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P03



Overview



Image: Getty

A seismic shake-up of the legal profession is altering the very structure of the traditional law practice, writes **Jonathan Ames**

The business of law in Britain is being convulsed by the most fundamental evolutionary spasms experienced in the best part of a century, with technology driving much of the change.

Beasts such as alternative business structures with their concepts of multi-professional partnership and external investment were either unknown or universally disparaged as recently as a decade ago. Now they are part of the new normal.

On its face, the legal profession in England and Wales – the jurisdiction that sets the mood music for the rest of the UK’s lawyers – appears to be in rude health or at least if the pure yardstick of lawyer numbers is the measure.

Statistics show the two senior sides of the profession are booming. Today, there are around 127,600 practising solicitors in England and Wales, a whopping 54 per cent more than at the beginning of this century.

And the bar, which is routinely written off at the junior end as being on its last legs, has experienced similar growth. Currently, some 15,000 are in independent chambers, 45 per cent more than 14 years ago.

Yet those numbers belie tectonic rumblings beneath the surface. Many suggest the bubble will ultimately burst, if the air is not already leaking. A combination of corporate client pressure and enhanced technology is forcibly changing the very structure of traditional legal practice and the shape of the law firm of the future. It is beyond doubt that the heads

of corporate legal departments were the big winners of the 2007-8 global financial crisis. Provided their companies survived the economic turmoil, general counsel (GC) were catapulted into positions of unprecedented power over their supplier law firms.

Whereas partnership committees at large commercial practices historically issued almost pro forma annual notification of hourly fee rate hikes, in the fallout of the financial crisis, general counsel suddenly found themselves with the whip hand.

“General counsel must always be aware of exactly who or what their money is buying,” Bruce MacMillan, senior commercial legal adviser at Visa Europe told the recently published *GC Excellence Report*.

TECHNOLOGY FOR SURVIVAL

And while law firms may have an image of being lumbering elephantine creatures taking decades to change pace and direction, some global senior partners are getting the message. They recognise that the old models are moving to the history books and modern technologies are the passport to business survival.

“There’s an incredible pressure, quite rightly, from clients to get more for less,” says Rob Day, the former London managing partner of King Wood Malletsons, the Sino-Australian global firm that merged with City player SJ Berwin in October 2013.

According to Mr Day, who has returned to the rank of corporate part-

ner: “A lot of people, particularly with the ABS [alternative business structure] changes in the UK, have cottoned on to law as a business rather than law as a profession. And so you’ve got people coming in with a kind of an outsourcing mind-set. You’ve got the big accountancy firms moving back into the market and you’ve got boutiques that have spun out of some of the big firms trying to target particular niches of activity.”

Others point to the emergence of so-called virtual legal practices – sometimes ABSs, sometimes pure outsourcers – that have forsaken bricks and mortar to operate almost exclusively online or by providing bespoke services to in-house legal departments.

Relatively recently launched examples of the breed include Riverview Law, Axiom, Obelisk and Keystone Law. “They are offering general counsel something different – they can set up whole teams that

the latest UK law firm to plan the launch of a low-cost services hub, or so-called near-shoring centre, in Manchester. Allen & Overy and Herbert Smith Freehills have already created near-shoring operations in Belfast, while Ashurst has made a similar move in Glasgow. Indeed, Allen & Overy has gone a step further with the launch at the end of 2013 of Peerpoint, which provides contract lawyers to clients.

“Running law firms is essentially no different from running any other business,” says Nigel Savage, the former chief executive and president of the University of Law, who is now a non-executive director at Fletchers, a Merseyside personal injury and clinical negligence practice.

“A successful business must first control its costs and become more efficient, and then, secondly, drive revenue growth. Lawyers have done quite well at the former, but with notable exceptions, they are only



There’s an incredible pressure, quite rightly, from clients to get more for less

can work on a specific project for years for a fixed price,” says Anthony May, co-founder of London-based professional services search consultancy Hedley May.

And forward-thinking global players are not sitting on the sidelines. They too are involved in cutting-edge restructuring to provide enhanced value-for-money options to clients.

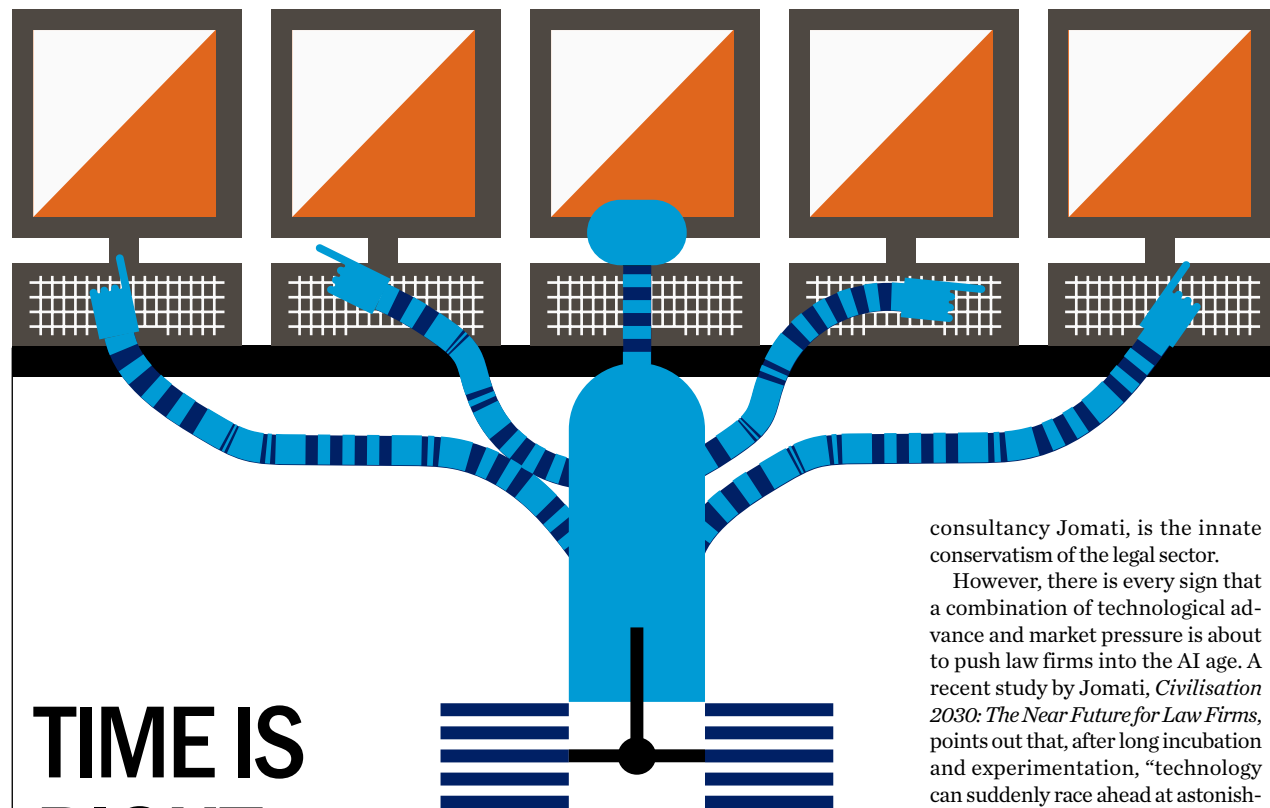
Examples include Freshfields Bruckhaus Deringer, which is

just beginning to address the latter.”

He maintains the exemplar for efficiency is the personal injury sector. “It has had everything thrown at it in the last 20 years, and has consistently adapted its business models to fit the market by embracing technology and business process improvements. And now the corporate law firms are catching up with these trends.” ■



Artificial Intelligence



TIME IS RIGHT FOR TECHNOLOGY TO TAKE OVER

Robots are unlikely to replace lawyers in court, but they can prepare papers for hearings, as **Michael Cross** reports

Artificial intelligence or AI is the future of the legal profession. The good news for anyone worried by that statement is people have been making it for several decades. The first international conference on law and artificial intelligence was held in Boston in 1987, before the invention – let alone the mass use of – the world-wide web.

Despite the early enthusiasm the concept of computers taking over legal reasoning tasks from human lawyers has yet to become reality. Partly this is because artificial intelligence developed more slowly everywhere than the enthusiasts predicted. Another factor, according to Tony Williams, principal at the specialist

consultancy Jomati, is the innate conservatism of the legal sector. However, there is every sign that a combination of technological advance and market pressure is about to push law firms into the AI age. A recent study by Jomati, *Civilisation 2030: The Near Future for Law Firms*, points out that, after long incubation and experimentation, “technology can suddenly race ahead at astonishing speed”.

Mr Williams says we could be at that point with AI, particularly the so-called “knowledge bot”. One tipping point may be last year’s claim of an AI system passing the “Turing test” of being indistinguishable from a human in a two-way conversation.

“Professional services generally rely on a lot of data and information, and a relatively small amount of judgment,” he says. This makes them ripe candidates for the application of machine intelligence. In fact, professional services may turn out to be more suited to automation than menial factory or household labour.

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MACHINES AS WRITERS

AI-based systems are already making inroads into knowledge-based industries such as journalism. The Associated Press news agency plans to automate the writing of corporate earnings reports with an AI system called Wordsmith, which spots patterns and trends in raw data and then describes those findings in natural language. Similar systems could produce legal documents, carrying out many of the tasks given to paralegals

and junior associates. Due diligence and litigation discovery software is already highly developed.

Mr Williams says the first applications are appearing in e-Discovery, where software “can alight on certain phrases, patterns of exchanges, massively more cheaply, but probably more thoroughly and effectively” than a human can. A computer is as fresh and alert at 2am as it was at nine o’clock the previous morning. Even if objectively the system turned out to be not as expert as a human, some types of law firms might find the trade-off acceptable for some types of cases.

A more sophisticated use of AI is in providing strategic guidance. By instantly trawling through records of past cases, a system can find the optimum percentage at which an increased offer would lead to a settlement.

This is not just theory. London firm Hodge Jones & Allen is already pioneering a “predictive model of case outcomes” to assess the viability of its personal injury caseload. The immediate spur was the Jackson civil litigation reforms, which drastically affected the profitability of personal injury cases.

STATISTICAL TECHNIQUES

To develop the model, the law firm provided Andrew Chesher, professor of economics and economic measurement at University College London, with data about the outcomes of 600 cases concluded over 12 months. He used a combination of statistical techniques to examine the factors contributing to which cases were won or lost, the damages that were received by claimants in successful cases and the costs received by the firm.

Factors examined included the claimant’s demographics, the nature and cause of the injury, the quality of the defendant’s solicitors, the level of solicitor handling the case, and the time between injury and instruction.

The results of the analysis were used to produce models able to predict the likelihood of cases being won or lost. The firm says these models are now being turned into

Excel-based programmes that its inquiry team will use to help make initial assessments of the likelihood of a positive outcome for each case.

The firm stresses that it is not replacing human skills. Patrick Allen, Hodge Jones & Allen senior partner, says: “These models will not replace their experience and judgment, but will provide an additional aid to them in a world where it is no longer good enough to take a case on with a 50 per cent chance of success and where fees are restricted to a few hundred pounds.”



There is every sign that a combination of technological advance and market pressure is about to push law firms into the AI age

Firms pioneering such innovation are likely to be new entrants coming into the market as alternative business structures, Mr Williams says. New entrants will be looking for a competitive edge, have greater freedom than incumbents to design processes from scratch and have access to external sources of capital. Some of the early adopters may be accountancy firms who, ironically, are entering the legal market as a hedge against the threat of automation to their existing core audit work.

