

Mass review and repapering

Q1 2021



The challenge

Organisations need to complete bulk review and amendment of contracts for many reasons, from regulatory change, to M&A activity, to changes in internal policies. Reviewing large volumes of contracts, especially when based on a wide variety of forms, held in many different locations, and amended or added to over a long period, can be logistically challenging. Likewise, taking steps to amend those contracts can be challenging, especially if there are many counterparties with long relationships with your organisation, who have nothing to gain themselves from the amendment, or who may need to be dealt with carefully for conduct reasons, or who may seek to use them to open other discussions.

In approaching this work there are many trade-offs. For instance: Should work be run centrally (enabling greater control and compliance) or through relationship teams (who are more familiar with the background and hold contact relationships)? If there are multiple contracts being amended with the same counterparty (or customer), should you approach them with a consolidated pack to enable a "single view" and accept this is likely to slow down the speed with which you can send amendment agreements (and gain feedback to update your approach)?

There are also some areas which may appear to be trade-offs but where, in fact, best practice is now clear. For instance, using certain machine learning tools to accelerate contract review is not a short cut on quality – used appropriately, it should enable legal staff to find the right provisions, more rapidly, but also with a greater degree of reliability and accuracy.

Finally, in completing an up-to-date review and amendment round of this kind, you will have a huge store of digitised documentary data. Too often, this is discarded at the end of the process with a reversion to analogue storage and documentary processes. When set up correctly, for very little extra effort, these gains can be captured for future use, either in future review and amendment scenarios, or for ongoing insight to book.

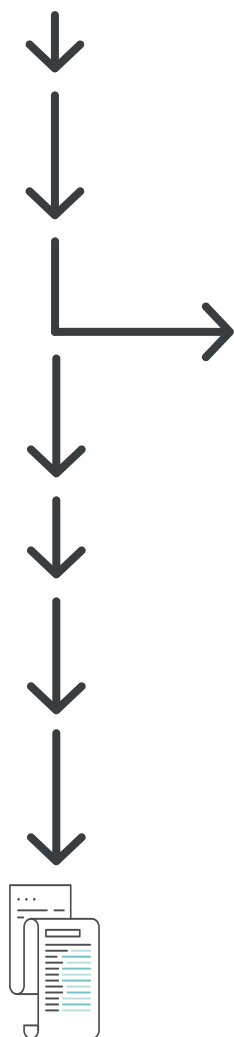
Why Norton Rose Fulbright

Bringing together the right mix of technologies and human expertise is essential, but the optimal combination varies depending on the scale and complexity of the project.

We have extensive experience reviewing and repapering contracts for a wide range of clients and have been engaged on some of the largest and most complex projects in recent years. Combined with our experience of running smaller projects, we have now developed a modular solution that can draw from a menu of approaches to provide the right blend of legal tech and legal expertise to suit the size and complexity of your project – whether working with 100 or 100,000 documents. This includes a full range of technical delivery skills in addition to our lawyers.

We offer the deep legal expertise of a global law firm, the flexible and scalable delivery capability of a process outsourcer (through our Hub in Newcastle), and the tooling options of a technology consultancy, all within a single institution. By working together on client projects, we have developed cross functional knowledge and experience that allows our teams to interact seamlessly in delivering legal services to our clients. With our large international network, we can do this in many languages. With our rigorous approach to data, we can provide you with valuable analytics and insights throughout.

Review and repapering challenges - responsible lawyer and project team



Challenges



Understanding institutional exposure across an extensive variety of contract types, and potential remediation action required.

Our expert team includes specialist lawyers in all agreement types across a wide range of sectors.

Identifying the volume, location and format of documents across multiple systems and jurisdictions.

Our solution is designed to provide time and cost efficiency. We support project teams on approach and delivery of document identification, triage and sorting before any remediation begins.

Remediation timetables may be out of project teams' control and involve third party consent. Failure to successfully remediate contracts creates significant commercial and reputational risk.

Project teams with 'business as usual' roles to fulfil alongside their project responsibilities, creating time pressures.

Our delivery approach is designed to place minimal burden on internal project teams, while still ensuring complete oversight and control.

Facing senior and board level scrutiny internally, and regulatory scrutiny externally.

Stakeholder management is an integral part of our approach.

Contracts need to be legally robust and commercially operational following remediation.

Senior legal oversight is provided throughout the document, review and amendment phases to maintain the legal integrity of amended documents.

