive on Market Testing, the library services in those departments who went down this route had a range of different experiences. In the case of HMT CABLIS, the library staff themselves were instrumental in putting together the documents that formed

¹'Competing for quality/buying better public services', Cm 1730 (London: HMSO, 1991), quoted in Burge, Suzanne, 'Much pain, little gain: privatization and UK Government libraries.' *INSPEL* 33 (1999) 1 (p.12).

the basis of the invitation to tender. The contract was put out for tender and although five external companies registered external expressions of interest, only one came to submit a bid in addition to that of the in-house team.

Market Testing Outcomes

The outcomes of the Market Testing initiative were patchy. In the days just prior to the introduction of internet services to a wider public, there were no service providers on the market who could have realistically taken on an entire library and information unit and maintained it economically. Most libraries and information units in government departments were (and still are) relatively small in terms of staff numbers, and the main financial outlay after staffing costs came from maintaining hard copy collections and multiple hard copy subscriptions, most of which at the time could not have been significantly reduced in number, nor replaced with online alternatives.

At HMTCABLIS, the in-house team was awarded the contract, and one of the principal outcomes, which was of benefit to all parties, was that we subsequently worked to a detailed service level agreement based on the terms of the bid. Having clear targets and performance indicators in almost every area of our work enabled us to operate in a much more focused way, responding to customer needs in a far more strategic, yet agile and flexible manner than we had previously. Other outcomes in HMTCABLIS (which were echoed in other government departments) were the incremental contracting out of some administrative functions to external suppliers – e.g. subscription management and journal distribution.

Thus in terms of the policy makers' original intentions, it became rapidly apparent that in the early 1990s, private sector contractors were neither able nor willing to provide an equal or improved level of service more cost effectively than could be achieved by in-house libraries in government departments. However improved value for money could be achieved by other means.

Burge's paper also draws on the evidence of two surveys she conducted between 1993 and 1997 on government librarians' attitudes to career development. At that time, understandably, Market Testing had a strong and emotive impact on the answers provided.

Her conclusions on the human outcomes of the Market Testing initiative certainly reflect the experience of both me and my colleagues. A representative comment from Burge's 1993 survey reads: "Fearing that your livelihood is threatened does not foster a positive attitude".² Professional morale was the first casualty, caused in part by the protracted nature of the tender process (some 10 months from beginning to end), and in part by the patchy and compulsively secretive nature of communication between senior management and junior staff on the frontline. As the unofficial historian of the UK Civil Service, Professor Peter Hennessy, has often remarked, "confidentiality is in the very calcium of a Whitehall policy maker's bones".

Burge points to another important factor in the equation: "Large claims were made for market testing and privatisation in terms of cost and efficiency savings ... In libraries, any figures tend to be notable for the things they did not count - the amount of staff time and effort put into preparing bids, staff time spent in resolving problems arising from managing

² Burge (p.17).

contracts etc.”³ From personal experience of this process, I would add, a significant portion of management time is also required for monitoring and reporting on service performance and service delivery, an activity which I sense is often not factored into the equation when the decision is made to contract out or to outsource.

In the absence of substantial external evidence of the benefits of the market testing experiment, Burge’s most positive conclusions in her 1998 study were as follows:

In theory the libraries most vulnerable to market testing should have been those least well integrated into their parent organisations, as it would have been just these organisations which would have the least reason to appreciate the particular added value that an in-house service contributed, but this was not necessarily the case. Market testing did however very dramatically illustrate how important it was that the organisation at all levels understands the value of the assess it possesses in its information professionals – an ongoing task for us all.⁴

UK Outsourcing: recent responses

To consider how the profession is addressing the ongoing challenges of outsourcing, I spoke to a number of senior figures in the legal information sector. These conversations were fairly informal and certainly do not attempt to replicate or significantly develop Fiona Brown’s more rigorous research. While the evidence I have drawn from these conversations may be considered to a certain extent anecdotal, those to whom I spoke highlighted a number of common themes.

Demonstrating value

Information managers have commented that they are moving away from simply measuring activities and moving towards demonstrating the value of skills. The problem of taking on latent demand within existing budgets and resources is recognised – how does one promote the value of work without creating unsustainable demand? In some contexts, saying “no” can be difficult, and potentially dangerous. One either says “yes”, and the quality of work suffers, or “no”, and departmental reputation may suffer.

For a sustainable approach to promoting value, it is important to identify in-house champions – a best practice approach in project management methodology. Individuals identified as “champions” however need to be respected and supported by their peers if they are to be effective allies.

Business Drivers

In the legal sector, as in any other, the law firms’ clients drive the business. It is important for information professionals to understand the relationship between their end product and the client. The evolving requirements of clients have become even more significant for all parties and there is considerably more pressure on client retention. Information management and data management have become important professional activities in this respect, to enable clients to keep abreast of activities in their own sectors. In some firms, information services now have direct involvement with clients, occasionally on a consultancy or a secondment basis “leading the relationship”.

³ Burge (p.18).

⁴ Burge (p.19)

One respondent remarked regarding outsourcing, that perhaps the concept is not really so new or so challenging, as it has already been happening in various forms outside information service for several years – for instance, most facilities management activities. Regarding the philosophy or strategy behind specific functions being outsourced, law firms have essentially said “we are a law firm, let’s concentrate on the law and let someone else take care of other functions”. Considerable analysis of lesser functions needs to be done for the process to take place.

