



Dodging the draft?

HOW PROOFREADING FAILURES ARE CREATING RISK FOR FIRMS AND
THEIR CLIENTS, AND DENYING FIRMS EXTRA REVENUE

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Index

	Introduction from LexisNexis	5
	Executive summary and methodology	6
1	Overview – why are firms putting their clients at risk?	10
2	Creating documents, creating risk	12
3	Challenges in delivering better documents	16
4	Championing improvement, changing hearts and minds	18

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Simon Drane

Director of business development, LexisNexis



Law firms are under increasing pressure to become more efficient in the way in which they work, driven not just by macroeconomic conditions but also from increased competition. There is also a growing expectancy from law firm clients that firms will make greater use of technology in order to both reduce costs and increase the value they provide.

Yet law firms have for so long operated in an environment where efficiency was talked about, but was not really approached systematically. Although law firms have looked for easy savings around resourcing costs through reductions and outsourcing/offshoring, they are barely scratching the surface on legal process efficiency and what can be achieved when they really analyse what lawyers do, where the inefficiencies lie, and how technology can help.

When analysing the legal process to look for efficiency gains, drafting seems like an obvious place to start, given that 90% of lawyers spend time creating and reviewing documents daily. Lawyers can spend hours on this core task every day, and the manual activities they carry out have remained largely unchanged by technology. In a recent survey, 66% felt they are under too much time pressure to proofread properly, and 33% admitted to having skipped proofreading tasks when creating or reviewing legal documents. Rather alarmingly this is leading to a position where, in our tests, we found that 90% of legal documents checked with LexisDraft contained errors, even on those documents that lawyers were confident they had checked.

Driving improvements and efficiency in the work lawyers produce, which is most often a document of some sort, tends to be seen as the role of a lawyer. But if the lawyers don't have the right tools it will be hard to achieve and many simply are not aware of the real advances that technology has made in the area of drafting to help them draft better and faster. What is more, the benefit in reduced risk, thanks to the reduction in critical errors, can only benefit the law firm's bottom line.

Technologists have a vital role in showing lawyers how technology can now not only help them run their business, but fundamentally improve the profitability and practise of law, and I am sure this report will help in this capacity.

Executive summary



Many clients are being ill-served by legal business when it comes to the primary 'product' of law: document production.

LexisNexis's research into proofreading and document review has found that not only do lawyers skip proofreading steps to save time in a high-pressure environment, their business services counterparts know this happens and are not doing enough to stop it.

Few firms are addressing this significant commercial and compliance risk that's being created by those entrusted with creating near-perfect documents. Some are in denial that it even happens.

Time and cost pressures mean fee earners are regularly failing to create documents that are as error-free as possible. This is creating risk for firm and client, reducing work capacity and revenue, and driving down client value. Worse, people across fee earning and business services are aware of this failure, but many are either at a loss how to fix it, or even if it can be fixed.

Intelligent technology solutions to the problem exist, and some business services people know of them – but many fee earners and business services leaders have, it seems, assumed that there is no way to create better-quality documents for clients.

Drafting is fundamental to lawyering, and a vital stage in drafting is proofreading and document review, but LexisNexis has uncovered that as many as 33% of lawyers admit skipping proofreading through lack of time. The risk and opportunity to address this has never been more critical.

This research, mainly around business services leaders' attitudes to more efficient and risk-managed document drafting, has uncovered a number of key themes that show why and how law firms are failing their clients around drafting: a reluctance to and fear of change, a lack of

understanding and knowledge of the tools available to support proofreading improvements, and a lack of clarity around who should drive improvements.

Key findings

Firms aren't delivering the near-perfect work clients expect – a third of those polled say they've skipped proofreading steps.

Business services managers are either in denial about the gap between the quality of work expected of the firm and the reality, or concede it happens but believe there is nothing to be done about it. Others are aware of the problem, but admit they have yet to work out what to do to improve things. Only a tiny fraction of business services leaders are ahead of the game.

Almost two-thirds of fee earners say that they could complete more work if they used tools to help with proofreading.

Business services managers tell us that there is more work that their firms could do, if fee earners were more efficient in creating documents, and that firms could be more efficient in how they create those documents.

