

Continuous Improvement

Lean thinking is a set of management principles proven to increase speed, reduce costs and improve the quality of delivered instructions as well as provide robust input into strategic decision making. **Mark Greenhouse** examines how the management “fad” that has been delivering results for 80 years can benefit law

“Changing the entire nature in which legal services are provided and billed takes a long time and is still a long way off”

“A lean organisation understands what constitutes true customer value and focuses on managing and refining its key processes to continuously improve the value it provides”

It is said that in a healthy competitive industry, organisations should deliver to customers on time, at a price that provides value, without making mistakes and keeping the customer informed of progress.

So when a survey of customers (Ministry of Justice, *Baseline Survey to Assess the Impact of Legal Services Reform*, March 2010) found that, within the legal profession:

- 30% of the deliveries are late or took longer than expected.
- 25% are surprised (negatively) by the costs.
- 28% suffer mistakes.
- 27% weren't informed of progress.

Isn't it time to take note? If these are the views of inexperienced people who don't transact regularly within the industry, what are the more experienced internal voices saying? More than 60% of general counsel claim costs are too high, 60% claim that the suppliers fail to look for ways to reduce costs, and 99.5% want responsiveness from suppliers.

Management principles

“Lean thinking” is a tried and tested set of management principles used extensively in other sectors in the UK and is now being used in the legal profession in the US. These principles have been proven to drive down costs to clients by between 15% and 50%; improve time to respond, improve quality, and keep the customer informed of progress.

In autumn 2009, Seyfarth Shaw LLP, a US-based full-service law firm with 750 attorneys, made public the results of their introduction of continuous improvement techniques into a law firm, which the Association of Corporate Counsel has hailed as putting the firm, “five years ahead of every other *AmLaw* 200 firm.”

Four years earlier, Seyfarth Shaw clients, including Motorola, Caterpillar & DuPont, suggested that the firm should be able to



Mark Greenhouse

demonstrate how they were continuously improving processes and delivering best value – as any other supplier of products or services, elsewhere in the organisation would be asked to.

With the advice and guidance from those same clients, Seyfarth Shaw investigated the potential of “Lean Six Sigma” (combining lean thinking with “Six Sigma” quality practices) and developed the “Seyfarth *Lean*” programme. The benefits, to them and their clients, appear to be:

Responsiveness – time to complete instructions is cut resulting in a reduction in the fees to clients of between 15% and 50%.

Value – clear understanding of client needs and shared definitions of success, enabling fixed fee or alternative payments to be agreed.

Engagement – the clear value understanding helps internal staff to understand which skills and experiences are needed at each stage of instruction and helps the client understand which staff will be handling the work and why.

Costs – cost structures are understood, transparent and variability is eliminated allowing the alternative fee structures to be developed.

Satisfaction – clients are delighted with this approach and are assigning a greater number of matters, increasing the overall revenue for the firm.

A lean history

You may have already heard about lean or Six Sigma thinking before. They are both used by many organisations (manufacturing and service based) around the globe.

The term “lean” came from a series of books written by James P Womack and Daniel T Jones and is synonymous with the Toyota Production System.

A lean organisation understands what constitutes true customer value and focuses on managing and refining its key processes to continuously improve the value it provides.

Lean thinking

The five core management principles of lean thinking consists

1. Only customers can place a **value** on the **solutions** (products/ services) an organisation provides.
2. Companies should understand every activity in the processes they use and whether these add **value** to the customer – aiming to remove those activities and processes that don't add value or are part of the "seven wastes".
3. Businesses should organise around the **solutions** valued by the **customers** – breaking through the functional and departmental barriers to create flow.
4. Every process should only be operated when required ("**pulled**") by the **customer**, not ("**pushed**") when the company desires or targets dictate.
5. An organisation should strive to continuously improve and refine the **value** its **solutions** deliver to its **customer**.

And the identification of the "seven wastes" that occur throughout organisations.

Elements of lean thinking and tools (of which there are some 50+) can be traced from the Arsenale in Venice in the 1450s, through a 1930s automated loom patent, the writings of Henry Ford, the US supermarket system and the post-WWII Japanese-based US Quality movement.

So this particular management fad has been many years in the making.

UK manufacturing organisations starting implementing the techniques back in the 1970s, forward thinking service organisations in the 1990s, with healthcare and government departments following in the 2000s. This implementation has left the legal sectors and functions relatively untouched by these continuous improvement techniques.

Companies who have released into the public domain their use of lean include Toyota, Tesco, Zara, GE, Bank of America, Bolton NHS Trust, HMRC, Yorkshire Water, Starbucks to name a few.

Sir Terry Leahy of Tesco said that, "Lean thinking has been an enormous influence on my business thinking. It shows you how you can fundamentally transform your business."

Lean thinking forms one of his "10 Commandments for Good Management", although we think seven of his 10 can be traced back to lean thinking.

In the 15 years since it started looking towards lean, Tesco has gone from number two in the UK market to being twice the size of its competitors and is now a global player.