Amended contracts need to be compatible with internal systems, storage and filing protocols so they can be re-imported into existing systems. Ideally, this would retain newly created digitised information and structured data, which many institutions have historically lacked.

Remediated contracts are returned in an ordered and profiled state. The benefits of digitised contract portfolios are far reaching, equipping institutions to more easily gain other insights, or complete similar exercises in the future.

Common pitfalls

Project pitfalls



Over or under estimating the contribution tech (AI especially) can make.

In the last 2 years, new and improved technology tools have come to market which can provide cost and time efficiencies in delivering remediation and repapering projects. However, relying on these tools to do things they can't, or failing to use them where they could add real value, has the potential to make a material difference to project delivery.

We have a dedicated team that has extensively tested many technologies to determine the most appropriate tools, and the optimal blend of technology and human expertise.

Prioritising delivery expertise (project management, process design and technology related etc) to the exclusion of legal expertise – or vice versa.

The use of new tools and approaches means that remediation and repapering is a multidisciplinary project, in which delivery expertise, technological understanding, and legal skills are equally important. It is vital that a project team is built that recognises the value of these different skillsets so as to allow them to work effectively together. The importance of this is hard to overstate.

Our global team consists of experts in all relevant legal and non-legal disciplines. Our working practices enable such multidisciplinary teams to work seamlessly.

Not stress testing suppliers' level of understanding (and investment) in the processes and tech underpinning the delivery plan.

A full due diligence on external support is strongly recommended. Has the internal team seen the tools that will be relied on? Have they been through the plan in sufficient detail that they would stake the success of the project on it? The internal team needs to be appropriately confident in the solution.

We engage openly with in-house project teams at every step, and welcome an early and thorough review of our baseline approach. We regularly hold process walk-throughs, or technology walk-throughs, including running trials or demonstrations on client documents.

Not engaging in an iterative and discovery-led process, to co-design solutions with internal and external stakeholders.

An externally provided solution should be built around the priorities and particular needs and constraints of your business. Your supplier should also be able to offer insight based on their experience with other organisations, so that you benefit from the learnings from similar projects.

We place significant importance on the early set-up stages of any remediation and repapering project. Through a short series of workshops, our project design is based on specific client needs.

Underinvestment in internal engagement or full internal articulation of the risks and benefits of a solution.

The challenge of securing budgets and resources is made significantly greater if the risks and challenges of the project are not fully understood. There are also vital internal stakeholders – such as information security – who may not have been closely involved in projects like this in the past. Early and effective engagement is vital.

We support project teams with internal engagement, including with senior management and info sec. Especially where technical teams are involved, we bring in equivalent professionals who can work through issues to achieve balanced and pragmatic solutions.

Norton Rose Fulbright's approach to review and repapering

In order to overcome the inherent challenges, any significant review and repapering project would need:

- A robust project plan to carry out a logistically complex task, efficiently but completely
- A trusted partner, who understands the nuances of your business and industry, and who can work appropriately with your counterparties, handling the process in a way that will be frictionless and support ongoing relationships; and
- Clear visibility on the status of the project throughout its progress, in its entirety and down to each document, to provide effective management and project team information, and to manage risk.

Our approach is supported by a range of the best available technologies which we select after rigorous testing. These tools are applied in a variety of combinations depending on the nature of the project.

All documents are uploaded to a central repository (we can support with locating documents internally if needed). This central repository (usually provided by HighQ or Microsoft) includes a designed "workflow", which will take every document through the whole lifecycle of its review. This allows structured data to be attached to the relevant document, as well as allowing a consistent and efficient approach to be taken for each document, providing oversight and reporting to the project team and senior management. As the data is structured, it can be presented in easy to digest formats, with data profiled and presented in whichever way is useful to the client.

At the outset, we triage the documents, remove those which are not relevant or duplicative, and group them so that families of contracts and amendment agreements can be reviewed holistically. Based on institutional preferences or positions, a set of data points is agreed, to be extracted from all agreements.

If there are a high volume of contracts and we have already developed a machine learning model for the contract type, a team member can use this across a large number of documents to quickly locate the relevant provisions and log them in the system. If a machine learning model does not yet exist for the relevant documents then, where justified by volume, a new one is developed, in combination with a manual review of the first wave of contracts (this typically takes 30 – 50 sample agreements).

If the volume of contracts does not justify the use of machine learning, or the clauses of interest are so different across documents that a model cannot be developed, our team of experienced paralegals will undertake the review manually, through a structured workflow designed to optimise efficiency and quality.