Few firms have invested in proofreading technologies, and many aren't even considering investing in it.

Business services managers lack understanding

33%

of fee earners admit to skipping proofreading steps because of time or work pressures

6/10

fee earners say they could do more work, if they had the tools to be more efficient

48%

of business services leaders say that a business services person should lead on driving proofreading efficiency

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Executive summary cont.

around the significant impact proofreading tools can make to reducing errors and improving quality and productivity, which technology options are available and what the investment cost-benefit analysis looks like.

There is a general fear of change that's holding back creating better documents. Business services managers find it difficult to get fee earners to actually use tools, and many firms say they prefer traditional methods of drafting and review.

Law firms need to create a team crossing fee earning and business services – especially risk, IT and knowledge – that can, as a group, drive up efficiency and drive down risk in proofreading and document review.

Conclusions

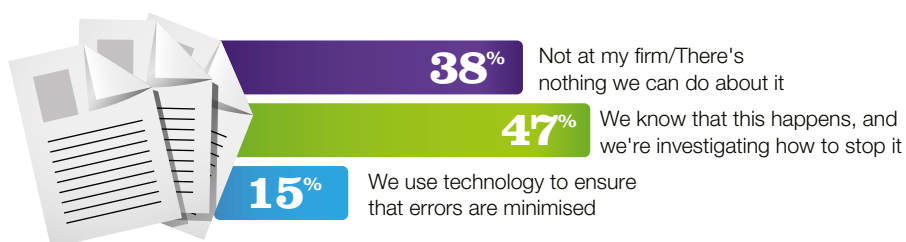
Business services management in key areas such as IT, risk and knowledge and their fee earner colleagues alike are creating risk in their core products, when the technology exists to remove this threat and drive more efficiency – creating the capacity to carry out more work.

With the significant benefits that can be created with new proofreading and document review tools, in efficiency gains, decreased cost of document drafting and reduction of risk in the process, this is an area that cannot be ignored any longer.

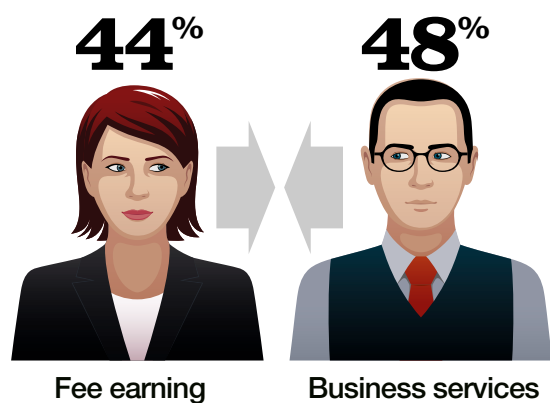
If a third of top law firm lawyers admit to skipping proofreading steps, can law firms afford not to act to stop them, and help them deliver work more efficiently at the same time?

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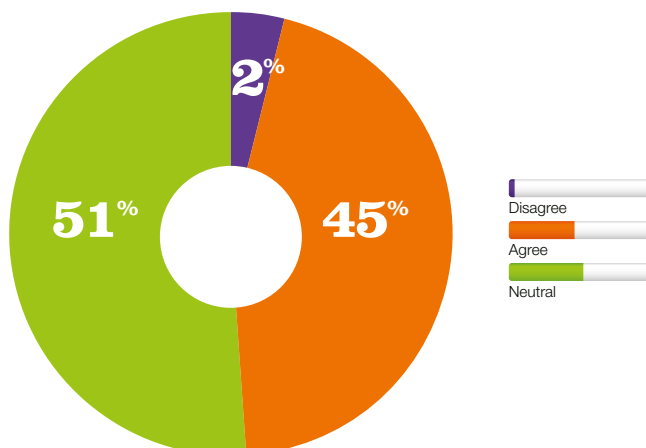
A third of lawyers questioned admitted to skipping proofreading tasks at some point in the past due to time pressure. How do you respond to this?



Which area of your firm do you think should be primarily responsible for driving efficiency in relation to proofreading and document review?



