Applying Process Re-engineering in Law Firms

- an introduction

Prepared by:
Alastair Ross
Director

Codexx Associates Ltd
3-4 Eastwood Court
Broadwater Road
Romsey, SO51 8JJ
United Kingdom

Company Registration No. 04481932
Tel +44-(0)1794-324167
www.codexx.com
innovation@codexx.com
Introduction

What is ‘Business Process Re-engineering’ and how can law firms apply it to achieve significant cost reduction and service improvement? This short whitepaper seeks to answer that question and so guide change leaders in law firms on how they might apply this proven technique in their own firms.

Business Process Re-engineering – a short history

The term ‘Business Process Re-engineering’ was first coined by Dr Michael Hammer in the early 1990s to describe a radical process-focused review and transformation of an organisation. The techniques were applied by major companies such as IBM, General Electric and BT in the 1990s to their operations to significantly reduce their business costs and improve their responsiveness. These techniques often utilised Information Technology to automate major portions of business processes and as a result, ‘Re-engineering’ became associated with job losses. However, re-engineering approaches were recognised as enabling businesses to significantly improve their efficiency and effectiveness, much faster than the incremental improvement which resulted from the ‘Total Quality Management’ (TQM) initiatives which were prevalent at the time.

Another major competing philosophy for business improvement emerged in the West in the early 1980s, developed in Japan by Toyota from the late 1940s as the ‘Toyota Production System’, based on a focus on waste elimination and becoming known as ‘Just in Time’. This approach enabled Japanese companies to establish manufacturing practices that were so superior to Western companies that their competitiveness surged. Japanese companies such as Toyota, Nissan, Kawasaki and Matushita were able to produce products faster, cheaper and at higher functionality and quality than Western companies. During the 1980s Western companies saw a Japanese invasion of manufactured products that they were mostly unable to sustainably compete against. Western companies began to adopt these techniques, which became known as Lean and over the next two decades Lean became established in many western companies as the guiding business philosophy. And by the mid 1990s it was being applied in many other sectors and business areas that were well away from its starting point on the factory floor. Lean’s philosophy differed from BPR in its focus for continuous improvement, rather than radical change.

Effective operation and improvement of a firm’s business processes is key to its success
There is major opportunity for law firms to use these proven Process Re-engineering techniques to significantly improve the efficiency and effectiveness of their key business processes and hence their competitive position. This whitepaper seeks to introduce these concepts and show the opportunity for law firms, based on experience gained in using BPR and Lean in many sectors, including the Legal Sector.

**Let’s talk about Business Processes**

“Organizations are not built to serve customers, they are built to preserve internal order. To customers, the internal structure may not only mean very little, it may serve as a barrier. Organization charts are vertical and serving the customer is horizontal.”  George Fisher, past CEO of Motorola

Both BPR and Lean focus on business processes. Processes are the means by which organisations use resources – be they brainpower, machines or intellectual property – to create value for customers (both external and internal). Examples of business processes are ‘Insurance claims handling’, ‘Passenger checking-in’, ‘Automotive panel pressing’ or closer to home for law firms: ‘Probate’ and ‘Due Diligence’ processes. Using the Due Diligence process as an example, the four elements of any process are:

- **Inputs** - *Proposed terms of sale* for example, which are converted to outputs by the process
- **Outputs** - *Due Diligence report, amended SPA* – what is produced by the process
- **Resources** - *Lawyers and Support staff* – what is needed to operate the process
- **Controls** - *Firm procedures, Seller’s lawyers responses* – control how the process operates

“A process is a series of definable, repeatable and measurable tasks leading to a useful result for an external or internal customer.” IBM

The IBM definition precisely identifies three key attributes of a structured and controlled business process, namely:

- **Definable** – It is documented and measured so it is clear as to how the process is to be performed
- **Repeatable** – This enables the process to be performed on multiple occasions and by different people or machines in a consistent way
- **Predictable** – The outcome of a definable and repeatable process is that the outcome will be predictable, so that consistent working leads to consistent results

All organisations utilise a number of business processes to produce outputs for their customers. In many organisations, processes will have developed (rather than having been designed) in an ad hoc fashion over many years and become established by practice. They will not necessarily be the optimum way to achieve the required outputs and so cost more and provide a poorer end result than the optimum process. In services organisations, the concept of a ‘business process’ is much less familiar than in an industrial organisation. In a services organisation, common tasks are often not even performed in a consistent way by different personnel, so the results will not be predictable or consistent, resulting in quality and service issues and incur excess costs.

**Re-engineering business processes**

Process re-engineering tackles the problem of poor or uncompetitive processes by examining processes in a systematic and objective way, determining client/customer
requirements, analysing the way the process is performed today and then designing a significantly better way of performing the process that is closer to the optimum and finally defining a plan to move from the current to the future process.

Key elements of re-engineering include:

- **Really** understanding what the client or customer values
- Mapping and quantifying how the process is **actually performed** today – the ‘AS-IS’
- **Challenging** the current way of doing things
- Seeking **best practices** elsewhere – and not just in other law firms
- Defining a **bold improved process** – the ‘TO-BE’
- Creating a TO-BE that **dramatically** reduces waste and provides improved service
- Making a **Case for Change** for resourcing to move from the AS-IS to TO-BE
- Building a **Core Team** of partners and associates who’ll champion the new process
- Being **persistent** in working to achieve the TO-BE

So what’s the opportunity in Law Firms?

