

Managing complex
projects & commercial
acumen & at the heart
of the deal & bringing
projects to life & at your
side & always delivering
& that's Healthcare projects
with Bird & Bird

Smarter healthcare for the 21st century

Around the world, healthcare organisations operate in environments dominated by extreme financial, demographic and technological challenges.

In the West, the retiring 'baby-boom' generation will live longer than any other generation in history, creating unique demands on their nations' healthcare systems.

In the Middle East and Asia modernisation proceeds at breathtaking pace, whilst in the poorest countries, governments seek cost-effective solutions to pressing public health problems. Changes in living standards and lifestyles mean that many countries, particularly in the Middle East, face the growing prevalence of previously rare 'western' diseases, such as diabetes.

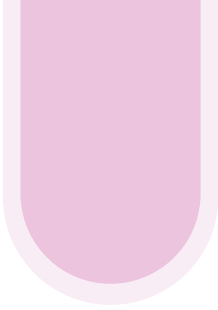
Meanwhile the global financial crisis has tightened central budgets globally, making less funding available for all public services, including healthcare. However, the costs of healthcare continue to spiral and so, put simply, more is now required from every healthcare £, €, \$, ¥ and so on.

All of this will:

- Create additional pressures to use existing resources in more efficient ways (e-health, telemedicine, e-records, e-prescriptions).
- Force healthcare providers to find innovative methods to generate their own revenue streams both locally and outside their own jurisdictions.
- Require organisations around the globe to develop techniques and products to keep people out of the expensive, hospital-centric, mainstream healthcare system.

Altogether, today's healthcare providers are faced with a range of financial and demographic challenges that require a smarter approach for the 21st century.





Networked solutions

Technology - smart healthcare - sits at the heart of many of the solutions to today's challenges. Healthcare providers are contemplating and, increasingly, implementing ever-more ambitious projects that seek to deliver better, cheaper healthcare through the use of cutting-edge IT and the efficient inter-operability of systems.

These projects can be hugely complex, frequently bringing together a combination of public sector service providers, private sector suppliers and innovative technology. A successful project has the very real potential to change lives and transform regional healthcare provision. But, as newspaper headlines around the world will attest, the complexity of these projects means that success is never a guaranteed outcome.

“Clients praise the ‘superb’ organisation and ease of access to partners... An ‘excellent’ team, it excels in healthcare technology.”

Legal 500 2013/14



A supportive partner in healthcare projects

At Bird & Bird we have a thorough understanding of the dynamics and issues connected with large-scale networked IT, e-health and telemedicine matters (including via government procurement). In addition, we have worked on a number of projects involving the provision of complex IT-enabled healthcare to tens of millions of people.

Our reputation in the healthcare industry has been built on our involvement in the successful delivery of such high-value, high-profile major projects. Our 100 lawyers across our offices in Europe, the Middle East and Asia have a thorough understanding of the dynamics and issues connected with the most complex projects.

For us, there's no such thing as just another project. We never forget the high stakes or the business benefits that need to be achieved for customer and supplier alike and, ultimately, for patients and clinicians. We see ourselves as partners in the project process from inception through to steady-state, from procurement through to deployment. In this document, we set out how we strive to make our clients' objectives come to life in a successful but, above all, sustainable manner.



Project planning



Project design

While many projects are formed around a great idea, poor planning can doom a project to failure from the outset. Often 80% of the project cost is committed in the first 10% of elapsed time. We help our clients to create and test their project plans from day one. We ensure that we understand our clients' objectives and work with them, and their broader multi-disciplinary teams, to ensure the optimum design and execution of a project. Our role is to help clients think ahead so that the correct structures are put in place early and important project and operationally-savvy mechanisms are considered and built into the contractual arrangements at an appropriate stage. Our focus never departs from operational imperatives and the need to realise benefits.

For substantial projects we deploy our Major Programme Team to provide support on all aspects of a programme's life-cycle, from helping to shape the tender and advising on the bidding process through to evaluation support and contracting, project implementation and management. Members of this team are regular lecturers on the MSc. in Major Programme Management at the University of Oxford Saïd Business School. They are also involved with the UK Government's Cabinet Office Major Project Leadership Academy.

Of course, not all projects originate in a straightforward manner. Often, a project will develop organically out of an organisation's existing initiatives. Sometimes this will mean that lawyers will have been involved right from the very outset. Whilst every health domain is unique, we are used to helping clients to assess what they already have, whether it is fit for purpose and how to best optimise their project according to what has already been done.