This has consequences for the shape of the industry and the career paths of those in it. One likely consequence is the further decline in the use of legal secretaries and the number of associates hired, which could interrupt the career paths of juniors to partnership.

Some of the innovators will fail. But Mr Williams warns incumbents against complacency. “The biggest strategic risk facing any organisation is failing to listen to weak signals,” he says. “There have been a number of weak signals. We’d better start listening.” ■

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Case Study

RESEARCHING FOR A LEGAL ‘ROBOT’



Image: Getty

The Agent Applications, Research and Technology (Agent ART) Group at Liverpool University is a leading centre of pure and applied research in autonomous agents and multi-agent systems. In everyday English, this is the science underpinning the development of robots, either real or virtual, capable of making their own decisions in complex situations, including conflicts with other robots. This is a field at the cutting edge of information technology.

At first sight the Agent ART Group appears to have little in common with Riverview Law, a new-style legal business set up in Liverpool in 2010, which has DLA Piper as a minority shareholder, and provides legal advisory outsourcing and technology solutions to in-house legal functions of large corporations.

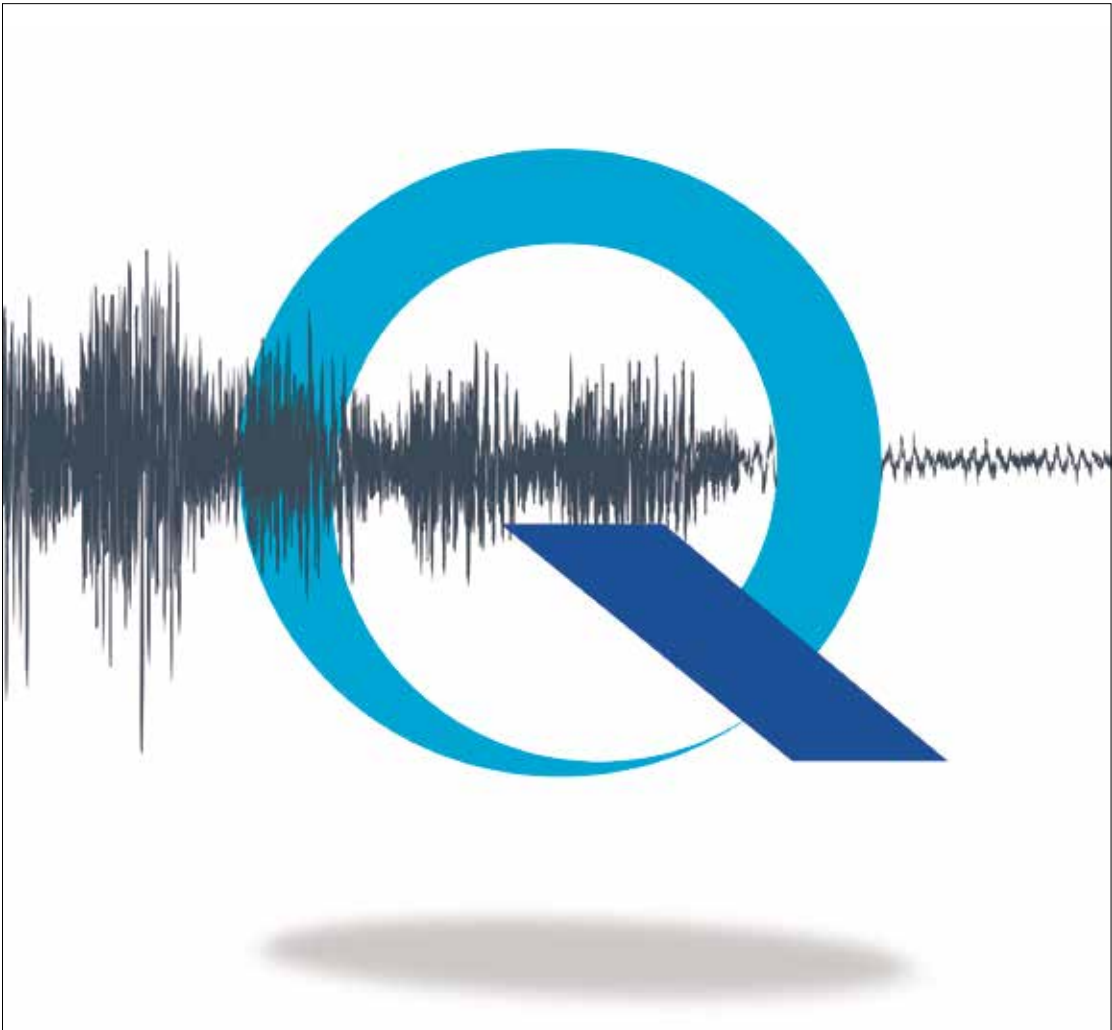
Last month, however, the firm announced it had set up a “knowledge transfer partnership” with the University of Liverpool to find ways of developing the university’s artificial intelligence (AI) expertise in the legal field.

The firm says the partnership will enable it to apply a range of leading-edge computer science expertise in areas such as text processing, network analysis, computational argumentation and data mining. “A primary objective of this project is to automate some of the cognitive abilities of knowledge workers to provide organisations with intelligent decision support tools,” Agent ART says. The hope is to create artificial intelligence software capable of auto-

matting routine legal tasks, speeding up and cutting the price of services. In particular, the firm is working with Katie Atkinson, reader in the Agent ART Group of the university’s Department of Computer Science. She describes her research as concerning “computational models of argument, with a particular focus on persuasive argumentation in practical reasoning and how this can be applied in domains such as e-democracy, law and agent systems”.

Dr Atkinson says it is a good fit. “We are delighted to be working with such an innovative company as Riverview Law. From our first meeting we were struck by the commitment its team has to the application of technology, not only in its own business, but also in the way it delivers services to its global customers. Meetings with those customers and the wider Riverview Law team simply confirmed our desire to work with them and show how we can commercialise our research,” she says.

Karl Chapman, chief executive of Riverview Law, comments: “Over the last 18 months, as we developed our thinking in the AI and expert systems field, we were delighted to find such relevant world-class expertise on our doorstep – North-West England really is becoming the centre of the legal universe. We are very focused on providing expert systems and tools that support knowledge work, and the way AI and such systems can help our teams and our customers make quicker and better decisions.”



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Digital Privacy



Image: Getty

HOW SAFE ARE CLIENTS' FILES FROM HACKERS?

Client confidentiality is a cornerstone of the law, but does an era of digital leaks and data breaches threaten privacy?
Michael Dempsey reports

Schillings is a law firm that made its name with aggressive actions in defence of its clients' reputations. Today the 31-year-old business has expanded into offering advice on the wider subject of risk and data security. And the firm has a very clear sense that protecting the client information it holds is critical for its own reputation.

David Prince, IT security director, believes lawyers have a real incentive to take threats of data breaches seriously. Of course clients need to trust them with sensitive information. But the nature of their relationships with corporate clients may prompt hostile interests to seek out law firms in search of key files relating to mergers or joint ventures. "Law firms can be seen as a weak link between different corporate targets – they hold a wealth of commercially valuable information," he says.



Law firms can be seen as a weak link – they hold a wealth of commercially valuable information

Mr Prince regards the loss of information that is covered by regulations as a potential risk neglected by many lawyers. Hence his concern about fraudulent e-mails posing as legitimate requests for information, known as phishing attacks. He says it is simply not enough for a law firm

to have rules about data-handling. These principles must be evaluated by regular exercises in which the firm's own IT security specialists attempt to hack systems and lure staff into data breaches via phishing.

The Solicitors Regulation Authority (SRA) is the obvious source of rules governing how a law firm should protect data. But the Information Commissioner's Office (ICO) also has an interest in investigating allegations of improper use of personal material through the Data Protection Act.

As Mr Prince sees it: "If regulated data gets leaked, the law firm involved is under the spotlight and may face penalties and audits from the SRA or the ICO. But the impact on reputation is the biggest threat here. People will remember that this is a firm that cannot ensure client confidentiality."

DEFEND YOUR GOOD NAME

He argues that, while it is impossible to guarantee a defence against every cyber threat, a law firm has to be able to demonstrate it has taken the possibility of a breach seriously. "You don't want the media to say that a breach could have been prevented," he says. With a strong presence in media law, Schillings is very aware of the cost of bad publicity.

Kevin Poulter, legal director at Westminster-based law firm Bircham Dyson Bell, views mobile working and cloud storage with suspicion. "Employees of law firms have

to think about the consequences of checking devices in a crowded public place. And clients use cloud services like Dropbox to send over files that are too big for e-mail."

At Bircham Dyson Bell employees avoid Dropbox in favour of a more secure service that can only be accessed by approved e-mail addresses. But Mr Poulter concedes that a balance has to be reached between security and what is practical for both clients and lawyers.

Different cases call for different approaches. QualitySolicitors Jackson Canter is a 60-year-old law firm with offices in Liverpool and Manchester. The ongoing inquests into deaths at the Hillsborough football stadium disaster involves Jackson Canter, which is representing bereaved families.

SECURE DATA SYSTEMS

Given the high profile of this inquest a secure data system has been set up for the participating law firms. This embodies a level of security above Jackson Canter's procedure for sensitive documents, whereby staff can only access files from locations beyond their office via the firm's own firewall. "When you deal with sensitive cases you must ensure the best protection with encryption as an added layer of security," says chief executive Andrew Holroyd.

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Outlook
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The firm offers all clients the option of e-mail encryption software in much the same way as online banks attach optional extra levels of security to their accounts. Like Schillings, Jackson Canter has embraced the concept of penetration testing and is hiring what the IT world calls an ethical hacker to try out its cyber defences.

Encryption is not a magic solution, however. Debbie Mactaggart, senior employment solicitor at Yorkshire law firm Bhayani Bracewell, recalls that when encryption was first adopted for communication between lawyers it created a problem.

"My last firm recommended encryption of all e-mail correspondence. That became impossible to manage because the clients, our opponents and many of the courts could not make the encryption work for their systems so often the e-mails did not get to the recipients, which created real difficulties," she says.

This has led Ms Mactaggart and her colleagues to revert to faxing or posting documents. Whether or not she encrypts e-mailed files depends on the client and the nature of the job. Not all her clients want to deal with encryption so on occasions she bows to their taste and rejects digital technology in favour of the old-fashioned fax machine or the postman. **R**

Damage Limitation



Image: Rex Features

WHEN REPUTATIONS ARE AT RISK, CALL IN THE SWAT TEAM

It's an unusual service to be offered by a law firm, but the creation of a Data Breach Swat Team is a sign of the times, writes **Michael Dempsey**

The term "Swat", taken from US police Special Weapons and Tactics teams, is perhaps beloved of white-collar outfits trying on a macho image. But in the case of law firm Schillings, the team emerged when it expanded its remit into risk and IT consulting under the alternative business structures (ABS) regime. ABS firms can employ non-lawyers. So this team has niche expertise

Mr Prince insists that any breach of client information must be disclosed as soon as possible. Trying to hide such an incident from clients or regulators makes things far worse. And don't even think about shifting the responsibility on to some hapless geek in the IT department. "One of the common errors a company makes in this situation is to try and pass the blame on



This team has niche expertise in digital forensics and acts to minimise the fallout from a data breach

in the form of experts in digital forensics and acts to minimise the fallout from a data breach. David Prince, IT security director at the law firm, explains that hitting back after a breach calls for cross-disciplinary action. "It's about minimising the damage. We can deal with the technology side, but a client will also need help in making a public statement."

to someone else. Doing that just amplifies your incompetence," he says. Schillings makes a big play out of the value of reputation. Its website talks of building reputation resilience and promises to deliver a "robust response" when a client finds their reputation under attack. Call for the Swat squad.