This information builds the baseline for the digital due diligence report, behind which sits a database with all relevant agreements and identified data points.

Re-papering

When requesting amendments to contracts, templates are drafted and tailored for each underlying contract type. Individual documents are then generated automatically from these templates together with the structured data already gathered during the document review phase. The amendment agreement is set up for signature in two ways: either a PDF is sent via DocuSign that allows for electronic signatures; or an online platform is used to share all documents, which can facilitate centralised and trackable amends to the documents and counterparty negotiation if permitted. This approach supports wet ink or e-signature. It is possible to issue the documents from a client's email address if desired. In every case, a playbook guides paralegals and junior lawyers through the approaches and responses to clients. Escalation points are built into the process for final checks on documents, to raise queries, and to develop new responses as unanticipated scenarios come up or policies change.

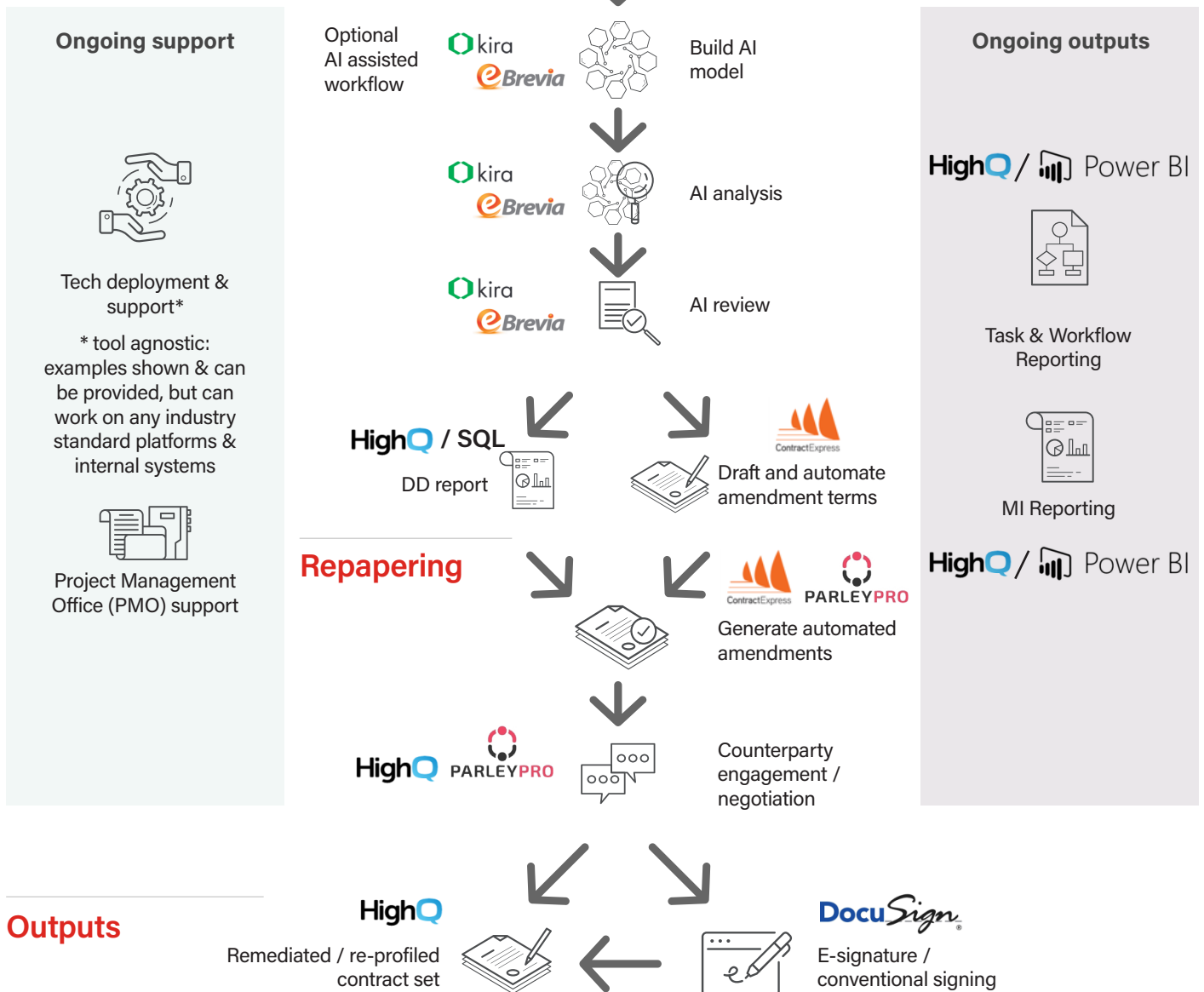
Review and repapering process

Project Set-up

Solution Design*

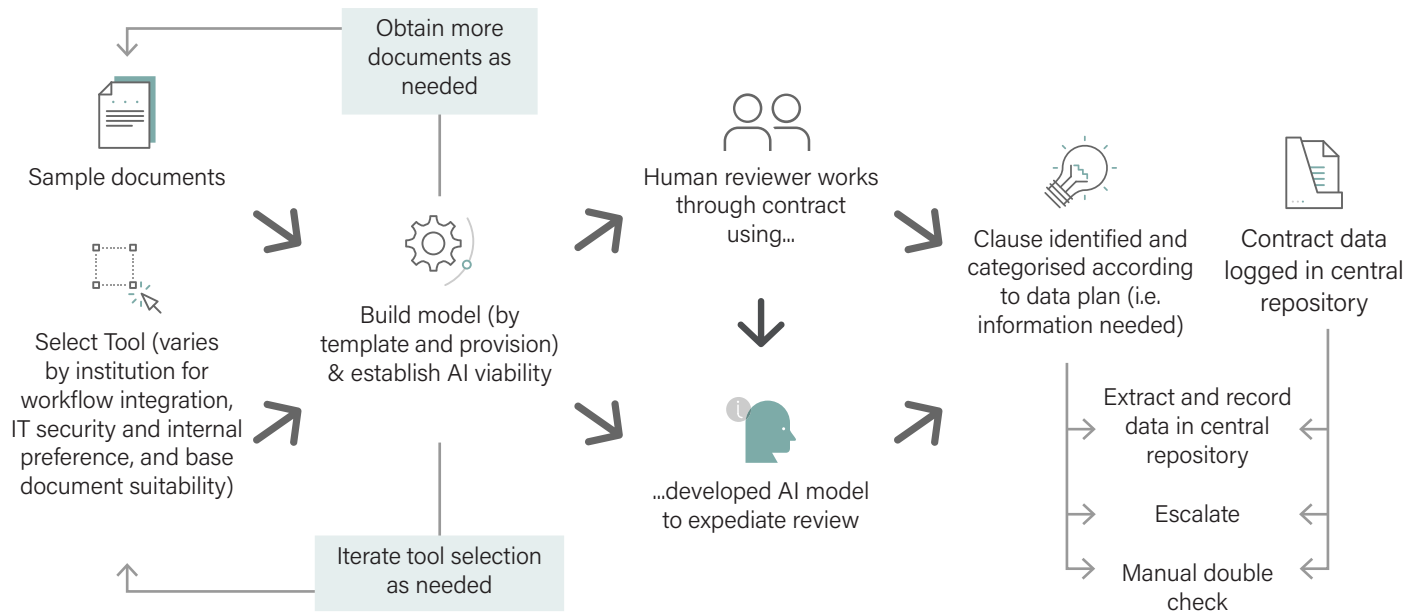
*an institution adapted design, using our pre-built solution