New activities and new skills sets

Another respondent commented that what has been good about the outsourcing initiative is that it has shaken things up, and forced the issue of what is core to business and what is not. It has highlighted the need to understand what we mean by value, or by value-added services. The legal sector tends to be change-resistant. Hence some well-established activities, for instance current awareness services, are valued by those producing them because they provide personal job satisfaction, but they may not be valued or even used by clients.

The information management landscape has changed. Legal research platforms have improved over the last decade, and it is assumed that end users will have desktop access rather than information professionals being gatekeepers of information sources. Traditional library skills are becoming less crucial to the business (e.g. cataloguing and classification, basic information retrieval and legal research, information skills training etc). Other opportunities and other skills requirements are arising in the development of services, for instance financial analysis, and business intelligence.

Thus there is a shift towards the provision of business information rather than simply legal research, that is business information which underpins strategic decision-making. This is increasingly impinging on, supporting and being embedded in Business Development and Marketing departments, the purpose being of this being to gain new and retain existing clients. Thus it becomes ever more vital to understand client / business relationships, clients’ sectors and the clients themselves.

The challenges of offshoring

I spoke to a number of individuals who have direct experience of both wholesale outsourcing, and selective outsourcing – particularly offshoring⁵ of basic research functions.

Where outsourcing is considered as a serious option, it has to be aligned to organisational culture and expectations. Some firms have a very hands-on and high maintenance culture, so it may be difficult to achieve a satisfactory solution in this kind of environment. However, if you can document a process (both quantify and qualify it), then you may be able to outsource it. Where more complex value-added services come into play such as in-depth legal research, tailored current awareness services, bespoke training, or anything involving innovation or new business opportunities, then the situation is far more problematic.

⁵ Offshoring: the relocation by a company of a specific business process from one country to another

When the decision to offshore has been made, it is vital to understand the time required to find the right people and to train them to acceptable service levels. Various organisations have encountered a variety of cultural problems with outsourced teams, which may include to varying degrees language and local professional practices, not to mention the management time required to travel possibly long distances on a regular basis to address recruitment and training issues. One respondent suggested that offshoring may be a more satisfactory solution for information services when dealing with financial information, particularly where information is more focused on providing a quantifiably “right” answer reliant on numerical data. The quality of text-based information (e.g. legal research) is much more subjective, and perceived quality may well suffer in putting this function at one remove from the central organisation.

Ongoing challenges: the SLA Report

These themes form the core of a report also published last year by the Special Libraries Association (SLA) - *The evolving value of information management, and the five essential attributes of the modern information professional*. (FT/SLA, 2013)

This report is based on research contrasting responses from both information professionals and senior executives in organisations which have dedicated information departments. Overall 882 individuals were surveyed, over 80% of whom were information professionals, working across a wide range of sectors. The report’s central arguments are based around the following issues.

Information professionals are concerned that an increasing number of their colleagues/customers are bypassing them and accessing the information they need directly (e.g. using Google). This not only undermines information professionals, but creates significant organisational risk. Information professionals must continue to actively demonstrate their value to the business, against a background of declining budget, IT investment and headcount. Information customers suffer from what has become commonly known as information overload. They (that is the customers) perceive a lack of up-to-date, relevant, decision-ready information, delivered quickly enough for them to make use of it.

Most significantly, the majority of information professionals surveyed overestimate the level of value they provide. Overall, 55% of information professionals believe they add “a lot of value”, yet only 34% of executives are willing to say the same of them, demonstrating a 21% performance gap. In the legal sector this difference was even more pronounced, 64% of information professionals believing they add value against 33% executive/users – a performance gap of 31%. Nonetheless, information users appear more prepared than ever to engage actively with information professionals - 49% expecting this level of interaction and engagement to increase in the next three years.

Out of these themes the SLA report suggests five attributes considered essential for the modern information professional:

1. Communicate your value

Effective networking is the key to communicating your value to your stakeholders. Show how your skills add value, and support this with testimonials and demonstrations of return on investment (ROI). Above all, be proactive with ideas.

2. Understand the drivers of your business

Pride yourself on knowing your clients and their information needs. Take the time to understand your organisation's overall strategy and how your department can contribute. For each information assignment, clarify the objectives and why the information is required. Identify and capture user preferences – the resources they know and prefer and how they prefer information to be delivered.

3. Manage the process.

Project management skills are vital. Participate in project management training, and use the tools and techniques to manage your own workload and to manage your customers' expectations. Use technology to speed processes, particularly tablets and mobile devices, and encourage self service.

4. Keep up on technical skills.

Keep up with latest sources and don't let your clients get ahead of you. Integrate technology with the information you provide – update internal databases, increase use of mobile technology. Above all maintain the high quality and robustness of information and ensure that information is delivered in a timely manner.

5. Provide decision-ready information.

There are several strategies that can help you achieve this. Iterate the process of providing information, and link information to overall organisational objectives. Structure the information logically, using recognised standards e.g. the pyramid principal or MECEs. Aim for brevity as opposed to data dumps, and use visuals such as infographics and word clouds to make the information more easily absorbed.

Conclusion

Are there any more general messages for those information professionals working outside the commercial law sector? One point that must be taken on board is that it has been demonstrated that library and information services are no longer immune to market forces. Companies now exist that are able and willing to provide relatively sophisticated alternatives to established in-house services. In the UK, as elsewhere we are already seeing public libraries being contracted out of local authority control. It remains to be seen whether employers in other sectors start following suit. Hopefully this paper provides some food for thought on how information professionals in one sector are approaching the challenges of the current market place.

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