Commercial Feature

Outsourcing: the regulatory and litigation game-changer

Advances in litigation technology are careering along so quickly they are bound to trigger profound changes in the traditional structure of law firms and the emergence of new types of providers, predict those at the forefront of the techniques

Gone are the days when large commercial lawsuits were preceded by an investigation involving dozens of paralegals and junior lawyers cloistered in a basement sifting through swathes of documents.

Modern e-disclosure packages can now blitz millions of e-mails and other digitally held files in a fraction of the time formerly required. And that speed has been enhanced by recent moves away from simplistic foraging for keywords to more analytical processes using ontological search engines.

Indeed, the ability to look at more than keywords is becoming crucial, especially in the international context of cross-border litigation. Words can have the same spelling but entirely different meanings in various languages. Having technology that understands that issue – “that thinks as a person thinks”, as one lawyer puts it – is highly valuable.

But the technology is not just useful once litigation is afoot. In-house legal departments are increasingly keen to employ enhanced e-disclosure techniques as preventative medicine in the compliance arena.

For example, applications have recently come to market that provide lawyers working in various jurisdictions with a searchable analysis of local competition, compliance, data protection regulations and privacy laws, all at the pressing of an icon on their smartphones.

But the evolution that will have a potentially seismic impact on law firms is the increasing use by corporate clients of outsourced providers to assist with the new technology. In-house general counsel continue to face tight budgets and as a result are looking to more cost-effective providers of more commoditised tasks.

If outsourced provision is used correctly, the expected savings are very significant, says Lee Young, senior counsel at the Paris head office of French oil and gas company Total. “It is important that outsourcing companies have legal understanding and training,” he says. “The good ones do have lawyers, but the difference is they are not working to the same business model as law firms.

“Jobs traditionally done by law firms, such as document review and data discovery, are now being undertaken more by external companies. And the cost efficiencies are enormous.”

Total’s legal department is in the process of introducing greater use of technology into the company’s daily transactional work and in relation to instructions for external lawyers. “We are envisaging at least a 40 per cent saving on work that we would otherwise have our external lawyers undertaking,” says Mr Young.

That is a big number. And some law firms are getting the message, with the result being they are beginning to work with outsourcers to provide a team-based service to clients.

“It is no longer in anyone’s interest to spend £3,000 trying to find just one document,” says Richard Legge, the e-disclosure manager at London law firm Mishcon de Reya.

“The processing of data is highly commoditised,” he explains. “For example, collecting someone’s entire mailbox to get that into a review platform – that process is so commoditised there is no value-added element for a law firm to do it.”

Mishcon is building a system in which a third party will manage the IT infrastructure and review platform. The firm’s lawyers and in-house technology team will then supervise “value-added operations”, such as management of document reviews and actual disclosure processes.

“Technology now allows us to find key documents quickly and at a much lower cost to clients,” says Mr Legge. “We don’t have to review all the documents potentially relating to a piece of litigation. We can quickly discount large swathes of them because the technology allows us to say the chances of finding something relevant in this specific group are very low.”

Paul Mankoo, chief executive of one of that new breed of outsourced legal process providers, London-based Unified, is a keen proponent of using technology as a means of preventing both litigation and regulatory investigations.

Pointing to the recent scandal around the London interbank offered

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Law firms work on a structure which is at odds with that of business – lawyers are rewarded based on effort, while in business we focus on results

rate (LIBOR) as an illustration, Mr Mankoo advises that bank in-house legal departments should use technology more effectively. “The idea is to put in place a system that constantly monitors in real time all the different communications channels,” he says.

“Ideally, this should be a programme that spots certain words and uses algorithms, which will flag up the

unusual use of words or phrases in the normal course of trading. These programmes can also overlay sentiment analysis and measure stress in voices or even in written text.

“Essentially, the system looks for anything unusual – patterns of behaviour or stress between a set of traders. When the system identifies that, it sends up a red flag so the compliance team measure that behaviour – those potentially unusual words and phrases – against a timeline to see if the behaviour coincided with instances of unusual trades or other activity.”

How will greater use of outsourced technology affect the traditional structure of law firms? Historically, junior associates cut their professional teeth on the type of work now likely to be farmed out to more efficient providers.

“The traditional structures are outdated and need to change,” says

Total’s Mr Young bluntly. “Law firms work on a structure which is at odds with that of business – lawyers are rewarded based on effort, while in business we focus on results.”

Mr Young and other general counsel are adamant that law firms will have to move with the times. “There needs to be an element of risk-sharing,” he says. “Some law firms have seen the writing on the wall and understand they have to evolve in today’s environment, which is very cost conscious, competitive and demanding.”

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Modernising the courts

Court systems around the world are under unprecedented pressure to cut costs, and tackle age-old challenges of delay, inefficiency and ineffective cases



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Jim Leason, court management solutions programme manager at Thomson Reuters, explains that C-Track is divided into three modules. The first deals with back-office case management issues, such as scheduling, listings and other general document management, while the other two provide e-filing and public access capabilities.

These front-end modules allow for the depositing of documents into the court system, with C-Track capable of managing the passage of cases through all courts and tiers in the system, not just those devoted to commercial hearings or those for hearing trials. They also provide live public access to case listings and other non-confidential case information facilitating a more transparent process.

"Many existing court technology systems have been around for 15-plus years and need updating," says Mr Leason. "There have been several programmes announced in recent years to deliver 'digital by default' justice; a current aim of the Ministry of Justice and the Scottish government. As the Unified Patent Court, a European initiative, comes into existence, it will be implementing court technologies from the start. Our C-Track product suite can deliver an efficient and unified system for the courts."

Minnesota's state supreme court implemented the system nearly a dozen years ago and in 2008 Chief Justice Eric Magnuson said, in his state of the judiciary address, that C-Track had made a big impact.

"Minnesota's information systems have leapfrogged more than a century," he said, "from a time where physical pieces of paper were hand-delivered from place to place, to a time when case records are updated in court in real time; case histories are available online in a second or two; and one can toggle back and forth between multiple documents from a

laptop on the bench or in chambers."

At the Montana state supreme court, where the system was implemented in 2002, records show that during its first 12 months, C-Track was responsible for an 11 per cent reduction in cases carried forward to the next year.



Many existing court technology systems have been around for 15-plus years and need updating

Announcing the UK Courts modernisation programme in London last year, Justice Minister Mike Penning warmed the hearts of tech-savvy litigation lawyers by stating the government was "committed to ending the courts' outdated reliance on paper".

Andrew Pena, a commercial litigator and managing partner at London solicitors' firm Cubism Law, is among specialists who will be looking forward to improvement. "Our court system prides itself on being one of the most robust, fairest and attractive to international litigants, so we need to think through how as much of the process can be done online and virtually, with less paperwork," he says.

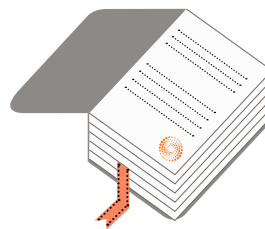
That's all well and good for those lawyers and judges at home with technology, but are there others in the legal profession standing in the way of modernisation?

"There's an element of that," Mr Pena concedes. "But in the past there have been issues around the quality of the technology and ease of access. The key is simplicity – the ease of use of the system. If it is easy to use, then people will embrace it."



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3m cases



20.6m filings



14.500 users



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The system resides on a server, giving you access right from your web browser, meaning there's no software to install.

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C-Track is a tailored, adaptable and scalable solution, which currently supports three million cases, 20.6 million filings and 14,500 users.

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C-Track has a proven performance record over more than ten years in a variety of courts and significantly reduces risk compared with a ground-up built system.



MODERNISATION IN LAND OF LAKES



At 5.4 million souls, Minnesota is about two thirds the size of London and the 21st most populated US state.

That position of being relatively in the middle of America's population league table makes it an ideal yardstick for measuring the effectiveness of court modernisation. Twelve years ago, the state jumped to the forefront of court case management technology.

The authorities implemented an early version of Thomson Reuters' C-Track system, which state Supreme Court Chief Justice Eric Magnuson described as creating a leapfrog advance of "more than a century".

The process kicked off with functionality in the clerk's offices at the state's appeal court. Scheduling and opinion processing for that court and the supreme court were targeted, as was reporting functionality with statistical and detailed case data, and compre-

hensive search capability based on configurable data entry options.

Tools were added over the years, including a public version that provides electronic access to appropriate case information for users outside the court, case listing notifications, and e-notification, which provides electronic copies of court-generated documents to counsel, lower courts and others.

Minnesota's experience has illustrated how a modern case management system can allow courts to process cases online. It is also seen as bringing quantitative and qualitative value by implementing more effective and efficient processes, better access to accurate case information for the bench, advocates, the media and the public.

In addition, there are the benefits of enhanced productivity and job satisfaction for court staff through using a system that is easier to learn and operate.

According to former Minnesota Supreme Court Commissioner Richard Slowes: "A well-designed case management system will deliver... more efficient data entry, more effective data retrieval, better tools, and enhanced bar and public access."



C-TRACK SUITE OF PRODUCTS

C-TRACK CASE MANAGEMENT SYSTEM (CMS)
C-Track Case Management System manages information about cases, filings, parties, calendars and opinion processing, allowing courts to track their performance and maximise efficiency. Powerful listing functionality adapts to both appellate courts and high-volume trial court environments.

C-TRACK E-FILING
C-Track E-Filing allows parties to electronically file documents, enabling greater efficiency and reduced costs in case preparation. It is offered as a standalone solu-

tion and can be easily integrated into the court's environment or installed as a hosted solution.

C-TRACK PUBLIC ACCESS
C-Track Public Access is a highly configurable application that allows the general public to search for non-confidential cases using simple search criteria such as case number, solicitor or party.



Mobile

HAVE TECH... WILL TRAVEL

The legal profession is largely adopting mobile technology, but problems remain for lawyers on the move, as **Jonathan Ames** discovers

Law firms are moving towards the "Martini" option of working – anytime, any place, anywhere.

So says Andrew Neill, global programme manager at London law firm Withers, who notes there have been big changes in the legal profession's attitude to mobile over the last decade or so.

"Whereas, previously, law firms would give their lawyers BlackBerry phones and laptops, and secure the perimeter of their practices with firewalls to protect the data that was inside the office, now there is a lot more focus on lawyers not being in the office.

"And importantly, they are not on a single uniform device – they are on an iPhone or iPad, or any number of devices," he says.

"There are still some technophobic lawyers – those who insist on e-mails being printed and stacked on their desks in the morning – but they are far fewer than they were even five years ago."

Back in the dark ages of technology evolution, the UK legal profession was almost totally unified in its mobile device of choice: BlackBerry ruled the landscape. Lawyers are still doing their best to prop up the financially challenged Canadian company, but not in the numbers and with the enthusiasm of a decade ago.

That is by no means the result of declining interest in mobility as the subject is increasingly on the agenda for the legal profession. It's just that lawyers, in common with other professions, are finding iPhones and other, Android devices better suited to a growing range of general and legal profession bespoke applications.

BRING YOUR OWN

Proliferation of mobile use has created problems for law firms. Management committees are in danger of losing control over the gadgets lawyers carry in their briefcases and handbags as the phenomenon of bring your own device (BYOD) takes hold in the legal profession, blurring distinctions be-

tween work and personal mobility.