My firm sees proofreading and document review as an area where efficiencies could exist



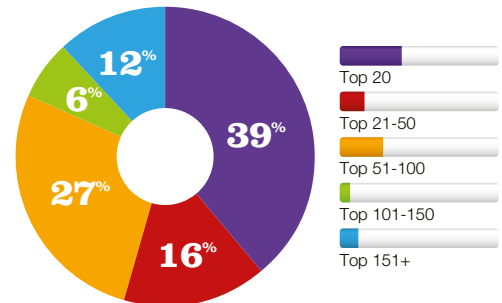
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Who, what, why

A short explanation of the survey

Legal Support Network polled its business services management audience across a range of roles such as finance, IT, risk and knowledge to find out how firms see proofreading and document review in March 2014. See the graphs to the right to find out more about what kind of people in which firms answered our questions. Total number of survey completes: 77.

Firms surveyed by ranking in the Lawyer top 200



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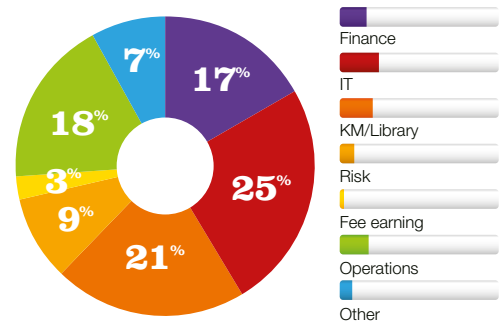
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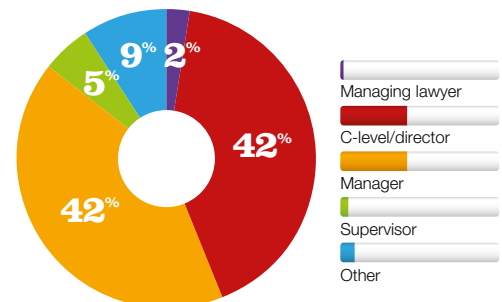
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0845 520 1166

Respondents divided by role type/area



Respondents divided by seniority



About Legal Support Network

LSN is a publishing, media and events company wholly focused on business services and support staff in law firms, whatever role they're in.

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1

Overview – why are firms putting their clients at risk?

Drafting occupies as much as 60% of a lawyer's time. One of the most important elements in drafting is proofreading and document review – because crossing the Ts and dotting the Is can make the difference between a negligence claim or complaint or not, or a client who wins a piece of litigation, or loses.

It naturally follows, then, that better, more efficient proofreading and document review processes help firms avoid risk, improve quality of service and increase efficiency and, potentially, revenue. Why, then, are legal businesses failing to do this job to the best of their ability?

In previous research carried out with fee earners by LexisNexis in late 2013, a third of fee earners admitted they had skipped proofreading tasks in the past because of time pressures. This is creating serious risks for clients and firms alike.

We wanted to find out how law firms were handling this risk and capability gap, and what kinds of technology they are using to generate better documents in light of this human failing.

What we found, however, was an industry at odds with itself about who should be responsible for fixing this gap in the most vital point in document drafting – and an industry partially in denial that anything at all can be done.

In the UK's top 20 law firms, 63% of business services managers know that lawyers skip proofreading tasks, but very few are doing anything about it. Many are beginning to investigate how to use technology to change this to plug the holes, but there's still far too much inaction and denial in the air.

It's at best very difficult to comprehend why law firms across the top 200 are putting themselves and their clients at risk because of inadequate proofreading and document review processes. Ensuring documents are carefully checked and as accurate as possible should be a fundamental building block of good legal practice – a 'must have', not a 'nice to have'. A failure to embrace the technology and tools – which would require minimal financial investment yet would vastly improve this part of service delivery – lets clients down and exposes them and their firms to unnecessary risk.

Even disregarding the risk exposure element for a moment, there is still a clear case for the benefits of more efficiency in proofreading and document review, because the majority of business services leaders say that there's work that their firms could be doing that they are not, because of fee earner drafting capability. Therefore there's more revenue out there to be had – if only the tools were used and fee earners could be more efficient.

But the biggest reason for why this is an area as yet unaddressed is not technological, it's about responsibility – who should be responsible for driving efficiency in proofreading and document review, and how to build a team of people across fee earning and business services to make it happen.

