

# Efficiency movement

## Jim Hassett discusses how law firms are developing their approaches to legal project management

In one sense, any lawyer who has ever planned a budget or managed an associate has acted as a project manager. But a new movement is underway to improve legal project management by applying formal methods that have been used for decades in engineering, construction, information technology and other businesses.

The modern discipline of project management is such a rich and deep body of knowledge that universities offer advanced degrees in the field. Its origins can be traced all the way back to civil engineers in ancient Rome constructing a 53,000-mile network of roads, many of which are still in use today.

In 1969, five professionals formed the Project Management Institute (PMI) to facilitate communication in this discipline. The PMI now has more than half a million members in 185 countries, organised into dozens of chapters and 'communities of practice'. It is interesting to note that the PMI sub-group which focuses on legal project management started less than a year ago. As the *Canadian Lawyer* put it: "project management is so new to the legal profession that everyone is still trying to figure out what it can do and how to make it work".<sup>1</sup>

Despite this uncertainty, many law firms are beginning to implement a variety of types of legal project management programmes. When *The American Lawyer*

published the results of its annual 'Law Firm Leaders Survey' last December, 55 per cent of AmLaw 200 firms reported that they offer project management training to partners, and 34 per cent said they offer it to associates. Several books on this topic have also started to appear.<sup>2</sup>

Why is legal project management spreading so quickly? According to Squire Sanders partners Stacy Ballin and Mitch Thompson, "the world has changed, and clients need more than ever from their law firms. They want their lawyers to partner with them to achieve their business goals and deliver value, not to merely send them a monthly bill showing how many hours have been spent. Like every other kind of business worldwide, law firms are becoming more cost-effective and efficient in providing their services."<sup>3</sup>

The growth of non-hourly alternative fee arrangements (AFAs) has also played a role. When a law firm agrees to handle a certain matter for a flat rate, it must find a way to meet legal needs within a limited budget. The less the firm spends, the more money it will make.

But, as a senior partner at a 500-lawyer firm put it, "for alternative billing to be successful for both the client and law firm, the partners have to re-think their approach and try to decide the most efficient way to approach matters. For example, instead of sending an associate off to research 50 issues that could come up in a litigation case, you might focus strictly on the small


number of issues that are likely to be most important."<sup>4</sup>

Project management skills can also help lawyers to protect the profitability of hourly work in a number of ways, including reducing write-offs. There are many reasons write-offs occur, but poor communication is frequently the key.

Consider the following scenario from a senior partner at an 800-lawyer firm: "[The client asks] 'What's it going to cost?' and [the lawyer] says, 'Oh, I can't tell you, we don't have enough facts. But normally a deal of this size would run \$120K-\$150K'. The client hears, 'You've promised me \$120K'. And then that's it. That's your fixed fee. And you don't know that, of course, because you thought what you did was say, 'This is what it costs on average'. And at the end the client would say, 'Gee, this cost \$200K, how is that possible?' And you think, 'Well, you know, your CEO got fired in the middle of the deal. The deal dragged on for three years. It turned out you got sued. Yeah, it cost \$200K'."

Problems like these could be reduced or eliminated by focusing on the eight key issues in legal project management (see box: Managing legal projects).<sup>5</sup> It all starts with clearly defining the scope of the work at the outset – what is included in the budget and what is not.

Planning and managing the budget is important as the project proceeds, as is negotiating a change of scope when issues first become apparent, rather than



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waiting until the end of a matter and just sending a bill.

However, legal project management requires fundamental changes in the ways lawyers do business. Change is difficult for anyone, and it is especially challenging for lawyers who have developed strong habits over several decades.

As Richard Susskind noted, “it is not easy to convince a group of millionaires... that their business model is wrong”<sup>6</sup>

But the market is changing and lawyers must adapt.

### **Law firm approaches**

Firms are now experimenting with a variety of techniques to introduce project management. The key word, of course, is ‘experimenting’. Lawyers would prefer to act based on solid precedents, models that have proved their worth over several decades. But legal project management is a brand new field and those who wait decades to apply it do so at their own risk.

When lawyers begin considering what to do, they often start the discussion with the approaches that have been most widely publicised, such as Seyfarth Shaw’s use of ‘lean six sigma’. The US law firm says it has used its Seyfarth *Lean* approach to identify and eliminate inefficiencies in each of its practice areas, resulting in client cost savings of between 15 and 50 per cent.

While the results have been impressive, Lean is not the best place for most firms to start because it is such an expensive way to go. Seyfarth has reportedly spent over

\$3m in administering and training workers, and budgets \$200,000 to \$500,000 annually for such costs.<sup>7</sup>

Similarly, Eversheds has been widely recognised for the success it has achieved through massive project management training programmes and software systems. But the international law firm has spent even more: over £10m.

Firms that are looking for more affordable solutions sometimes start by focusing on the role of non-lawyer project managers. Many law firms already have in-house project managers in IT and other departments, and their roles are expanding to include planning legal work. Others are hiring new project managers specifically for that purpose.

I predict that some of these experiments will succeed and others will fail, depending on the culture of each firm and how well each project manager can learn to function within complex power structures. Some law firms will waste a lot of money on having project managers devise plans that influential partners will ignore.