Some of the areas that we typically provide support include:

- Translating the project business plan into an effective and operationally flexible contract.
- Ensuring that a credible approach to benefits realisation is in place.
- Reviewing the likely end-to-end project lifecycle, including the team dynamic.
- Preparing and maintaining an effective project risk register.
- Designing simple project-specific management tools to aid in effective senior management decision-making based on project-wide empirical data.

Project procurement

When the time comes to procure partners, suppliers and sub-contractors for a project, we work with our clients every step of the way from RFP design and evaluation (including setting criteria and weightings) through to award of contract. We have a strong understanding of all the relevant procurement rules, whether laid down at an international or national level, as well as the special regulatory arrangements relating to healthcare. Our broad experience allows us to help clients negotiate the legal and operational requirements of the procurement process in a pragmatic way, ensuring that the process is neither unnecessarily burdensome nor lengthy, thereby reducing cost for all concerned. We also add value to the procurement process itself by helping our clients to consider what they need from their procurement process. For example, we help our clients consider the KPIs which may form part of a supplier contract as well as having a keen focus on benefits realisation and how those desired benefits could be achieved and measured.



“The Bird & Bird Healthcare team led by Dominic Cook always delivers. It combines genuine health sector knowledge, great commercial acumen and an overall savoir faire that is all too rare in many lawyers and their teams nowadays. I recommend them without reservation.”

*Patrick O’Connell, Chairman,
Advisory Board and Practitioner Director,
BT Centre for Major Programme
Management, University of Oxford*

Case study

Pathology joint venture

Advising on a joint venture to provide pathology services to leading NHS Foundation Trusts.

Our advice covered public procurement, corporate, employment and regulatory issues such as:

- The bid process and proposal to offer services on both a traditional outsourcing basis and as part of a joint venture.
- Management, control, clinical governance, funding and profit share issues.
- FSA regulations on collective investment schemes.
- Charitable status.
- Protecting the interests of staff generally, and their NHS pension rights in particular.

We also advised on wider issues including:

- The transfer of assets and equipment to the joint venture.
- The handling, transfer and protection of employee and patient data.

This venture started against the background the Carter Report (which highlighted the need for changes to the ways in which pathology services were delivered in the NHS and recognised that joint ventures with private sector providers might have a role to play).

Project management

Proper planning and adhering to the project plan

Complex projects are the natural enemy of budgets. With multiple strands and multiple parties, project plans can slip easily. Our lawyers help our clients design a project plan that is both realistic and manageable without being needlessly generous: the project plan should be appropriate to the expectations in the business plan and detailed project requirements. Once a project plan is in place, our clients can be assured that contract provisions will be designed to ensure that suppliers and contractors are properly incentivised to meet deadlines and deliverables, whether through the use of penalty or bonus schemes or other mechanisms. But perhaps where we add most value is in our ability simply to drive things forward. Our clients rely on us to help to keep a project on track: we are proactive in ensuring that everything runs as it should and our significant experience in complex healthcare challenges allows us to predict and pre-empt likely issues to ensure they do not cause delays or lead to operational paralysis.

Staying on budget

When a project is funded from the public purse - and frequently, even when they are not - budget overrun is simply not an option. Extra funding may not be available or it may come at a heavy cost of negative publicity and loss of trust in a project. We help our clients to procure their projects in a way that helps to protect them from the risk of cost over-runs and which shares or transfers appropriate risk to suppliers and contractors within the project. We have seen all too often the effect of inappropriate project risk transfer. We take a proactive stance by ensuring our clients understand the remedies available to them when budgets look likely to overrun so that negotiations with suppliers can begin before any overrun occurs.

Reputation management

Healthcare projects are often carried out in the public eye. They are often the subject of significant lobbying and media attention. We help our clients with reputation management matters and are skilled in blocking or minimising biased reporting. Where we can't prevent broadcast or publication, our experienced reputation management lawyers are accustomed to working with client press offices, both to design a media strategy and also provide guidance so that our clients can give their side of the story without creating liabilities or risking compromising litigation, thereby helping to create a balanced view.

Clear communications

Good communications are vital to the successful implementation of any project. Our project lawyers are specialists at communicating across the most complex projects with many different strands and numerous parties. We design project-specific tools to help those on the programme understand complex issues. Also, at a practical level, this includes ensuring that everyone is working to the same objectives and, as objectives change, everyone is updated accordingly. Our lawyers are adept at chairing or running meetings where they cut through 'legalese' to ensure that everyone involved in a project at every level understands what is required of them and how their role fits into the bigger picture. Our lawyers are not fazed by sitting between the Systems Architect and Service Assurance Director.