Rupert Collins-White

Head of content, Legal Support Network

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33%

of fee earners admit to skipping proofreading steps because of time or work pressures

63%

of business services managers know that lawyers skip proofreading tasks

Creating documents, creating risk

Present imperfect: In denial about document production

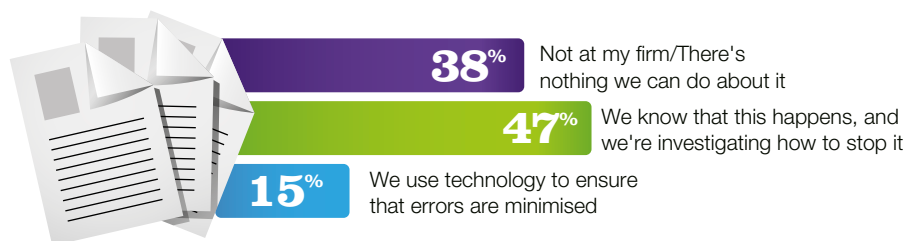
No firm can deliver perfect work, but the goal is to be as close to that as humanly possible. But many firms are falling short of the mark – and they know it. Possibly worse than the fact that one third of fee earners skip proofreading tasks at some point due to time pressures, almost 40% of law firm business services leaders are either in denial about this, or they know it happens but think there is nothing that can be done about it.

This denial combined with apathy is disappointingly consistent across various sizes of firms (divided from here on by segments such as top 10, 21-50 etc). There's a small glimmer of hope in the top 20, inside which 52% of business services leaders surveyed know this process failure happens and are investigating how to improve it. But more than a quarter (26%) of managers in the top 20 said this kind of behaviour doesn't happen in their firms. Are their firms special, or are they in denial?

Curiously, only 11% of those polled said their firms currently use technology to ensure errors are minimised in proofreading and document review. Technology usage jumps to a healthy 30% in the next segment down (firms ranked 21-50 by revenue), but this dissipates fast – only one of the firms in the lowest quartile of the top 100 has document proofing technology in place.

It's hardly encouraging that our other 'denial' contingent – those who said they're aware of this failure but think there's nothing that can be done – makes up 36% of all firms polled, and 55% of the top 20. There is something that can be done – proofreading and document review tools exist that can dramatically improve error checking and document quality.

A third of lawyers questioned admitted to skipping proofreading tasks at some point in the past due to time pressure. How do you respond to this?



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Error drivers: Under pressure and under-delivering

Fee earners are under ever-increasing pressure to deliver more, better, faster. This is not a situation that will abate, now or in the future.

An overwhelming 87% of business services leaders agreed with the statement that their firm is under increased pressure to reduce costs, and it seems the pressure is very real across the sector. The top 21-50 firms are the least intensely pressured (73% agreed), while the top 20 is close to complete agreement at 96%. Outside the top 100, things are worse – 100% agreement for firms ranked 101-150.

Alongside this consensus around pressure on costs is pressure on capability. While they're rarely the ones asking for more process, six in 10 fee earners say that they could complete more fee-earning work if they used tools to help with the proofreading.

This is something the business services side can agree with – 45% of business services managers say proofreading/document review is an area where efficiencies could exist, indicating that the lack of adoption around proofreading technologies might be more a question of priority than need. Firms in the top 21-50 segment 'get' this best – 73% of business services leaders in that segment agree with that statement compared with 48% of those in the top 20. Firms outside the top 100, however, have a very different view – just 20% of those polled in that segment agreed that proofreading and document review could be more efficient.

Proofing and document review can occupy a significant portion of the drafting process, which takes up the majority of a fee earner's day. Business services chiefs agree there is plenty of extra work out there, and that there is scope to do it better and more efficiently. Only 1.5% don't think it's worth making proofreading and document review more efficient.