But increased mobility raises serious concerns over client confidentiality and the spectre of cyber security. Any organisation working with large amounts of confidential data will need to consider data security very carefully before implementing social technologies and BYOD more broadly.

Indeed, drafting a BYOD policy should be at the top of every law firm management committee agenda, says Kenneth Mullen, a technology partner at Withers. He sets out core watchwords as compatibility, security and responsibility.

That translates into law firms taking control over the type of devices lawyers use; ensuring individual lawyers do not download data on to a device locally – in other words, data must be encrypted centrally before being downloaded; and dictating that lawyers must not share devices with family and friends.

Increased mobility raises serious concerns over client confidentiality and the spectre of cyber security

"Lawyers must not be allowed to plug in any old device to a law firm's system," says Mr Mullen. "Devices need to be compatible with a firm's software for ease of integration. Also, management needs to know exactly what people are using, not least because there is a support issue. If the IT team has to deal with multiple devices, including some sort of obscure Chinese-make of phone, it is difficult for them to be adequately resourced."

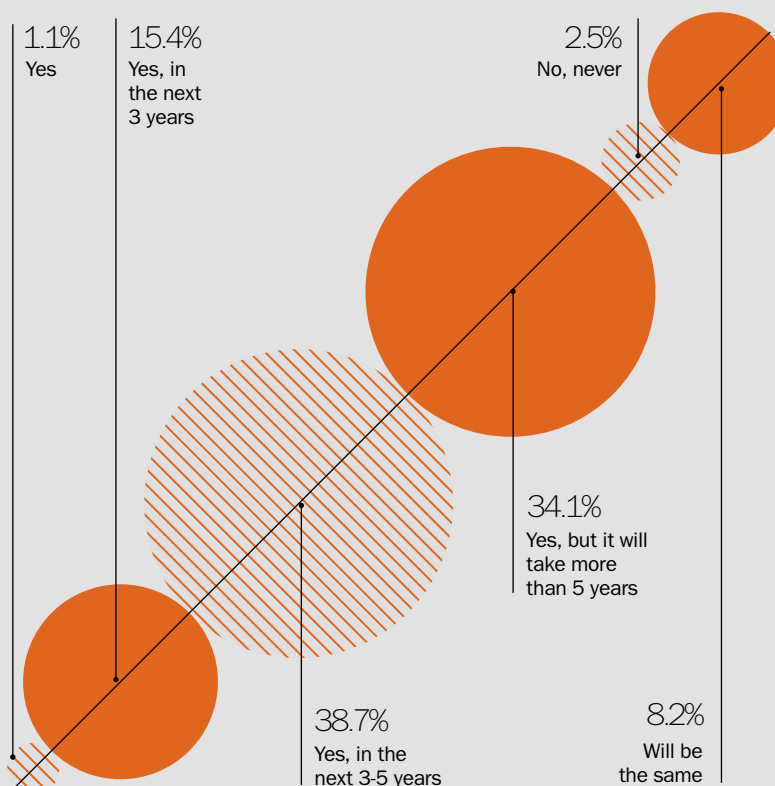
Increasingly, lawyers may be bringing their own devices to work, but are software manufacturers providing bespoke legal profession tools for that mobility?

A glut of startup companies, producing time-recording, document management and sharing applications, sprang up, with many disappearing. But larger providers, such as LexisNexis and Intapp, are catering for the mobile lawyer market, at least to some extent.

Applications can track documents a lawyer opens on a mobile device, telephone calls made or tak-

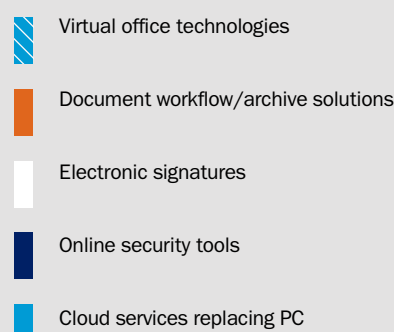
LEGAL TECHNOLOGY OUTLOOK

Do you think cloud-based products will surpass installed solutions in the legal industry?



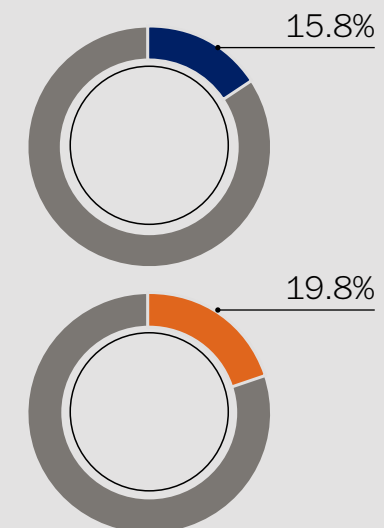
Source: LexisNexis 2014

What technology advances have had the biggest impact on your practice/department over the past 5 years?

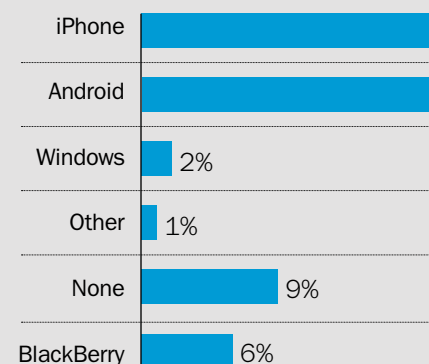


Source: eFax Corporate 2014

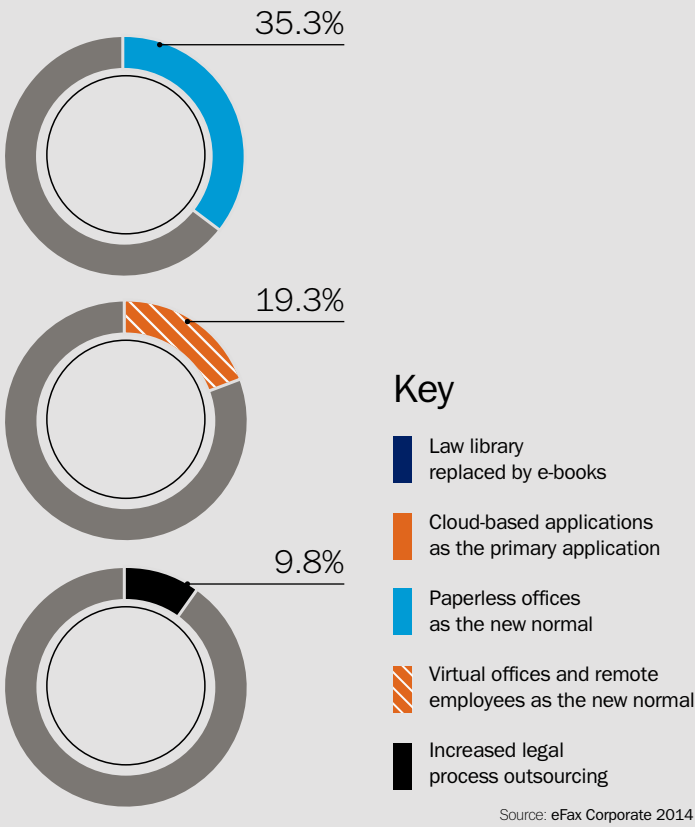
What is the biggest change we'll see over the next decade as a result of technology advancements for the legal industry?



Smartphone use by lawyers in 2014



Source: ABA 2014



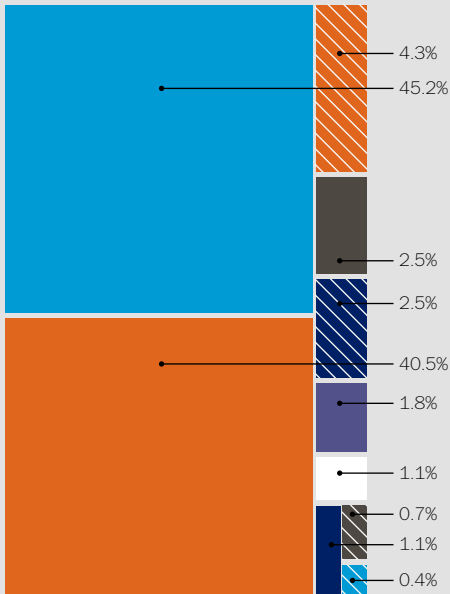
What are your top technology initiatives?

- 1 Network security and firewall protection
- 2 Hardware upgrades (mobile phones, laptops or tablets)
- 3 Remote work technologies (video conferencing, cloud collaboration)
- 4 Greater investment in specialised applications designed for legal
- 5 BYOD policies/portable-device security

Source: eFax Corporate 2014

Which of the following do you believe is the single most valuable benefit of cloud services for the legal profession?

- Mobility or freedom of access
- Predictable costs or budgeting
- Disaster recovery/data back-up
- Marketing value/client perception
- Easy to use
- Other
- IT investment savings
- Easy to implement
- Paperless
- Scalability



Source: LexisNexis 2014

en and web-browsing for research. That information then automatically generates data for the billing system time recorder.

And lawyers are using other mobile software tools, according to legal profession technology guru and author of *Tomorrow's Naked Lawyer: NewTech, NewHuman, NewLaw*, Chrissie Lightfoot. "Many use voice-activated digital assistants, such as Siri, Google Now and Cortana, on their smartphones to answer queries, send messages, make calls, and schedule meetings and reminders," she says.

Outsourcing the Law
.....
Page 14



Most cloud-based practice management systems allow lawyers to plug in on the move from multiple devices. "Clio is proving particularly popular, as is the Peppermint App Shop," says Ms Lightfoot.

Driving demand is an ever-rising tide of information. As Ashley Hurst, a technology partner at London solicitors' firm Olswang, explains: "Lawyers are overloaded with e-mails, many of which would have a better home on a searchable, mobile-friendly platform that can be tailored to the individual user. Technology exists for law firms to have a document repository, extranet, wiki and knowledge-sharing portal all within one platform, and available on any device anywhere in the world."

But some specialist lawyers remain sceptical about the advances

of bespoke legal profession applications. They maintain that arguments around the advantages of lawyer mobility should not be over-egged.

"Private practice lawyers are becoming a bit more mobile; in-house lawyers considerably more, depending on the sector," says Mark Watts, a technology partner at City law firm Bristows. He claims that applications pitched at legal practices focus on relatively basic tasks, such as time-recording.

SMALL SCREEN

"Proliferation of apps in the legal sector isn't that great because of the job lawyers do," Mr Watts says. "When it comes to things, such as drafting documents and marking them up, it's quite hard to do that on a mobile. You can get away with it at a push on a tablet, depending on the type of documents being reviewed. But trying to do anything meaningful in terms of legal work on something as small as that is difficult. So there is a natural disincentive to developing apps in this field."

However, he does not rule out continued development of legal profession niche apps designed to manage practical aspects of practice, for instance, staying in contact with clients. Nonetheless, in common with others, Mr Watts returns to security issues.

"The thing that potentially kills lawyer mobility," he says, "is the still significant client confidentiality concern. Whether those concerns are real or imaginary is another question. In my view, the cloud is more secure than the infrastructure at most law firms." R

ONLINE FOR LAWYERS AND CLIENTS

Tech advances are not solely focused on law firm's internal systems – there are new client-facing products aimed at businesses and individuals

BIDDING IN HIGH STREET

Launched last November, Legal-Proposals.com aims to reduce any intimidation ordinary people may feel when searching for a law firm. Director Mark Needham explains: "Clients answer five online questions and, on the basis of the answers, solicitors will put together an initial quote for the business. The bids set out fees and disbursements, which are e-mailed to the client."