Many of the non-lawyer project managers who now work for law firms have been certified by the PMI. A more recent trend involves going around law firm politics by certifying the lawyers themselves in legal project management.

Last December, LegalBizDev introduced the first knowledge-based certification programme in legal project management. Lawyers work with a coach for up to six months, studying leading textbooks and discussing how

to best apply the principles to their own practice. Hildebrandt offers a certificate of attendance to lawyers who participate in a two-day workshop. Other certification programmes of both types are sure to follow, designed to create a core group of lawyers who become experts in managing projects.

A few firms are training all of their lawyers in project management principles. This approach received a big boost in April 2010 when international law firm Dechert announced that it had just completed training all of its partners in project management.<sup>9</sup>

### **Changing behaviour**

Professionals in the training business often talk about the importance of distinguishing between two types of goals: education and behavioural change. Of course, almost every training programme aims at both. But firms get the greatest return on their training investment when they think carefully about the trade-offs between the two and about which is more important to them.

Educating is relatively easy, but changing behaviour is very hard. It is also the central problem in legal project management.

The Association of Corporate Counsel and the American Bar Association recently conducted a meeting at which “leaders of corporate and law firm litigation departments rolled up their sleeves and tackled the complex issues surrounding present day concepts of value in litigation”.

## MANAGING LEGAL PROJECTS

- ✓ **Set objectives and define the scope.** In order to complete a legal matter efficiently, you must know exactly what is included – and what is not.
- ✓ **Identify and schedule activities.** After the scope is clearly defined, the next step is to break down a complex matter into smaller tasks and to schedule them.
- ✓ **Assign tasks and manage the team.** To maximise efficiency, the right people must be assigned to the right tasks and performance must be monitored.
- ✓ **Plan and manage the budget.** Estimating and controlling costs is a challenge in every profession and the most critical area for many lawyers.
- ✓ **Assess risks to the budget and schedule.** What can partners do at the beginning of a matter to increase the chances that work will be completed on time and within budget?
- ✓ **Manage quality.** Traditionally, lawyers have been very successful in delivering high quality legal work. However, when schedules change and budgets get reduced, delivering quality requires more attention. Lawyers must also be careful to avoid delivering higher quality work than clients want or have budgeted for.
- ✓ **Manage client communication and expectations.** Along with budgets, communication is the area that matters most to clients and is an area in which many lawyers have room to improve.
- ✓ **Negotiate change orders.** No matter how well lawyers manage legal matters, sometimes things change. The issue here is deciding exactly when and how to negotiate with clients.

When summarising the event, it was noted that progress will not be based on improved understanding or increased knowledge. Instead, “the challenge is change/behavior management”.<sup>9</sup> It’s not a question of knowing what to do: it’s a question of getting lawyers to do it.

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One approach to changing behaviour for a low cost includes ‘just-in-time training’, an approach that enables lawyers to save time by finding exactly the information they need, just when they need it, and then following up with them to ensure it is applied to their work with immediate and practical effect.

Camden R. Webb, a partner at Williams Mullen, describes the action-oriented philosophy this way: “Don’t hold a series of committee meetings for a year and then do a top-down analysis. Just do something. This will spread project management, because when lawyers succeed, others in the firm will imitate their success”.

#### Decision time

Which of these many approaches is best? There is no one right answer. The best solution will depend upon each firm’s culture and needs. Large firms may find that they need several different types of solutions for different practice groups or offices. Some may be paralysed by the risk of doing the wrong thing. But there is so much room for improvement that many different approaches will have positive effects. And the greater risk is to do nothing, while competitors take away your clients.

This uncertainty makes it easy for some partners to be sceptical about the value of legal project management. They believe, and indeed hope, that project management is just another fad that will fade away over time.

But when Altman Weil surveyed managing partners and chairpersons in its 2010 *Law Firms in Transition Survey*, 77 per cent said that the emphasis on increasing efficiency through legal project management is a permanent change in the way lawyers must do business.

As the CFO of a 1,000-lawyer firm noted: “A large number of lawyers do not know how to manage. [In the past], the more hours that got charged, the more money [they] made, and so they’ve never really had to manage...If we teach our people to manage, we can make more money”. <sup>10</sup>

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#### Endnotes

1. See ‘Buzzword 2010: project management’, Kevin Marron, *Canadian Lawyer*, April 2010
2. See, for example, *Project Management for Lawyers*, Barbara J. Boake and Rick A. Kathuria, Ark Group, 2011
3. See ‘Why We Decided to Become Certified Legal Project Managers’, Stacy D. Ballin and Mitchell S. Thompson, *National Law Review*, February 2011
4. See *The LegalBizDev Survey of Alternative Fees*, Jim Hassett, LegalBizDev, 2009
5. See *The Legal Project Management Quick Reference Guide*, 2nd ed., Jim Hassett, LegalBizDev, 2011
6. See *The End of Lawyers?*, Richard Susskind, Oxford University Press, 2009
7. See ‘Leap of Faith’, D.M. Levine, *American Lawyer*, April 2010
8. See ‘Dechert Puts Its Attorneys Through Project Management Training’, Gina Passarella, *The Legal Intelligencer*, April 2010
9. See ‘Valuing Litigation: Lessons Learned from Collaboration’, Susan Hackett, Barb Dawson and Laura Ariane Miller, *ACC Docket*, May 2011