20%

of business services leaders said fee earners don't skip proofreading tasks – despite fee earners admitting they do

87%

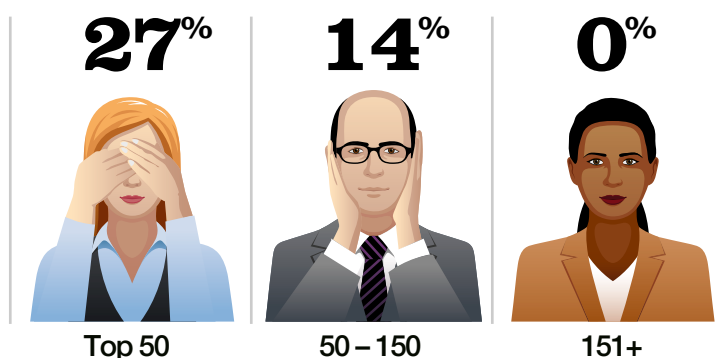
of respondents agreed with the statement that their firm is under pressure to reduce costs

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Creating documents, creating risk cont.

It makes sense, therefore, that firms across all sizes polled are, in the main, seeking opportunities to improve the efficiency in document drafting and review. So why don't these areas match up? Firms know there's more work that can be done, and that there's risk being built into their work because of skipped checking stages – so why have so few invested in proofreading and document review technology?

Not in my firm! Which kinds of firms are in denial that skipping of proofreading steps happens?



Adoption gap: Why aren't firms using IT to make better documents?

Many firms are looking at a variety of tools to deliver more efficiency in the process of drafting and reviewing documents. Over a third of firms are looking at document automation, proofreading software or house styling software. Half have already invested in document automation and house styling. More than a third have already invested in internally developed tools.

This pattern is pretty similar across the segments. It's maybe no surprise 46% of the top 50 firms have developed tools internally – the only surprise is that the top 101-150 firms have the most proofreading software in place (20% of respondents in that segment).

But given that 68% of top business services leaders are 'neutral' on whether efficiencies are possible in this area (rising to 80% outside the top 100), it's no surprise that over half of those polled tell us their firms aren't considering the use of technology to help with proofreading and document review. The majority of firms, therefore, are not looking at technology to help with proofreading and

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document review, despite knowing that it is not being done as well as it could be.

Have these firms done all they can? When proofreading technology is capable of detecting avoidable errors in 90% of documents, thereby improving quality and reducing risk – and able to do so in a fraction of the time it takes to check a document manually – what excuse can there be not to use it?

Fundamentally, too few firms have invested in technologies to deliver more efficiency in the process of drafting and reviewing documents. Around 10% have nothing at all in place, and only 6% of firms have invested in proofreading-specific technologies.

But examining the few firms that are turning to technology to help support their proofreading and document review processes, it's encouraging that their motivations are to drive both efficiency and quality, rather than one or the other.

Of those looking at technology to help them in this area, a respectable third (33%) of all firms polled (55% of the top 50) want these tools to improve both efficiency and quality. Only one firm we polled is doing it just for quality.

None of these results, however, demonstrate that there is enough process or technology in place to ensure documents in any of these firms are as near to perfect as possible.

27%

of business services leaders in top 50 firms say that fee earners don't skip proofreading tasks

45%

of respondents say that there may be efficiencies to be gained in proofreading

33%

of respondents are turning to proofreading tools to improve quality and efficiency

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Challenges in delivering better documents

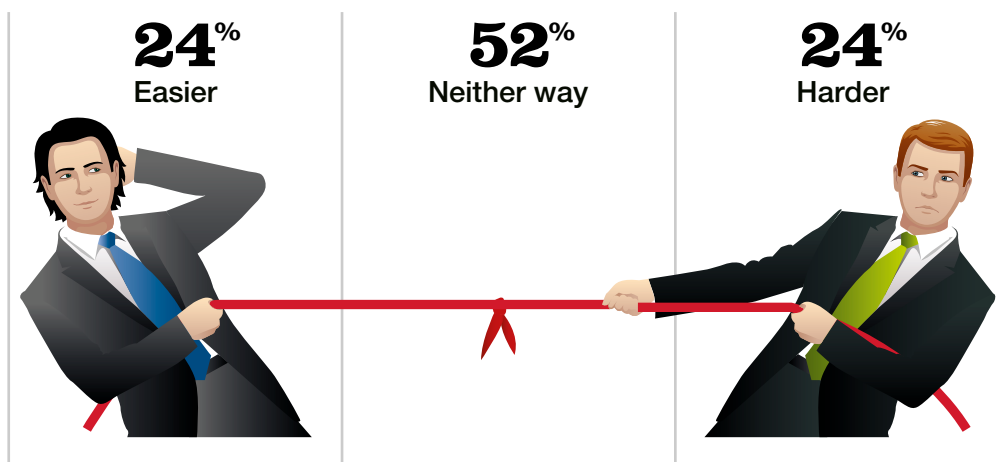
Fear of change

Several reasons for the lack of focus and investment in drafting productivity solutions seem to centre on law firms' attitude to change.