The slow growth economy

Toyota was just another car company until the oil crisis of the early 1970s. Between 1975 and 1977, its earnings grew faster than its competitors. Their management system had proven as robust as any other during the high growth period from 1959 to 1973 and gave a competitive advantage in the low-growth period after. That was when the world started to take note.

In 2005, one Seyfarth Shaw real estate finance client was insisting that its suppliers look to cut their rates. Seyfarth Shaw had been aware of lean and the Six Sigma and decided to use "process mapping" to understand the journey that client instructions went on.

The number of activities in the journey, which started in the mid 2000s was reduced to 170, with a resultant faster turnaround and a reduction in bills of 12%–15% and happier clients.

So Seyfarth Shaw decided to bring in a formal approach to understand how these techniques could transform other parts of the organisation.

Carla Goldstein, director of strategic management at the firm, stated that the firm brought in a Six Sigma consultant and gave 35 people in the firm "green belt" training in the process management technique borrowed from the manufacturing world.

Lean solution

It soon became clear, however, that the Six Sigma alone didn't appear to work, and so the solution became lean. "We were dying", Goldstein said. "They came in with these binders of jargon and statistics and numbers and the lawyers' eyes were rolling around in their heads. We realised the process was what is wanted. The training would never succeed in a law firm."

Over the course of the next year-and-a-half, the Seyfarth *Lean* model was developed. It pared down the training, eliminated jargon and left out the heavy statistics so that most of the lawyers wouldn't need to concentrate on that aspect.

From experience all lean projects benefit from some straightforward data collection and analysis techniques. These can be taught to many staff without the need for them to become quality-control-level statisticians.

Mapping the process

Project managers worked with teams to help facilitate "process mapping" (value stream mapping). They got together and used sticky notes to map out each step, or activity, of the process to create visuals for the attorneys so they could see all the steps and decide how a matter could be parsed out. Mapping the process includes identifying all the activities in the correct order, from the moment a client calls in with an enquiry or instruction to the final delivery.

The mapping work requires organisations to understand:

- What each activity aims to achieve.
- The time each activity takes.
- The time between each activity, when nothing is happening to the client instruction, including queuing time.
- The proportion of work that is rejected and has to be completed again due to quality issues.
- Deciding who carries out each activity, and the true level of expertise and experience required for it.

This process builds a rich picture of what actually happens in an organisation and helps with identifying the “seven wastes”.

The seven wastes

- 1 (Over) processing**
Activities that add no value to the client requirements, activities that are at odds with one another or duplicated within the same overall process. Includes activities (decision making, sign-offs) which go to senior staff and could be given to others, with the relevant expertise and experience in the organisation.
- 2 Waiting**
Time between activities where work is waiting to be processed – this may be waiting for staff to become available, meetings to be held, holidays, absence, information arriving. This waste can be internally or with the client.
- 3 Over-produced activities**
Activities where work is completed ahead of the time it is actually required for.
- 4 Defective activities**
Those activities that generate poor quality outputs and have to direct work back to prior activities for re-working.
- 5 Bottleneck activities**
Sometimes known as building inventory activities where the work is allowed to build up, increasing the amount of work in progress in the business.
- 6 Motion**
Walking paperwork around, switching between software, excessive keying of similar information, poor software and screen design are areas of waste often found in the service environment.
- 7 Transport**
Often considered unimportant in the service environment – however the transportation of files and information can often disguise large amounts of waste.

The generation of the maps is much more than just a technique for identifying waste – it can often form part of the strategic decision making process of the business.

Generating maps can help to identify areas where:



- Processes can be speeded up by reducing the waiting time alone – therefore the “change management” impact on staff is often minimal.
- Insufficient numbers of skilled and experienced staff are available.
- Current skills and experience levels don’t generate the quality of work required.
- The activities that are holding the organisation back are located.
- Investments may improve a specific activity and by a substantial margin but have a minimal effect on the whole process – an unintended consequence of departmental and functional budgets and targets.
- It provides a robust method of determining the cost to service.

Seyfarth Shaw found that mapping the process allowed younger attorneys to know which steps to handle, while supervising attorneys knew who was doing what and when, allowing them to focus on strategy. They could see whether too many hands touched a document and set out to streamline that process. Effectively ensuring that documents are in the right hands, at the right place at the right time.

Mapping the process is exactly the same type of work, regardless of the sector being worked in. Back in 1996, Tesco conducted one of their first lean projects on the bottling of own label cola. They found it took 20 days and 150 activities from bottle manufacturing to a customer walking out of the store with the same bottle. One “lean project” later and this process was reduced to five days and involved only 50 touch points. If this was to be extrapolated, the impact on cash flow would be quite dramatic.

Goldstein and her office have used this technique in practice groups including real estate, mergers and acquisitions, commercial litigation, immigration, labour arbitrations and several others in implementing lean thinking.

Asking and teaching clients

Once the maps have been created and the internal processes sorted, they should be shared with the clients. There will be activities that the clients have an impact on, whether it is providing information, reviewing outputs, or making decisions.

Lean thinking

They need to ensure that they are processing these in line with the new lean ideal. They might be able to get other staff to do some of the work, while some of it may not be required and so on.