A stylized graphic of a stethoscope in shades of pink and purple, positioned on the left side of the page. The earpieces are at the top left, the tubing curves down and across the bottom, and the chest piece is on the right side.

Case study

The Spine

The Spine is a one of the world's largest and most powerful messaging systems.

This highly secure database of patient information enables health workers to access and exchange critical information rapidly. It supports a number of key national services and has been recognised as being vital to the day to day running of the UK National Health Service (NHS).

We advised on public procurement, commercial, data protection and financial issues across all stages of the transaction - from bidding through to contract award, deployment and roll-out and then on to the post-completion contract management.

We provided a complete end-to-end service across the lifecycle of the project (adjusting our team to suit the project as it evolved).

Our involvement included:

- Providing a full-time dedicated team during the early phases of the project to address the inevitable challenges that afflict major projects;
- Supporting “in-flight” contract variations against a backdrop of significant and very public scrutiny, and addressing many related issues including those relating to risk and reputation; and
- Advising on stakeholder engagement and highly proactive contract management during steady state operations.

Today the Spine holds over 25 million summary care records and it handles more than 150 million transactions (data transfers and technical messaging services) every month (300 every second), assisting millions of clinical encounters and supporting business applications that are critical to the NHS.

Project operation and maintenance



Knowledge transfer

We put considerable effort into thinking about how our clients will run a project once it has been implemented and has reached steady-state. We are skilled in transferring knowledge to those who will be responsible for the ongoing management of the project - we provide materials and training that can be tailored to all levels so that everyone understands what they meant to be doing. We also ensure that our clients are aware of the legal remedies that are built in to the underlying agreement, the trigger-points that merit special attention, and monitoring tools available to them to ensure that they benefit from the contract KPIs put together at the design stage.

Ongoing support

While we put much effort into ensuring our clients can operate their projects successfully and confidently, they can rest assured that we are always on hand to help. We schedule regular 'healthchecks' with our clients to trouble-shoot any problems and to offer any refresher training or assistance that may be required. We also ensure that those operating the contract know whom to ask, should help become required between scheduled 'healthchecks.' We also provide a 'shadow' Commercial Director/Project Manager service for those clients which prefer a more 'hands-on' approach. This service tends to be used on high value, 'bet-the-company' type transactions.

Our experience

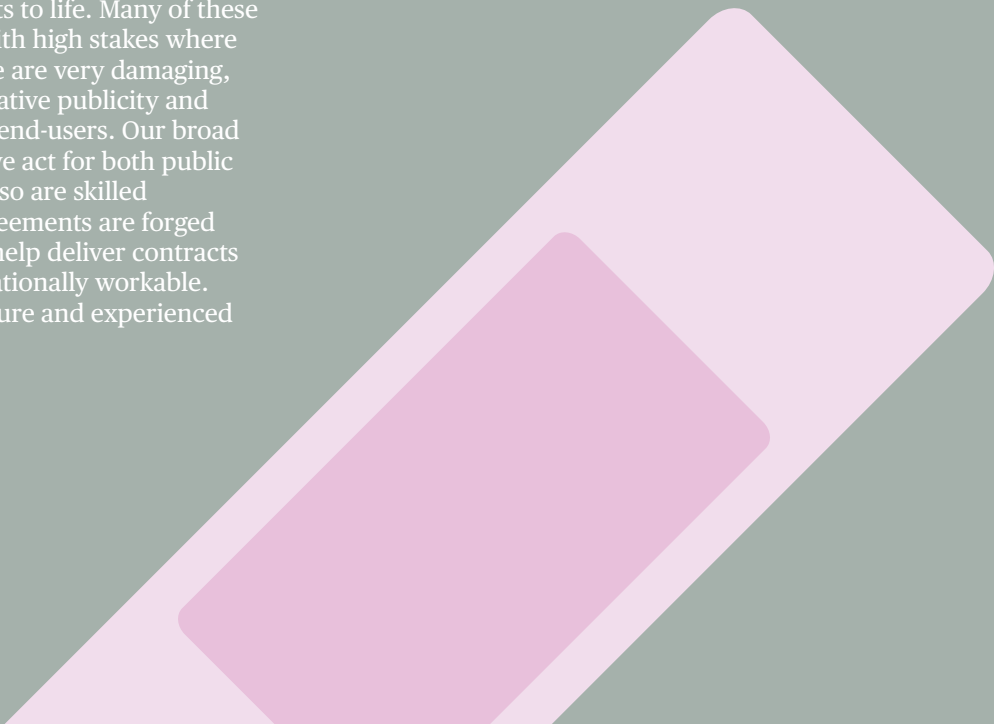
Our healthcare projects team focuses on bringing complicated healthcare projects to life. Many of these projects are hugely complex with high stakes where the risks associated with failure are very damaging, in terms of monetary cost, negative publicity and denying service and benefit to end-users. Our broad experience helps our clients: we act for both public and private sector bodies, and so are skilled in identifying issues before agreements are forged and we use our experience to help deliver contracts which are pragmatic and operationally workable. We have seen the causes of failure and experienced the reasons for success.