WORKING FOR SMES

Lexoo is the latest of several online legal tendering sites, this time pitched at small and medium-sized enterprises (SMEs). The average value of work falls between £1,000

and £2,000, but that often leads to larger instructions of up to £10,000. Co-founder Daniel van Binsbergen says: "Clients describe their instructions and we approach four law firms we feel are a good fit for that work, and we ask those lawyers to provide a quote. We also give a steer on the range of standard fees for that type of work."

KEEPING CLIENTS POSTED

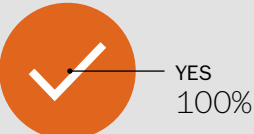
The Link App is in beta-testing for release in June. The brainchild of Lauren Riley, a family law solicitor at St Albans law firm Labrums and a contestant on the most recent series of BBC TV's *The Apprentice*, it is a communications tool for law firms to stay in contact with clients through desktops or mobile devices. For property deals, the app pushes notifications of searches and other processes direct to a client's mobile and keeps a timeline of progress.

BYOD in legal and professional services sector

Do you use your own mobile device or tablet for work?



Do you require access to your work documents from outside the office?



Source: Workshare 2013

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Billing

DO LAW FIRMS FIT THE BILL?

How law firms and barristers bill clients can be a bone of contention, with evermore varied pricing mechanisms, but there are better ways of charging, writes **Catherine Baksi**



Image: Getty

Learning that his obituary had been published in the *New York Journal*, American writer and humourist Mark Twain famously quipped: "The reports of my death have been greatly exaggerated." The remark could equally apply to the status of the billable hour, the standard used to charge for legal services.

Despite the column inches in the legal press devoted to its demise, the billable hour lives on. Talk of its death, says Michael Davison, global head of litigation at Hogan Lovells, is "premature" but, as Tony Williams of consultancy Jomati notes, it is coming under pressure.

As the clamour to drive down costs, control budgets and increase transparency and certainty has intensified, the appetite among clients and general counsel for more nuanced pricing structures has grown.

Fixed fees are a popular alternative. For some types of work at Charles Russell Speechlys, says managing partner James Carter,

company E.ON to provide all their legal work across certain categories for a set price, says chief operations officer Richard Masters.

Richard Burcher, managing director of legal pricing consultancy Validatum, presents a dazzling array of pricing options. In addition to the old favourites, there is "peak-load pricing", where price is influenced by when the work is required during the calendar year. Then there is "versioning", giving clients a choice of the legal equivalent of first-class, business-class and economy-class service, and "subway pricing" where the client builds their own menu and urgency premium trade-off, to name but a few.

BILLABLE HOUR

Despite this veritable smorgasbord, it seems the billable hour will always be on the menu and as Paul Rawlinson, managing partner at Baker & McKenzie, notes it operates as a "sense-check" against which to assess other options.



In the United States, the role of the 'pricing officer' has emerged as firms take a more analytical approach

they have become the norm to such an extent that there are "discrete parts of the business that no longer record time".

Colin Brown, chief financial officer at Addleshaw Goddard, gives a run-down of what's on offer across the board, from capped and contingent fees to volume discounts, variable prices for different aspects of a transaction and fees based on a percentage of transaction value.

Pinsent Masons have long-term agreements with infrastructure business Balfour Beatty and energy

While most agree it is up to firms to innovate, general counsel must play a role, says Mr Burcher. Too often, he bemoans, they default to a request for discounts off headline hourly rates.

Alternative fee arrangements reassign some of the costs risk to the law-firm suppliers. And technology, in the form of case management software, plays a vital role in helping manage that risk and ensuring the price is right. Getting it right, says Mr Masters, requires an analysis of data on past cases to map cost drivers.

Technology, he says, also assists

with the efficient execution and monitoring of work. Automisation and standardisation of processes keep down costs, as does on or off-shoring implemented by firms such as Baker & McKenzie, which last year opened a second dedicated global service office in Belfast.

The management information provided by IT systems, says Mr Carter, enables an analysis of whether the pricing adopted has been effective and, as Tim Aspinall, former managing partner of DMH Stallard, points out is a valuable means of demonstrating the value of work to clients.

Itemised e-billing, which Mr Brown notes is increasingly demanded, enables firms to collate a rich data set to learn from to help improve efficiency.

In the United States, the role of the "pricing officer" has emerged as firms take a more analytical approach. A survey last year for AML Legal Intelligence showed that three out of four large firms employ a dedicated pricing professional. The trend has yet to catch on at UK firms, although Mr Brown notes most have individuals and teams to facilitate and control pricing.

There is general agreement that surety of pricing is achievable in most cases, providing, as Mr Carter says, work is scoped accurately and agreement made with the client about what they want, by when and an assessment made of the risk of overrun, particularly the unknowns.

The world, adds Mr Davison, is uncertain and the important thing is to maintain honest conversations throughout the process, so there are no surprises.

It is clear that pricing will become more and more important and, predicts Mr Burcher, those who master it will inherit the Earth. **R**

Opinion

INNOVATIVE PRICING,
SHREDDDED
AMBITION



In-house legal teams and law firms should be more accountable for changing self-interested behaviour, says Paul Gilbert, chief executive of LBC Wise Counsel

When in-house legal teams run their appointment processes to select law firms to act for them on their so-called panels, there are a small number of words in every tender document that result in a visceral shudder for partners and bid teams. “Please give examples of innovative pricing models.” It’s as if the ghosts of general counsel past have visited. It is amazing really how seven such innocuous words can arrive dripping with low expectation and rank with the whiff of stale ideas. I am sure that shoulders must sag at the very sight of these words because in reality, it should say: “Dear Law Firm, We are a bit rushed right now on what we call real work, but our colleagues in finance and procurement want us to go through this dull-as-dishwater process. Frankly, they think we spend too much money on legal fees, but we all know it isn’t that simple. Anyway it has to be cheaper. “We are too busy to do the job properly, so we have some incomplete and unreliable data to give you. We have also given some thought to what we would like from you by way of ‘value add’ (free training mostly).

It is a long list of wishes, but rest assured we are not that bothered. Basically please just come up with something that looks cheaper. The folks here also think you should be more innovative; goodness knows what that means, but see what you can do.” The result is all very predictable. Most firms know that the pain of the bid process will be replaced by the familiar status quo of time-based charging and an inefficient client; therefore, lots of scope to make good money. In the meantime, however, they must look bothered and come up with an innovative pricing model.

SOUNDS CLEVER

Their usual response is to talk half-heartedly about fixed fees and also to describe something that sounds clever, but requires so much effort they know it will never happen. This can all be wrapped up in the pleasing sounds of words like “commitment”, “partnership” and “long-term value” – blah!

The key is to lose the fixation with the word ‘innovative’ and replace it with something a little more hard-edged such as ‘accountable’

The bid document written, the balance of discomfort then switches to the in-house legal team who will soon be in receipt of the glossy, picture-strewn bid response, weighed down with all the biographies of every partner currently exhibiting a pulse. The in-house legal team will then search each document in vain for something, anything, which shows one firm might have a different proposition from the others. In truth they do not search too hard, because experience tells them it won’t be there.

And so it will not be too long before weasel words like these are heard: “I know it doesn’t say so in the bid document, but X firm are brilliant and Y partner has worked with us for years, they get us and so whatever we decide they must therefore be on the panel.” Several weeks later, a few ground teeth and with the thin smiles of thank goodness that’s over, the panel firms are selected; a mix of relieved familiar faces and perhaps one new hopeful firm to show that the process must have been thorough.

In my view, given the realities of life, innovation is always unlikely. Even if there are good ideas the day job will crowd out any enthusiasm for change which will soon be replaced by that all too familiar swimming-against-the-tide feeling. Most of the ideas, therefore, are confined to the confidential waste bin where the law firm bid document is sent on its journey to the shredder.

Will it be cheaper? In a world where law firms have most of the data, most of the resources and most of the incentive to maximise their profitability, and where in-house teams rely mostly on trusted relationships, my guess is that not much will be cheaper ether.

Is there a better way? Of course, but it’s harder to do well. The key is to lose the fixation with the word “innovative” and replace it with something a little more hard-edged such as “accountable”.

Innovative is a lazy, fad-diet, snake-oily word. Accountable is a grown-up word. In-house teams should be accountable for their data and their processes. Law firms should be accountable for justifying every cost incurred against proportionality and client need. Above all in-house teams and law firms should be more accountable to their employers and clients for changing self-interested behaviours. ■

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Outsourcing



IT'S A BUSINESS BUILDER, NOT JUST A COST CUTTER

Once viewed primarily as a way of cutting costs, legal process outsourcing has much more to offer, as Edward Fennell reports

Ever since the 1980s, lawyers have continually reinvented the way they work. As a species they have proved remarkably adept at adapting to the demands of their clients and taking advantage, albeit cautiously, of advances in technology. The big question, though, is whether they have understood the best way to manage their key activity, the legal process itself.

"What many law firms don't yet appreciate, but soon will," says Jordan Furlong, a legal industry analyst, "is that a more modern and efficient deployment of talent and systems to accomplish legal work not only reduces personnel costs, but more importantly, also increases productivity."

In other words, a more intelligent allocation of work is not just a cost cutter, but it is also a business builder. And it is the part played by legal process outsourcing (LPO) in this new scenario which will prove vital.

The pent-up potential in the legal industry for improved productivity through better infrastructure, workflow and employment systems is, according to Mr Furlong, "off the charts". So far we

have gained some hints of what is possible, but by no means the whole picture.

The past decade has seen a range of different experiments and innovations with variable success rates. However, as Barbara Mandler, managing director strategic projects and operations at CMS comments: "Legal process outsourcing is here to stay. It's as beneficial to firms as it is to general counsel. My advice, above all, is don't be afraid of it."

THINKING IT THROUGH

Thinking strategically about how best to configure all the options to maximise the benefits while minimising the risks is now a key challenge for general counsel and managing partners alike. What should be headquartered and why? Where can you outsource safely? Who can you trust as your suppliers? How can you bind them into your culture? These are the questions which need to be answered whether you are planning to outsource higher-level legal work, commoditised legal activity by paralegals or an array of IT and administrative services.

What is emerging from the most

progressive law firms and LPO providers is a multi-layered approach in which organisations play to their strengths, then draw on others for everything else. Hence a firm like CMS not only outsources some of its own work in conjunction with Integreon, but also itself provides, from its Scottish-based centre, an outsourcing service for the more routine and/or volume legal tasks across the business where an external outsourcer would not be suitable.



Progressive law firms and LPO providers play to their strengths, then draw on others for everything else

By contrast Capita is best known for providing a range of outsourcing services, but also itself owns two law firms, Cost Advocates and Optima Legal, which are regulated by the Solicitors Regulation Authority.

According to James Cowan, director of Capita Legal Services, the firms specialise in "delivering legal expertise through operational excellence and best-in-class

business processes". Services include legal recoveries, dispute resolution, and cost negotiations for financial services clients and insurers. Meanwhile a dedicated operation in Krakow is staffed by English-speaking Polish law graduates working as paralegals, who undertake due diligence and similar low-to-mid-level work on behalf of leading law firms.