“Not only did we create efficiencies internally,” Goldstein said, “but we also started to bring it to the clients.” Once the internal mapping was handled, the firm would take the maps to the clients so they could see the process, know what was expected from all parties and offer suggestions for driving out inefficiencies. The process helps both sides have a clearer understanding of what the matter cost and shows the client the firm is committed to providing this pricing.

Financial Results – Cost reduction in the order of 15%–50%.

Strategic Results – The Association of Corporate Counsel, has noted that Seyfarth *Lean* puts Seyfarth, “five years ahead of every other AmLaw 200 firm.”

Client attraction and re-engagement – When Lisa Damon, told a gathering of United Technologies Corporation (Otis Elevators, Pratt & Whitney, Sikorsky Aircraft) lawyers about how her firm pores obsessively over data to set and manage alternative fee arrangements, Peter Gutermann, general counsel of business unit Pratt & Whitney, got so excited he grabbed the microphone and announced that Seyfarth Shaw would be getting a lot of his business.

Jeffrey Carr, general counsel for FMC Technologies, Inc, recently put Seyfarth on its preferred provider list for litigation counsel, a decade after they had moved away from the firm because they weren't efficient.

Risk free, fixed-fee reality

An effective fixed-fee model process has also been introduced by Seyfarth Shaw. This will have been a benefit of having undertaken the process (value stream) mapping, removing processes that didn't add value and improving the quality and speed of the processes that remained. Seyfarth Shaw claim that this fixed-fee approach has been particularly strong in the mergers and acquisitions area of operation where the cost savings to clients have been in the region of 15%.

“We're artists, not machines”

One of the main issues with any lean Six Sigma-based improvement journey is that as it moves into a new department or new sector many staff simply see their work as too different for process-based improvement, often stating “that no two jobs are the same here” or “our work is more of a craft than a science” – particularly when improvement initiatives may require staff to be involved in work that cannot be billed to a client.

“There is definitely an art to what we do ... It is a humbling thing to say that you can break down what I do into processes and steps and you can maybe move some of that away from me, because I need to stay busy myself,” explained Paul Mattingley, Seyfarth Shaw's Atlanta office managing partner.

Customers in many sectors may order from a standard range of services and the final output will be “bespoke” and match their specific requirements. Nonetheless the process used to deliver an output for customers choosing the same service will contain the same core of activities.

Ray Bayley, president of NovusLaw points out that in the legal industry more than half of the staff are lawyers. Contrast this with the fact that his research showed that between 70% – 80% of legal work is not lawyer work. This makes many of the activities used to produce legal documents and arguments beneficiaries of process improvement methods.

Board level support

It took one company in the automotive industry, Toyota, to move forward with lean. This was followed with another in the supermarket sector, Tesco. And the story has been repeated in other sectors so it's reasonable to assume it will take a single forward-looking company to take lean forward in the UK legal market.

The organisation will take a service or product causing pain (late deliveries, customer complaints, uncompetitive pricing etc) and start with an internal project, on a small scale, and begin to learn about and utilise the lean tools.

It will take senior management buy-in and sponsorship. Before Seyfarth Shaw could even begin on its journey it was given some words from the wise. Tom Sager, senior vice president, general counsel and value-billing pioneer of DuPont, told Seyfarth Shaw not to bother unless the project was undertaken from the top down.

Even with a top-down approach, the road has not been an easy one. Changing the entire nature in which legal services are provided and billed takes a long time and is still a long way off. “This is a journey for us, I don't want anyone to think that all of our lawyers and all of our clients are all lined up in unison, we are not, we are on a journey,” notes Seyfarth's Lisa Damon.

Three years into the journey, Seyfarth Shaw estimated that only 3.7% of its 2008 gross revenues were achieved using all Lean Six Sigma processes. Another 10% – 15% of revenues had some of their activities completed by the new techniques.

As Toyota and Tesco found before them, Seyfarth Shaw are discovering the journey has many more satisfying, and rewarding steps.

Mark Greenhouse MEng, MIET, MIDM, a director of ResQ MR, an independent firm specialising in the implementation of lean thinking, www.resqmr.co.uk. (mark.greenhouse@resqmr.co.uk) and is also a guest lecturer on the Executive MBA at Nottingham University Business School

References

- Damon, Lisa, “Value Practice – Use of Tailored Six Sigma Methodologies at Seyfarth Shaw”, *Association of Corporate Counsel Value Challenge Resource Toolkit*, September 2008.
- Passarella, Gina, “Law Firms Look at Process Management”, *Law.com*, October 2009.
- Williamson, Lauren, “What's Really Going on in Today's Legal Departments?”, *Inside Counsel*, August 2010.
- Wasson, Lann, “Lean Six Sigma – Mastering the Art of Service Delivery”, *ILTA white Paper*, March 2010.
- Harris, Kelly, “ACC Value Challenge at One Year”, *Canadian Lawyer Magazine*, December 2009.
- Miller, Amy, “Seven Sigma”, *Corporate Counsel*, December 2009.
- Levine, D M, “Leap of Faith, How Much Will Six Sigma Pay Off for Seyfarth Shaw”, *The American Lawyer*, April 2009.