Fees and cost management

Like any project-related cost, control over adviser fees is essential to ensure a project stays on budget. We ensure that our clients understand and are in control of legal fees all of the time. Our innovative cost management tool allows us to price work with clients transparently so that they understand exactly how our fee structure has been constructed and can be sure that they are getting a fair price for the work. We work with our clients to find a fee structure that meets their needs and we are particularly experienced at providing fixed fees for a set scope of work. Once we have agreed a fee structure, we report progress regularly so that there are no 'surprises'.

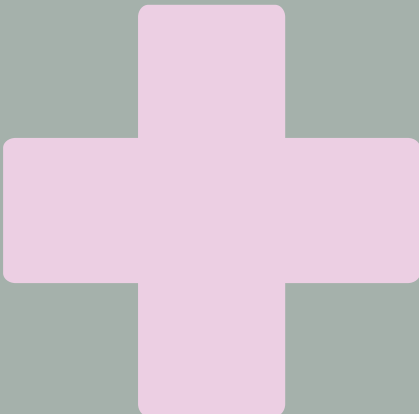
About our team

Our healthcare team consists of over 60 lawyers around the world, making ours one of the largest specialist teams in the sector. We believe that our sector specialism allows us to add real value to the work that we do. Clients rely on our experience in the sector to ensure that their projects follow best practice. The scale of our team ensures we have the capacity to undertake the largest and most complex types of projects. For substantial projects, we deploy our Major Programme Team, which is dedicated to providing support to all aspects of major transformational projects.



“For complex healthcare programmes, Bird & Bird has the truly rare skill for a law firm of combining a genuine understanding of programme mechanics with stakeholder engagement and effective contracting.”

*Regional Commercial Director, International
US Software and Application Company*



Case study

N3

N3 is a secure, national broadband network deployed across the UK and a vital enabler for the provision of smarter healthcare in the 21st century.

We advised British Telecommunications (BT) on the procurement, development and roll-out of N3 - one of Europe's largest private healthcare networks. N3 connects all National Health Service (NHS) locations in England and Scotland and provides healthcare professionals with quick and easy access to information which helps them to provide the best possible patient care.

Our team comprised communications, healthcare and major programme lawyers and our advice addressed the public procurement, commercial, communications, systems integration, data protection and financial issues across the project life cycle - from bidding through to post-completion contract management.

This included:

- Recognising and addressing factors which would have a significant impact on the project's success;
- Creating a seamless BT and Bird & Bird team to face the customer and address the inevitable challenges for a project of this scale; and
- Developing and updating key project documents that significantly enhanced the ability of the project management team to successfully navigate a diverse and critical range of external stakeholders.