Almost a quarter of business services chiefs say they've found it difficult to get fee earners to use tools that might improve drafting and reviewing. Even in the top 20, a meagre 4% find it 'easy', and across the top 200 that drops to 2% – and almost no firms find it unchallenging. Business services leaders are concerned that they will be unable to change how fee earners work (37% overall), with the top 21-50 firms especially wary (70% cite this concern).

There is also resistance to change more generally – 33% of those polled say their firms prefer the traditional methods of drafting and review. Plus, there's a lack of knowledge around how to deal with this – a fifth of those polled say there is a lack of quality options available. So, the lack of movement towards better proofreading may be partly down to a fear of the ability to change fee earner working methods, coupled with a loyalty to traditional methods and a lack of understanding of available tools. This is a failure to understand how easy this 'change' can be – the latest drafting/proofreading tools sit comfortably within the 'traditional' method for review and drafting: Microsoft Word.

How difficult has your firm found it to get fee earners to use tools that improve the process of drafting and reviewing documents?



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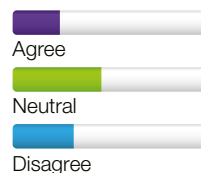
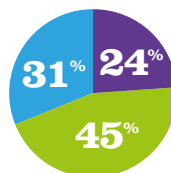
Cost of investment

A big disconnect exists in understanding ROI or gains made on better proofreading/document review. Will the efficiencies and other benefits be worthy of the upfront investment?

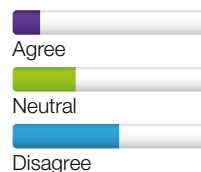
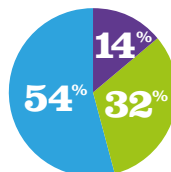
Just shy of a quarter of business services leaders disagree that the gains would offset the cost of implementing such tools.

More than 60% of fee earners said they could do additional work if their firm used tools to assist proofreading. How do you respond to this?

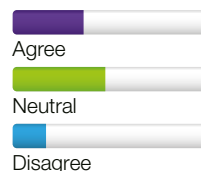
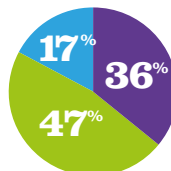
A The gains would not be offset by the cost of the tool/implementing a solution



B We don't have additional work, so the time saved would be wasted



C This is something we are aware of, but haven't found a way to achieve it



This is higher in firms outside the top 100 (31%). Almost half of all those polled (45%) were 'neutral' on whether the gains would offset the cost.

Exactly a third of all business services leaders polled said their firms had not invested in proofreading and document review tools because of budget constraints – ironic given the efficiency savings and reduction in exposure to commercial risk that would come with investment.

Overall, it seems there may be a general failure to understand and match benefit to cost.

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Championing improvement, changing hearts and minds

Perhaps the biggest hidden reason (until now) behind law firms' failure to get better at hitting that near-perfect mark in document drafting is there's no clear idea of who should be leading on making it happen, or who should be involved in getting there.

Responsibility for improvements in the quality of output from a firm is often seen as sitting firmly with the fee earners, but it's clear that both pillars of the business – business services and fee earning – need to be involved here to make real change in working practice and attitudes. There seems, however, to be little agreement around who should drive improvements in this fundamental area.

While it is often seen as a lawyer's concern, nearly half of business services leaders say that a business services chief should lead the drive for efficiency around proofreading and document review. To put that in perspective, they are more likely to think a business services person should have responsibility for driving efficiency in proofreading and document review than practice heads. The role named most was knowledge management, at just shy of one fifth across all respondents and 36% of respondents in the top 21-50 firms, followed by risk at 16%.