"The combination of a leading City law firm doing the top-end litigation with a well-known brand like Capita providing the standardised work is very reassuring to clients. It means they get the best of both worlds," says Mr Cowan. "Strategic advisory work is the core business of top law firms. That's what they are good at. They are not necessarily so good at managing the standardised end of the job. That is where we can come in, providing a high level of service at lower-level costs."

ON DEMAND

But LPO is also starting to grow at the high end as well. Lawyers On Demand (LOD) was set up in 2007 under the wing of Berwin Leighton Paisner by Simon Harper, who saw the convergence of three complementary factors.

He says: "First, there was the availability of a large number of high-quality lawyers, who wanted the flexibility of working freelance often on a remote basis. Second, there was the need of clients for 'something different', namely high-quality lawyers who could work short term or on a project basis. And, thirdly, the development of technology which would enable lawyers to work together although not necessarily in the same building or on the same site.

"What was needed was a glue to put these three elements together.

That's what Lawyers On Demand provided by selecting people with the right skills-set, and offering quality assurance and continuing professional development as well."

The other dimension provided by LOD, however, is ensuring the relationship between client and lawyer works effectively. As a result, says Mr Harper, clients working with LOD primarily gain enhanced flexibility and strength.

Data
Analysis
Page 18

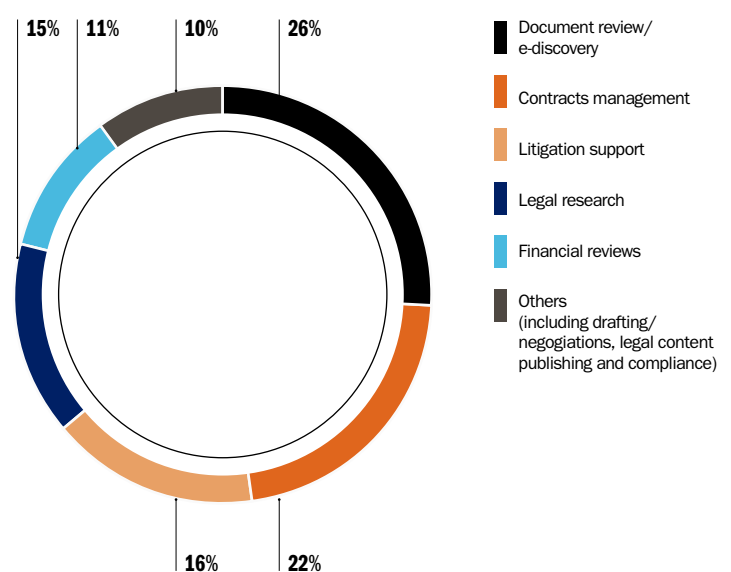


Proof of the appeal of the service is evidenced by an increase in LOD's turnover of 500 per cent in four years and a client list which includes the likes of Google, Barclays and EE.

Kerry Phillip, legal director at Vodafone and an LOD client since September 2013, explains that what she needs is flexibility and the ability to fill gaps in her team immediately. She now has on-demand, call-down facility for a set number of hours each month with LOD. But what gives her reassurance is that the LOD lawyer, who works remotely, understands how the in-house team at Vodafone works and can fit in easily as part of the team.

"The means by which legal work can best be done, in terms of productivity, sustainability and effectiveness, will become a primary consideration for legal service providers and their clients," says Mr Furlong. Legal process outsourcing is becoming central to tackling that challenge. ■

Breakdown of legal process outsourcing



Source: CPA Global 2012

Commercial Feature

New time capture system speeds up lawyers' daily 'time trial'

Accurate and timely tracking of lawyers' hours is crucial for a law firm to remain competitive, says Tikit



TIMEKEEPERS' VELOCITY



Source: TIKIT



Mark Garnish
Development director at Tikit

Think back to the London Olympics and one of the stand-out performances was racing cyclist Bradley Wiggins' time trial performance where his intense attention to time management made him a gold-medal winner. It was an example that every lawyer should follow because they are battling in a "time trial" every day of their working lives.

The effective recording, registration and notification of time spent on clients' matters are at the heart of turning a great legal performance into a great business result. Time "lost" during that process can make all the difference in terms of profitability.

That is why the management philosophy of Sir Dave Brailsford, UK Cycling's performance director – based on his theory of the aggregation of

marginal gains – is just as relevant to lawyers as it is Olympic cyclists. His focus on "how small improvements... can have a huge impact on overall performance" relates directly to managing partners' aim to improve the sharp end of the legal process – charging the clients for the work done on their behalf.

IMPORTANCE OF VELOCITY

Just having any old time capture software is no longer acceptable if your aim is to maximise the efficiency and effectiveness of your lawyers' "good habits" when they are compiling the data which will form the basis of their bills. An underperforming time capture system is like riding a bike with a puncture. The longer you cycle on it, the more power will go out of the system. That's why lawyers need a system which reflects the way they actually work today.

As Mark Garnish of Tikit, the makers of the Carpe Diem time keeping system, points out: "Effective time recording is all about 'velocity'. What that means is eliminating the lags in time between doing the work and recording it; then the lag between recording it and submitting it internally; and finally the lag before billing the client. The more that you can get rid of these lags, the faster you will get paid in full for the work that you have done and be able

With our new generation of Carpe Diem, we have aimed to make its use as easy and natural as possible

to justify that bill based on transparently accurate records. And that has to count as success."

The Carpe Diem system is already regarded as a market leader, but Tikit's commitment to continuous improvement means that a new generation of the system will be launched at the British Legal Technology Forum on March 17. The new product marks an enormous leap forward in innovation. Mr Garnish says: "Every single line of code has been newly written. The aim of this new-generation product is to address square-on the issue of velocity by eliminating all the barriers which cause lags and delay."

CONSUMERISATION IS KEY

At the heart of the new approach is what he calls "consumerisation". As he puts it: "With our new generation of Carpe Diem, we have aimed to make its use as easy and natural as possible.

We've developed a simple, easy-to-use interface for all circumstances."

In designing the new software, Tikit has paid close attention to how lawyers actually work in practice. After all, it can be highly variable ranging through all hours of day and night, at home or in the office, on trains, planes or waiting rooms, even when eating. So in order to be able to capture the data without any lags under such diverse conditions, Tikit has ensured the software can work equally well across all kinds of devices, platforms and circumstances – laptops, desktops, smartphones at work and at play – in a fully connected way.

"Having a single timekeeping system that provides the same technology across every platform is very important for a consistent user experience," says Mark Mountford, head of IT applications at Bird & Bird LLP. "The functionality to record time with tablets and smartphones is of increasing importance, and is now competing with traditional desktop entry. Consequently, the ability to capture and manage time painlessly and accurately across all devices is not simply a 'nice to have', but is seen as fundamental to how we support our lawyers."

The benefit of this for both lawyer and client is that there is a direct correlation between velocity and accuracy. "With our new generation of Carpe Diem, it will be possible to move seam-

lessly from one activity or place to another, one device to another, without missing a beat in terms of time capture," says Mark Garnish.

This is extremely important to general counsel, who are themselves under pressure to ensure they are being correctly billed by their legal advisers. As a result they are now increasingly likely to demand access to individual lawyers' records. "Our adoption of Carpe Diem's consumer-based timekeeping technologies, resulted in a 44 per cent increase in the number of mobile entries, with 40 per cent more granularity, both of which contribute to more timely and more accurate invoicing to our clients," says Justin Hectus, director of information at Keesal, Young & Logan (KYL).

"As a firm we value our clients and put a distinct focus on transparency, so being able to deliver an all-round great service and provide clarity across all our activities is fundamental to those relationships."

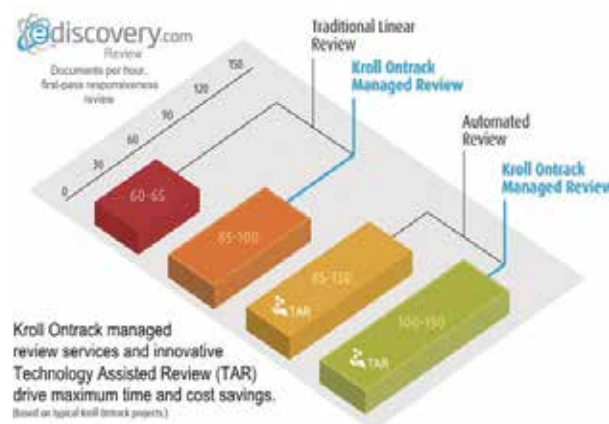
The accurate and timely tracking of hours is fundamental in measuring both cost and revenues in law firms – and will be an increasingly important part of a firm's competitiveness. Having the most appropriate software is the way to win your personal time trial.



Man and machine

The key to ultimate legal efficiency is using specialist lawyers in tandem with sophisticated technology, says **Daniel Kavan**, head of evidence consultancy and managed review at **Kroll Ontrack**, working with clients across the United Kingdom and Europe

Document review rates



Daniel Kavan
Head of evidence consultancy and managed review at Kroll Ontrack

In-house legal teams are under increasing pressure to add value to their businesses and reduce costs. According to *Unbundling a Market*, a recent report by Allen & Overy, legal work is being broken down into smaller parts, which are then delegated to different parties with niche expertise. This “disaggregation” brings choice and flexibility to the buyers of legal services, and opens up opportunities for providers of specialist services such as contract management and document review.

At Kroll Ontrack, we have experienced this unbundling first-hand in our e-discovery business. We expanded our managed review service at the beginning of this year by launching a new review facility in central London. Within the first five weeks, we have been inundated with requests from our clients and have had more than 40 reviewers engaged in reviewing documents on a variety of matters.

With the rise in cross-border litigation and investigations, many of the cases we work on now involve multiple

languages, and this is where our managed review service has excelled. Our professionally qualified lawyers are expert document reviewers adept at using the latest review technology and many have foreign language skills, which are becoming increasingly necessary.

By carrying out first-pass relevance, privilege and even privacy reviews – the activities that are usually the most expensive part of any litigation or investigation – they are able to support legal teams, allowing lawyers to focus on unlocking key information and building their case strategies earlier, irrespective of the language of the evidence.

Managed review gives lawyers the opportunity to provide value-added matter management to clients – calling the shots at the helm and ensuring providers’ output is of a high standard

The processes of e-discovery and document review can now be carried out by real specialists, and this is done more cost effectively as professional document review experts are less expensive than lawyers employed by law firms to carry out a range of functions, including advisory and strategic work, as well as document review. Savvy lawyers do not see this as a risk to their business. Rather, it's an opportunity for lawyers to provide

value-added matter management to their clients, calling the shots at the helm and ensuring that providers’ output is of the requisite high standard.

Working as part of a composite legal team – traditional law-firm lawyers in tandem with document review lawyers – requires a tightly controlled structure and sophisticated workflow. In order to get the most efficient result from both the reviewers and technology, it helps for the reviewers to be managed by consultants who know the technology being used intimately. Automated workflows and predictive coding technology applied in the right way usually lead to faster and more accurate results from outsourced review teams.

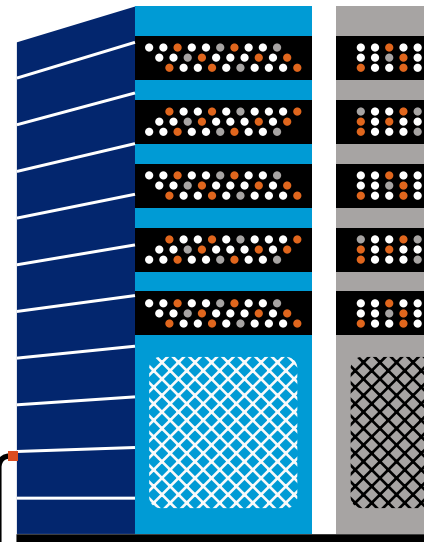
It may be surprising that a technology company with sophisticated predictive coding technology is turning to people power as a method of tackling large volumes of documents and costs in e-discovery exercises. Why wouldn't we simply deploy artificial intelligence on all of our cases and not bother with human reviewers at all?