Document Review

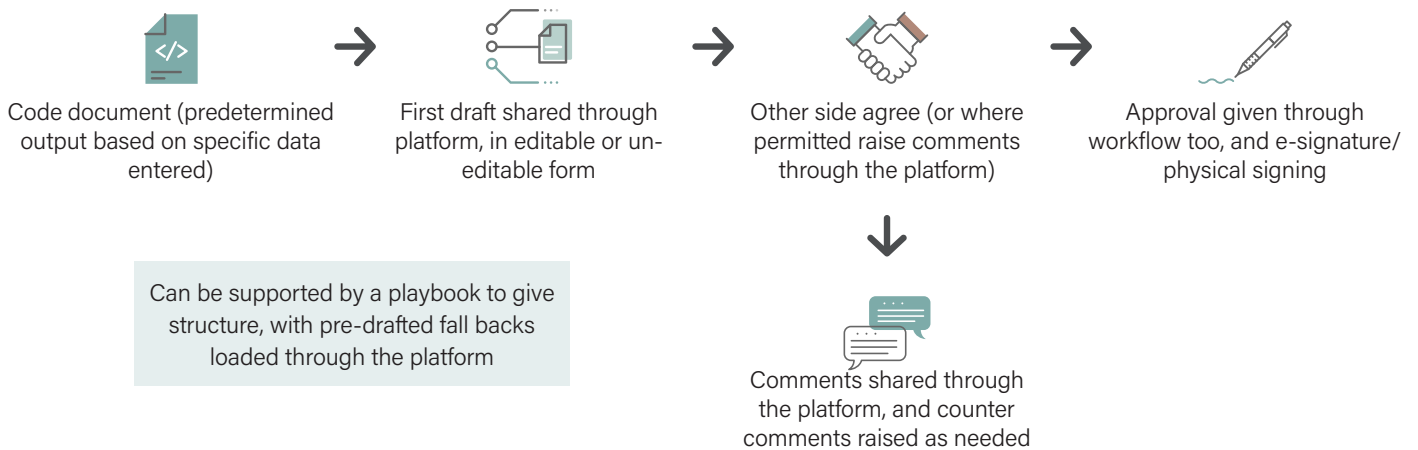


Outputs

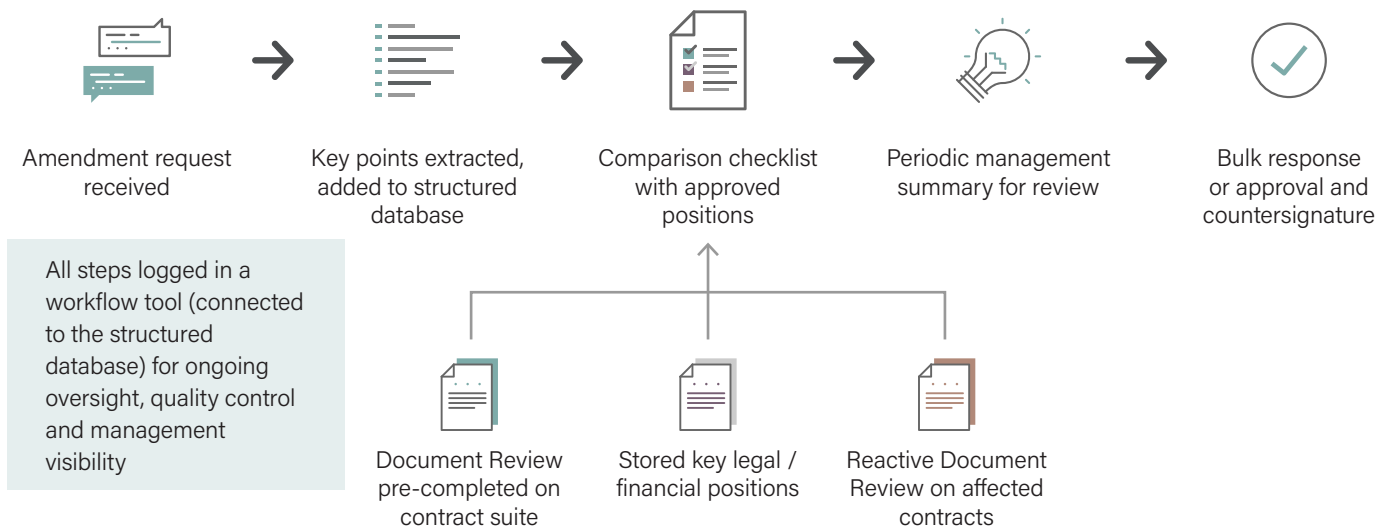
Process detail: Document Review (AI assisted)



Process detail: Repapering (sending docs)



Process detail: Repapering (receiving docs)








Process Advantages

We offer a complete solution, designed to support project teams and stakeholders through a transition project. Our approach is always collaborative and open, and produces a tailored solution based on specific needs.

	Pre-developed solution, individually adapted	A solution built over an 18 month product development cycle, road tested with early movers, designed to be adapted to each institution's individual needs.
	Multidisciplinary team	Lawyers from a leading global firm recognised for its industry focus work seamlessly with a market leading delivery team to create an innovative and flexible solution, designed around needs.
	Full tech stack / tool agnostic	AI and decision-based technology is utilised following extensive testing and assessment of all market-leading and established tools.
	Fully mapped process	Each stage in the end-to-end process has been fully mapped and is supported with appropriate workflow-creating efficiencies, by having the right people and technology doing the right tasks at the right time in the right location.
	Complete PMO support	A central PMO is set up to support every project, with a dedicated project manager assigned to manage the project alongside the client project team.
	Transparent & flexible pricing	A flexible pricing structure based on fixed prices for agreed outputs to aid budgeting and provide cost certainty.
	Modular structure	Modules include: Project set-up; Solution design (institution specific); Document review; Remediation, to allow project teams to access as much or as little external support as required.
	Fully scalable / flexible delivery timing	Flexible and scalable resourcing model, offering complete global coverage and delivery timing.
	Live online reporting	Real time reporting to provide project teams with high level or detailed data on project status and completion levels, reducing email traffic and reporting delays.