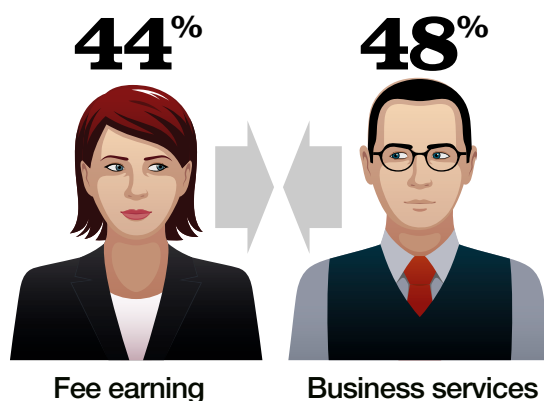
But generally, as you would hope and expect, business services managers wanted several areas of the business involved in the process of making better documents – there was a significant call to generally bring more than one area into the discussion and decision making.

For example, 58% across all firms wanted to also include IT; this figure peaked at 73% in the top 21-50 segment. Almost a half (44%) of business services leaders felt a need for risk to be involved (unsurprisingly, given the risks involved in inadequately completing documents), a figure that rises to 50% of firms in the second half of all those polled by firm size. Knowledge management follows closely behind as a role that should be included, at 38% across all firms polled.

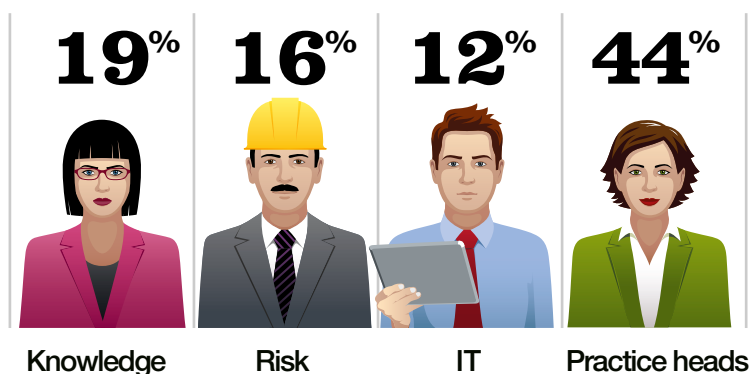
Firms ranked 101-150 called for the most wide-ranging inclusion, with 80% of them calling for risk and KM, and 40% adding IT and finance into the mix. A healthy quarter of those polled across all firm sizes added finance into the equation when expanding the responsibility to 'should also be included' – a nod to ensuring firms understand the return of investment from such initiatives, and possibly reflecting the realisation that the COFA needs to be aware of all potential risks to revenue...

In the round, our results show that firms should create a team crossing fee earning and business services – especially risk, IT and knowledge – that can as a group drive up efficiency and drive down risk in proofreading and document review.

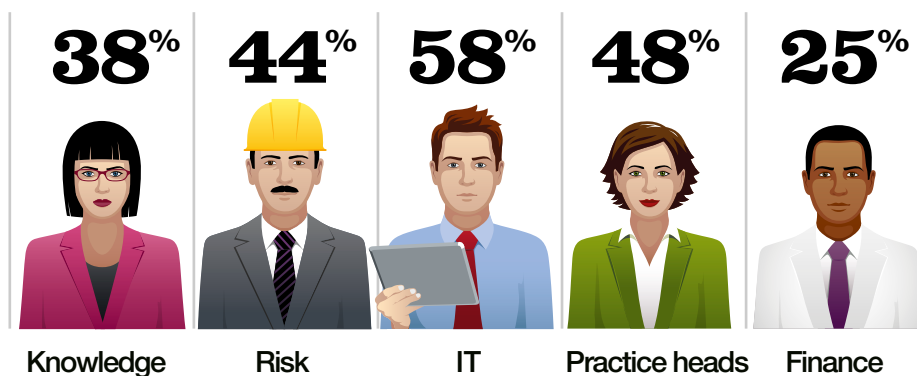
When combining answers across which business services role should take charge of driving efficiency in relation to proofreading and document review, business services people thought one of their number was preferable to a practice head



Which area of your firm do you think should be primarily responsible for driving efficiency in relation to proofreading and document review?



Which other areas of your firm should also be involved in driving efficiency in relation to proofreading and document review?
(Respondents could make more than one choice)



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