The key is using both together, effectively. Our clients are in fact using predictive coding on most matters. However, so far in the UK, this has mainly been as an added quality check and/or to prioritise relevant documents to the front of the queue for human review, but not to automatically select or eliminate them for disclosure within formal litigation. It won't be long until a judge in this jurisdiction approves full use of such technology to carry out disclosure, creating the ultimate legal efficiency.



E-Discovery

NEW ANALYTIC TECH IS SET TO GO BIGGER, DEEPER AND FASTER



E-discovery and e-disclosure have been embraced by the law, but which is the best software and what is left to learn? **Charles Orton-Jones** reports

The field of e-disclosure is unrecognisable from ten years ago. Back then the primary mode of searching documents was by hand. Today? It's almost all digital. Lawyers happily discuss the merits of different artificial intelligence approaches to concept grouping. Even paralegals are conversant on metatags and statistical sampling. The industry should be congratulated. Clients ought to be delighted.

However, there's no room for complacency. Law firms need to be asking: what next?

Improving on the current e-discovery techniques won't be easy. The big gains have already been achieved. So how can law firms polish their act?

The United States used to lead the field. British firms would observe and imitate. Not so easy these days.



The most practical advice I would give to lawyers is to roll up their sleeves and learn about e-discovery

“The US pioneered the area,” notes Laurence Lieberman of law firm Taylor Wessing. “And there are a lot more providers in the States,” he says. “But what you find is the big US providers are tracking and selling to the UK anyway. So we get that knowhow.”

Rob Jones, legal consultant at Kroll Ontrack, agrees. “The perceived division between the UK and the EU, and the US is a bit false,” he says. Instead, litigators can look at other fields using e-discovery techniques, such as mergers and acquisitions (M&A).

REGULATORY DEMANDS

“There are predictions of lots of M&A activity in 2015,” says Mr Jones. “Some of these may attract the attention of the competition authority. Some may be referred to the EU for a phase-two investigation. That process is the same as e-disclosure, but needs to be done in 28 days. When you have half a million documents to sift through to find the 5,000 or 10,000 documents you need that is a huge undertaking.

“We are looking to deploy this sort of service to other situations where they simply need to sift through large amounts of documents.”

Lawyers must study e-disclosure software to get the most from it. “The most practical advice I would give to lawyers is to roll up their sleeves and learn about e-discovery,” he says. “We put on seminars and hold events, which offer CPD [continuing

Case Study

PSYCHOLINGUISTICS
IN AUDIO ANALYSIS



Image: iStock

Audio analysis is a growing element of e-discovery. The ability to transcribe audio into searchable text means it is now far simpler for lawyers and compliance officers to handle sound files using the same processes as for text documents. Gone is the chore of listening to hundreds of hours of chit-chat in raw audio form. The next phase of audio analysis is now under way. Lawyers can search for more than mere keywords. Speakers can be identified and tracked by their unique voice “fingerprint”. It is possible to gather all calls made between two persons, no matter what landline or mobile handsets they have been using. The real game-changer in audio is the ability to label the emotion of each conversation. Peaks of volume, choppy sentence structure

and word intonation indicative of anger can trigger a flag for regulators to investigate. If a broker and client have a blazing row, the compliance officer can be alerted before there is any official request to investigate. The drive to improve will come from banks and other financial organisations keen to move from a reactive compliance approach, to a proactive methodology whereby flashpoints are noticed the moment they arise. The sector is still in an early phase. “Audio is coming under increasing scrutiny,” says Tyrone Edward, e-discovery specialist at EY. “The quality has got much better, but the analogy is with OCR [optical character recognition]. The OCR engines got better. We are at that same point. We are on a difficulty curve.”

tools of predictive coding, clustering and thematic mapping.”

Where there is unanimity, from both vendors, consultants and lawyers, is that the key element is for lawyers to be more conversant with their technology partners.


Nigel Murray, director of Omnis Global, says the ability to communicate is the most important ingredient when deciding which technical partner to choose. “The various systems all achieve pretty much the same end, although they go about it in slightly different ways. It comes down to relationships,” he says. “Lawyers need to ask, ‘Are these people I can work with?’ Outsourcing e-discovery is not the same as outsourcing photocopying or translation. It is collaborative. The lawyers have a degree of supervision, so there needs to be constant dialogue. Technology is not the decisive factor.”

COMPANY PROCESSES

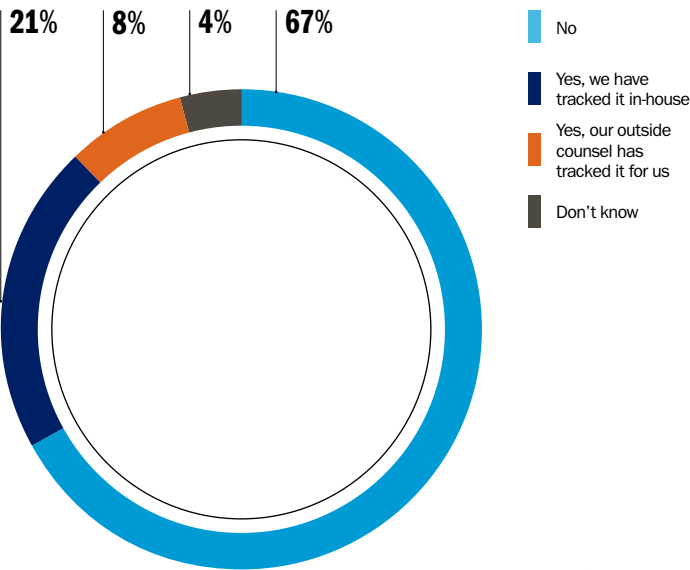
Lawyers can invest time in helping clients prepare for e-discovery. In particular, they need to emphasise that companies must have in place processes to address e-discovery. Peter Robinson, partner and

head of e-discovery at Deloitte, says: “Companies are seeing a number of increased data requests that involve a high volume and complex range of data. Responding to these requests cannot be done on an ad hoc basis; it’s too risky and expensive.

“Companies experiencing a high number of data requests should develop an operating model that ensures they respond in the most efficient and effective manner. This is not just a question of technology; having the correct people and processes in place is just as important.”

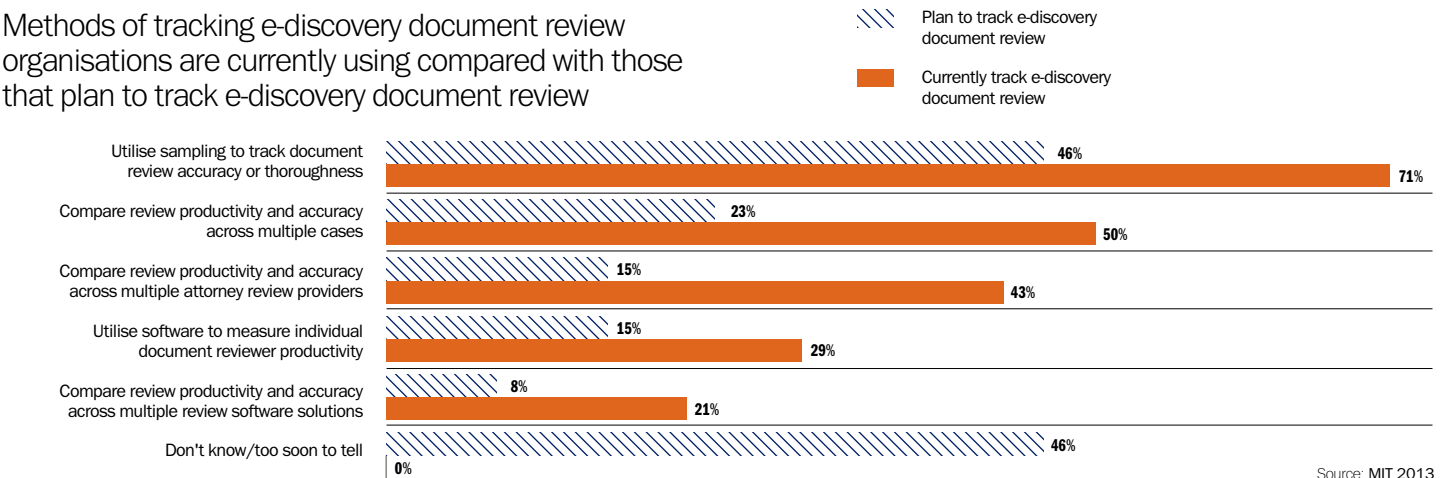
These areas all give lawyers scope to improve. But the one biggest tip for making e-discovery go more smoothly? The same advice is chanted seemingly no matter who you ask. Mr Lieberman of Taylor Wessing spells it out: “You have to have the initial discussion very early on. You will come a cropper if you don’t. Judges and regulators are much better trained at e-discovery than ever, and will take a dim view of litigators who have not made an early start.” 

Has your organisation tracked the efficiency and accuracy of e-discovery document review?



Source: MIT 2013

Methods of tracking e-discovery document review organisations are currently using compared with those that plan to track e-discovery document review



Source: MIT 2013

professional development] points. We publish articles through the year and we write a blog, ediscoveryblog.co.uk, which covers the main points.”

Pleasingly, this need not stretch to unpicking the algorithms behind stuff like latent semantic indexing (LSI). Adrian Palmer, managing partner at Proven Legal Technologies, which helps firms such as Adleshaw Goddard execute e-discovery, comments: “I have only ever met two people who really understood LSI. I lasted about 45 seconds. We have one guy in our organisation who does, but it is incredibly complicated. You don’t need to understand how it works.”

The debate of single technology vendor versus a bespoke combination of best-in-breed approach remains unsettled. Vijay Rathour, vice president of investigations firm Stroz Friedberg, puts the case for the former. “A flexible range of technology-assisted tools is almost always more effective than a one-size-fits-all approach,” he says. “While individual technologies are less important than the combined technological expertise, some powerful new analytic technologies are emerging, beyond even the most recent generation of tar [tape archive]

Data

Skilful analysis of big data not only informs law firms' decision-making, but can also add value for clients, as Jonathan Ames reports

POINT OF INFORMATION

In the legal profession, data used to mean – if the word was recognised at all – piles of paper client files stacked in cardboard boxes in dark, dank basements.

Now commercial law firms are increasingly grasping the concept of big data, not least as an opportunity to add value to clients in an evermore competitive legal services environment. But data experts warn they must be careful not to jump on to the bandwagon without first working out a strategy.

A 2014 report by Birmingham-based technology specialists C24 sounds a clear caution: "All too often legal firms enter into business intelligence projects because of the hype surrounding big data, rather than as a result of a true data requirement that has emerged within the organisation."

The first step for law firms entering the data jungle, according to resource planning experts, is to collate the various sources and methods of collection across a practice. Those main routes include client communications, such as e-mails, telephone conversations, even social media interaction.

Other channels involve various technology applications, such as practice management systems. Assessing the wider market is also crucial, analysing trends with an eye trained on peaks and troughs in business activity and sector performance.

Law firms at the forefront of organising and analysing client data to enhance their services are those already handling highly commoditised areas of work. Practice areas around the public sectors and insurance companies are especially ripe for exploitation.