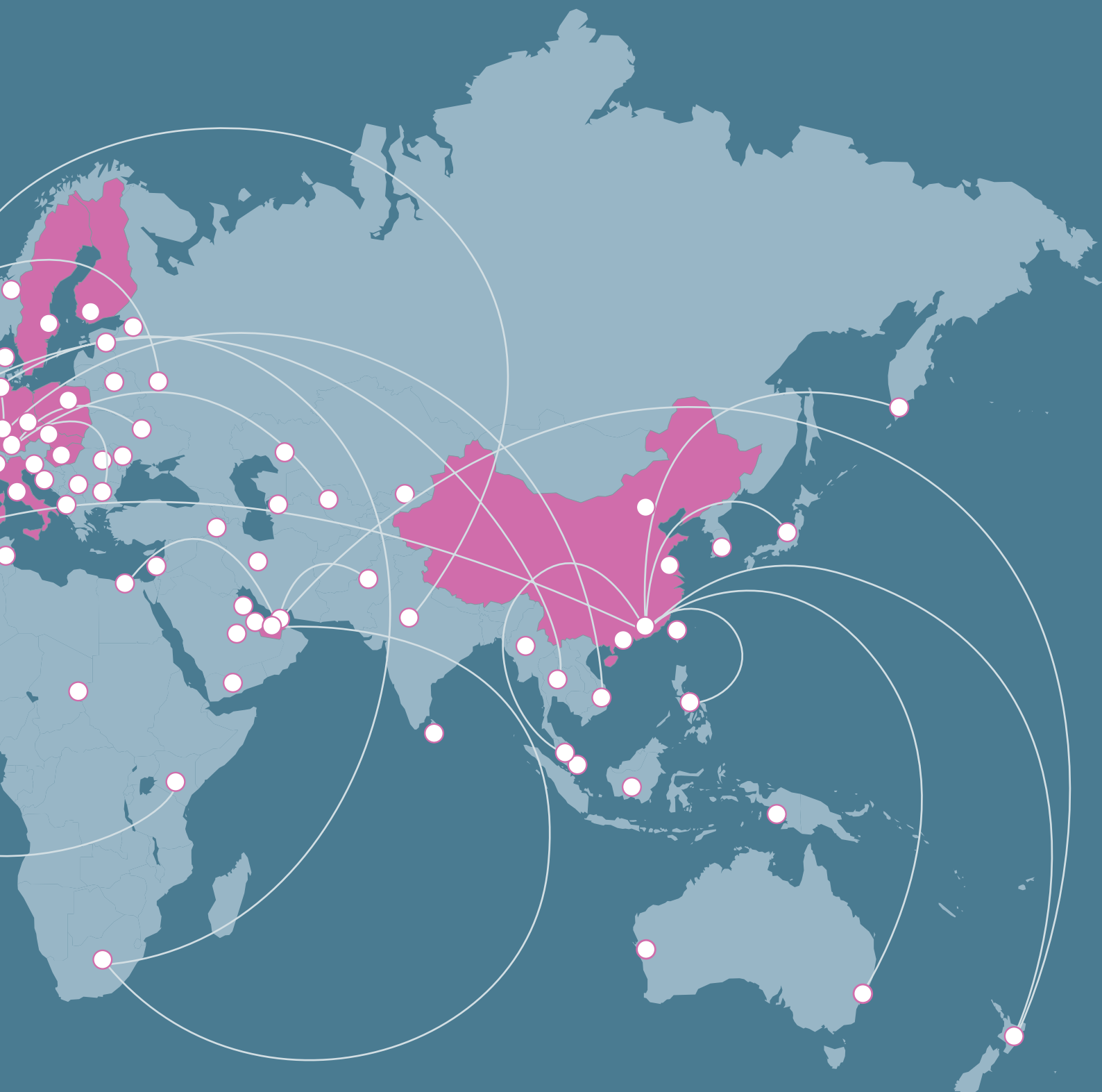
N3 now has more than 51,000 connections and connects more than 1.3 million NHS staff and every GP, NHS hospital and clinic in England and Wales. This transformational project makes it possible for 39,000 hospital appointments to be booked electronically and 675,000 electronic prescriptions to be sent.



International coverage

With offices in Abu Dhabi, Beijing, Bratislava, Brussels, Budapest, Copenhagen, Dubai, Düsseldorf, Frankfurt, The Hague, Hamburg, Helsinki, Hong Kong, London, Lyon, Madrid, Milan, Munich, Paris, Prague, Rome, Shanghai, Skanderborg, Stockholm and Warsaw, an association in Singapore, and close ties with firms in the rest of Europe, the Asia-Pacific region and the Americas, we offer our clients a truly local expertise within a global context.

We have excellent experience in managing projects across borders. Our approach is to be flexible to the needs of each client and each project. For example, where a client is managing an international project from one location, we can provide legal services through one main local contact at Bird & Bird. If the project has a less centralised management team, our client may prefer more of a focus on local relationships. Often a project will require centralised reporting and local relationships. We work with our clients to find the solution that's right for them. The element that is always common to our approach however is ensuring that our clients get value from using us in more than one place, by ensuring that knowledge of the client is shared and that we manage the international legal processes.



● Countries where Bird & Bird has offices

● We currently help clients do business in 118 countries and counting

Get in touch

For further information, please contact us:

International

Ian Edwards

Tel: +44 (0)20 7415 6000
ian.edwards@twobirds.com

Peter Jorgensen

Tel: +45 72 24 12 12
peter.jorgensen@twobirds.com

twobirds.com

Abu Dhabi & Beijing & Bratislava & Brussels & Budapest & Copenhagen & Dubai & Düsseldorf & Frankfurt & The Hague & Hamburg & Helsinki & Hong Kong & London & Lyon & Madrid & Milan & Munich & Paris & Prague & Rome & Shanghai & Singapore & Skanderborg & Stockholm & Warsaw

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