Organisations re-engineer in response to competitive challenges – forward-looking organisations start early when they see negative trends, but many only do so when the threats are very real – ‘the wolves are already at the door’, which can result in panic measures. Reasons for law firms to consider re-engineering in a business area is when any of the following are evident:

- Eroding margins – as is the case in many areas of Private Client
- Increased competition from existing firms
- New low cost competitors – the legal services bill, internet-based rivals for example
- Talent Management - limited supply of lawyers challenge current ways of working
• Regulatory compliance - more robust and consistent processes required

In our innovation work with Law Firms, we have worked on a number of successful re-engineering projects and have typically found the following to be true:

1. **There is often little process thinking in law firms** – so firms have little understanding of process performance and cost.

2. **The process often depends on who is performing the job** – each Partner/Solicitor will perform the matter differently depending on their office or team, meaning that the service provided and the cost of providing it will be inconsistent and there is no guarantee that specific tasks have been performed or performed as required (which has risk implications).

3. **Processes have been defined as ‘this is how we do this job’ and have often been unchanged for years**, even if they have been automated by case management – *this means that a lot of waste will typically be present in the process (e.g. rework, duplication of effort, over-skilled personnel performing tasks)*.

4. **Major IT investments – such as case management – have not been implemented in tandem with process re-engineering** – *this means that the full benefits of the IT investment have not been realised*.

5. **Innovation projects such as re-engineering can be difficult to resource** as key processes will require cross-functional working to re-engineer and so do not naturally fit into a firm’s departmental and Finance/IT/Marketing/HR resource silos – *this creates an ‘inertia barrier’ to tackling them*

---

**“The inertia factor”**

In our experience, re-engineering can be applied in Private Client processes, Commercial Client Processes and Internal administrative processes. In our re-engineering work we’ve adopted a ‘partnering’ role, to provide expertise, guidance and a good dose of provocation to help clients re-engineer. It is critical that the firm and specifically the relevant Partners
and associates take ownership of the re-engineering project – in our experience, if the project is seen to be ‘the consultants’ project’ it is very likely doomed…

It is not mandatory to use an external consultant for re-engineering, but organisations that have done so have valued the external view and the specific expertise that a consultant will bring.

In our ‘re-engineering partner’ role with law firms we have provided a re-engineering framework (described later in this document), established a Core Team of partners, solicitors and other staff to work with Codexx in workshops, a Steering Team of Partners/Department Heads/Functional Heads to provide an overseeing and decision-making role of the project, and provided ongoing challenge and provocation by bringing comparison with other organisations and sectors.

In these re-engineering projects we have applied BPR and Lean techniques such as process mapping of the current process – the ‘AS-IS’ – to identify major ‘breakages’, analysed the current operation for cost and waste, mapped the ‘client experience’ to determine current failings and ideal requirements, developed the new ‘TO-BE’ process and supporting organisational model, applied team empowerment, visual management and other Lean techniques to the new operation. We’ve found most BPR and Lean approaches work as well in law firms as in other organisations.

**Benefits for Law firms**

We’ve seen clear benefits for re-engineering in law firms:

- Significant cost reduction – through waste elimination using Lean techniques and ‘right skilling’ of the process through appropriate use of solicitors, partners and paralegals
- Improved client service – through focus on improving the client ‘experience’
- More repeatable process – through a defined and documented ‘standard process’ for repetitive process elements – enabling more consistency
- Addressing supply constraints on solicitors by making more use of automation and paralegals

Typically, success in the pilot re-engineering project has spawned interest in other parts of the firm for re-engineering and helped spread the experience across the firm’s partners and associates.

**Re-engineering in practice**

If you have read this far, then you can see the potential for re-engineering in your firm and so the question in your mind is ‘How do we do it?’

Successful re-engineering requires the following critical success factors to be in place:

- A champion for change
- Buy-in from department/firm management (as appropriate)
- A structured approach to re-engineering
- Sufficient resources
- ‘Stickability’ to complete the project
- Ideally a remit to ‘think the unthinkable’

As stated before, you do not need to use a consultant to re-engineer, though it may be more effective to do so. We use a five-phase approach to re-engineering, which is outlined...
diagrammatically below and which you can use as a guide. Re-engineering is only effective if the new re-engineered process is followed and this requires buy-in by the people affected in the organisation. To that end we work with the Partner championing the project to involve relevant people within the organisation in the re-engineering project from the start, so that they take ownership of the project. Working with the Partner Champion we establish a Steering Committee for the project – tasked with overseeing and reviewing progress – and a Core Team – tasked with working with us in workshops and activities required by the re-engineering journey through the five phases.

Whilst we have found that this approach can be applied to all types of re-engineering project, obviously we scale up and scale down its application depending on the nature of the support required.

**Final thoughts**

Business Process Re-engineering is a proven approach to raising an organisation’s performance in many sectors and our work with law firms has shown this to apply as well in the legal sector.

If your firm has not performed any serious, sustained re-engineering of its major business processes, then there is substantial cost being expended day-by-day, hour-by-hour, on client work and administration that could be converted to margin and also provide an improved client service.

**Further information**

For further information, contact Codexx:

Telephone: +44-1794-324167
Email: innovation@codexx.com
Web: www.codexx.com