Indeed, one law firm targeting big-data use is national practice Weightmans, which specialises in both those fields. "We are increasingly looking at the data we hold to try to help clients understand things about their business they might not already be aware of," says Stuart Whittle, the firm's information systems and operations director.

DATA EXPLOITATION

A qualified solicitor, who has moved to focus exclusively on Weightmans' IT efforts while remaining an equity partner, Mr Whittle highlights defendant personal injury actions, road traffic accident cases and employer liability claims as being ripe for data exploitation.

"We assess trends over time by analysing the data," he says. "We give insurance clients an indication of what is happening; what the trends are at the claims level. Where we have a large number of claims in relation to a specific client, we can say certain things appear to be happening."



Practice areas around the public sectors and insurance companies are especially ripe for exploitation

Providing visual representations of data is especially helpful. "For institutional clients with employment issues, we can show them where the hotspot trends are – in which areas they are being hit with claims in a higher volume than they might expect," he says.

Likewise, web-based visual illus-

trations of data analysis can be used to demonstrate to property clients how long leases in a large portfolio have to run, as well as detailing renewal terms and break clauses.

"The clients may hold that data," Mr Whittle says, "but this is an added-value way of playing it back to them in an easily understandable format. We are doing the work for them."

Lawyers are quick to point out that clients' needs vary and there can be no uniform approach to enhancing data. However, a growing theme from corporate clients is a desire to see greater predictability from their law firms around cost and outcomes.

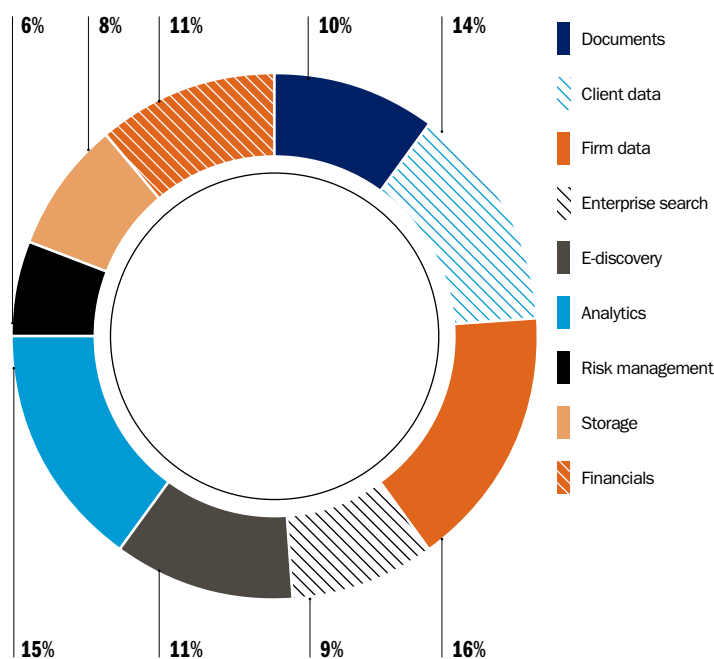
"Law firms can look at their historic data on deal types for trends to establish that it should cost X pounds to deliver a certain type of transaction," says Dan Wright, head of client service innovation at mid-tier commercial law firm Osborne Clarke.

With that data analysis behind them, he says, firms can take a much better informed view of resources required. "There will be greater definition around what we are going to do so clients can buy the service they want to buy. The more granularity you have about what you are going to do and how you are going to resource it – all of which comes from an analysis of historic numbers – you can put a figure to the client in terms of timings and costs," says Mr Wright.

CLOUD TRAP

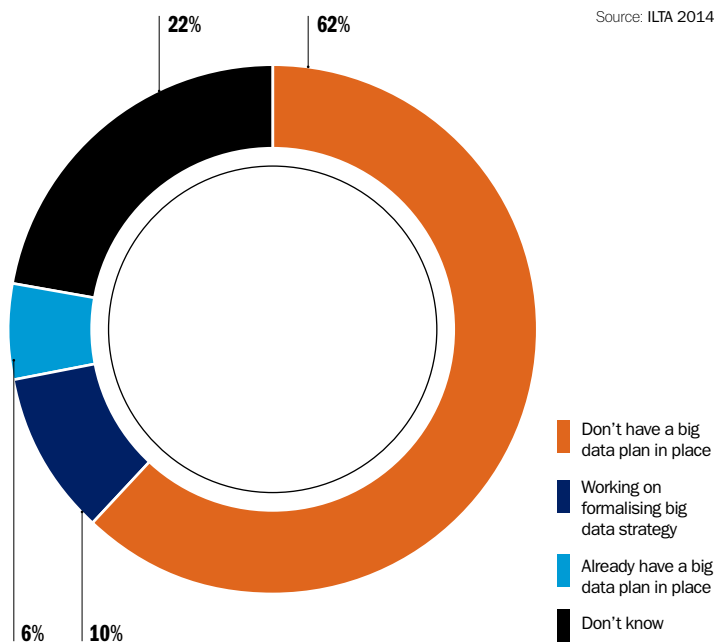
But dealing with big data is not a risk-free endeavour for law firms, with the main potential bear trap being "the cloud". Belying its ethereal moniker, cloud computing is very much grounded in large servers, which are often situated in le-

What does big data mean to law firms?



Source: ILTA 2014

Law firms' big data plans



Source: ILTA 2014

gally problematic jurisdictions.

"Law firms need to be careful when contracting with IT providers that they have provisions ensuring the data is not held in a jurisdiction the firm doesn't know about," cautions Kenneth Mullen, intellectual property and technology partner at London firm Withers.

The main issue is around the "private cloud" versus its "public" counterpart. Law firms should eschew the latter as the data could be held anywhere in the world, with the firm kept in the dark about the venue.

That could be a serious liability issue for law firms as data originally collected in the European Union cannot be transferred out of the EU under provisions of the Data Pro-

tection Directive. Likewise, data ending up with a cloud provider in the United States is technically subject to the US Patriot Act 2001. That legislation can pose difficulties for foreign clients with connections in which the US authorities have an investigative interest.

But despite jurisdictional caveats, large law firms clearly view big data as providing a competitive commercial edge over a growing band of rivals, not least outsourced legal process providers. As the C24 analysts reported: "It is a very exciting time for legal firms to capitalise on the data they already have and see what better business decisions they can take today for increased growth, efficiency and security." **R**

Opinion

BUSINESS ADVANTAGE AND LEGAL RISK OF SOCIAL MEDIA

Law Society Technology and Law Reference Group chairman **Peter Wright** warns of dangers when businesses interact on social media



There has been a stampede in recent years for businesses to engage significantly on social media with their potential markets. No longer is it enough to advertise in traditional forms of media – a presence on Facebook, Twitter, WhatsApp or Snapchat is seen as essential to demonstrate engagement with existing and future customers.

Massive numbers of users from both a business and private context bring with them their own attendant legal risks. Social media users have found themselves mired in legal action as a result of threatening, abusive or harassing behaviour, breach of copyright, trademark infringement and even breaching the Data Protection Act, while others have been dismissed from employment or seen their businesses suffer as a result of statements made online.

HMV faced an online backlash after they took the decision to make a large proportion of their head office staff redundant after the organisation went into administration, not realising that among those receiving their P45s that day was their Twitter account operator, who took to posting live updates on discontent in the office that day, including the marketing manager frantically asking: “How do I take down Twitter?” He was the marketing manager – he really should have known both how to log into his organisation’s social media account and who was updating it on a daily basis.

Social media account security has been a significant issue, with Burger King having their Twitter account hacked by an attacker with a sense of humour who posted numerous updates about McDonald’s products and services, while changing the Twitter profile picture to an image of the competitor’s famous “golden arches”.

Social media is all about users interacting and exchanging opinions and views online, and the issue of defamation has frequently been raised as a result. A dental practice was upset about the 1-star review one of their patients posted on the online comparison and feedback site Yelp. After contacting the patient and asking for the review to be amended or removed, the patient refused, resulting in the practice making a claim for defamation valued at £125,000 in lost business and costs.

Meanwhile, guests at a hotel in Blackpool were shocked to see their credit card was debited a sizeable fee – indeed a bigger fee than the original cost of their hotel stay – after posting a bad review of the hotel online. Widespread publicity of the hotel, along with legal advice that having a clause in their terms and conditions alleging such a fee would be debited from account details retained following departure from the hotel, might be both unfair and unenforceable, led to the fee being refunded.

However, the number of clients in the service sector who state that unfair and unwarranted complaints are being made about their services online suggests the issue of unfair online customer feedback harming a business continues to grow in importance.

It is not surprising, given these well publicised risks, that many businesses have been wary of engaging on social media. Indeed lawyers are frequently put off from engaging in social media for the same reasons, and legal advice and training on the legal issues surrounding the use of social media is not plentifully available as a result.

One way that lawyers in the UK have engaged online is through the Law Society’s #SolicitorHour initiative, which encourages lawyers from a wide range of practice areas to engage on Twitter between 1pm and 2pm every Tuesday and Thursday, and engage with the potential consumers of legal services who are out there online.

There is clearly a business advantage in engaging with the market online, but the clear risks make the business case for organisations having clear policies and governance in place, regulating how they interact online, unanswerable. **R**



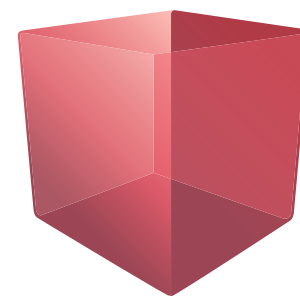
In a Rapidly Changing Industry, Firms Must Adapt to Survive

From alternative billing arrangements to competition from non-traditional legal service providers, law firms are facing increasing cost pressures. How can they remain competitive?

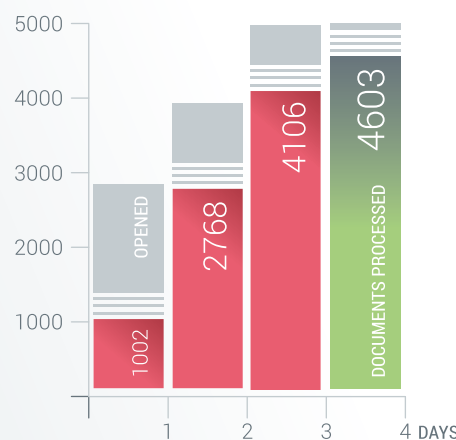
IT’S 2 A.M. You squint blearily at your computer screen and wonder whether it’s worth the risk of sneaking in a 30-minute nap before recommencing your due diligence duties. But what if you oversleep and jeopardise the entire transaction? Disappointing the client or lead partner is not an option – other attorneys and firms would jump at the opportunity to work on this deal. Sighing, you lean back, rub your bloodshot eyes, and decide it’s not worth the risk of missing the 6 a.m. deadline, not when you have so many pages left to review in the space of four hours.

Sound familiar? Law firms, big and small, are facing increased cost pressures. Clients trying to cut costs are pushing harder for flat-rate contracts while many attorneys still have billable-hour targets. Competition from non-traditional legal service providers and alternative billing arrangements are slowly chipping away at the legal industry’s old way of doing business.

To stay competitive and continue meeting revenue targets, law firms must implement tools to optimise processes so that attorneys spend the minimal amount of time possible on certain tasks – but without compromising on quality. Virtual data rooms have increasingly proved their worth in the processing of online due diligence procedures. But which data room is the right one? A commercial law firm must choose carefully since the platform plays a critical role when it comes to efficiency.



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