Project set-up

Our project set-up support allows clients to leverage our extensive experience and best practice across the market. We adapt the set-up procedure to the project and can be up and running in very short order where required, and on smaller projects some steps may simply not be needed. Large projects often benefit from a short series of set up workshops to ensure an optimal approach and successful outcomes.

Overview / planning workshop	An overview workshop with the internal project team, going through all elements of the remediation. Can be adapted to fit current project progress and status, and include senior stakeholders.	
Process walk-through / advisory sessions	Workshop focusing on the end-to-end process, pitfalls and opportunities for risk avoidance and efficiency.	
Tech walkthrough / advisory workshop	A workshop focusing on the available technology tools, their pitfalls, and suitability for different use cases. Can include client document trials and dry runs.	
Ongoing project delivery support	Overseen by a project manager, secondees to project teams can be provided on areas from project design to internal document location and sorting.	
Strategic advisory support	Hotline for senior lawyers to support the project with ongoing advice through its preparation phase.	

Experience

With more than 3700 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia Pacific, Africa and the Middle East, we provide the world's preeminent corporations and financial institutions with a full business law service.

From our offices in the world's key business centres and the fastest growing markets, our lawyers are perfectly positioned to help clients realise their financial objectives and optimise opportunities presented by today's market. We are able to draw upon our depth of experience across sectors, providing tailored legal advice on high-level and complex assignments.

We are equally skilled at helping clients navigate the challenges resulting from disruptive technology and leveraging our industry experience with our knowledge of legal, regulatory, compliance and governance issues to provide our clients with practical solutions to the legal and regulatory risks facing their businesses.

Case Studies

We are market leaders in large scale review and amendment projects.

- As part of IBOR transition, we have reviewed, amended and negotiated complete loan and derivative portfolios for numerous global banks. The largest of these review projects included over 50,000 agreements. These projects are managed in an internally developed and configured, end-to-end technology "production line", including machine learning assisted document review and automated amendments. Staffed principally by the Newcastle legal process team, directed by NRF project managers liaising directly with in-house project managers and overseen by senior NRF lawyers in most global financial centres.
- A banking document review for a US headquartered global investment bank, completing a major asset sale including derivatives, asset finance and project finance loans. The review covered over 100,000 documents, and was staffed by c.30 paralegals, and c.20 associates (covering the range of contract types and jurisdictions – this does not reflect leverage). The project was completed on time and budget. This did not precede a repapering, but by using extensive automation, we were able to accelerate the portfolio sale closing mechanics across a wider range of instruments.
- In one project, a moving deadline meant we had to review over 100,000 documents in a week. We set up a team of 72 paralegals and over 30 associates, and completed the review in 5 days.
- Conducting a bulk review of over 2,000 lending and associated documents for a leading US investment bank. This project was supported by a team of around 20 associates in London, New York and other international offices, and around 40 reviewers in our Newcastle Hub.

Key sectors we cover include

Financial institution

Energy

Infrastructure

Mining and commodities

Transport

Technology and innovation

Life sciences and healthcare

2020 NRF Transform Accolades and Awards

Most Innovative Use of Technology

The Lawyer Awards – NT Analyzer

Innovation of the Year (International Law Firm)

Global Legal Awards, Legal Week – Claim Control, flight delay claims

Standout Response to Covid

FT Legal Awards – Covid Resolve

FT Innovative Lawyers Report

NRF Transform programme, IBOR Transition, Business & Legal Operations graduate scheme

Norton Rose Fulbright has extensive experience reviewing and repapering contracts for a wide range of clients and has been engaged on some of the largest and most complex projects in recent years. For more information or support, please contact us.

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NRF Transform

NRF Transform is our global change and innovation programme. It aims to make how we deliver traditional services more effective and efficient, and to provide entirely new solutions to our client's most pressing business problems. It has over 150 staff in offices around the world, as well as 3 dedicated Hubs, and includes teams focusing on Applied Technology, Innovation, Legal Design, Legal Project Management, Legal Operations Consulting, Resource Management, and Commercial Management.

nrfttransform.law

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Law around the world

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