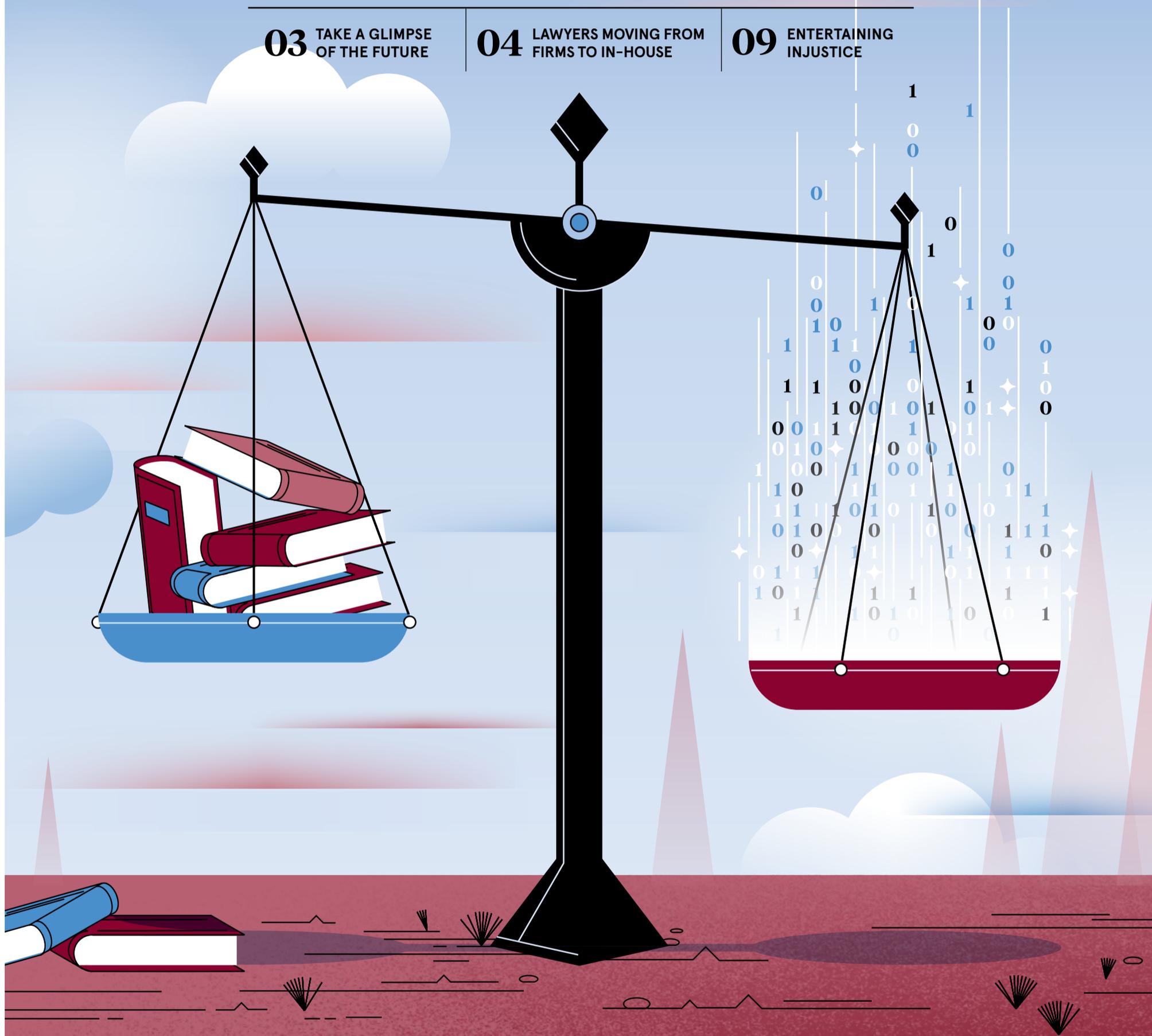


# LEGAL INNOVATION

**03** TAKE A GLIMPSE OF THE FUTURE

**04** LAWYERS MOVING FROM FIRMS TO IN-HOUSE

**09** ENTERTAINING INJUSTICE



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LEGAL INNOVATION

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CONTRIBUTORS

**CATHERINE BAKSI**  
Former barrister and *Law Society Gazette* reporter, she is a freelance journalist writing for a broad range of law titles.

**NICOLA LAVER**  
Former solicitor, she has written for *The Times*, *The Guardian*, *Lexis Nexis*, and many other organisations and websites.

**GEORDIE CLARKE**  
Freelance financial writer, he has held content roles at RBC Wealth Management and Canada Life Investments, and was formerly deputy editor of *Money Management*.

**OLIVER PICKUP**  
Award-winning journalist, he specialises in technology, business and sport, and contributes to a wide range of publications.

**DAVID COWAN**  
Author and editor-at-large of *The Global Legal Post*, Dr Cowan specialises in a range of legal and economic issues, and is a regular contributor to *The Times Literary Supplement*.

**DANIEL THOMAS**  
Writer and editor, he has contributed to the *BBC*, *Newsweek*, *Fund Strategy* and *EducationInvestor*, among other publications.

**MAGDA IBRAHIM**  
Award-winning journalist writing for the *London Evening Standard* and specialist media including *Campaign* and *Third Sector*.

Raconteur reports

Publishing manager  
**James Studdert-Kennedy**

Head of production  
**Justyna O'Connell**

Production editor  
**Benjamin Chiou**

Digital content executive  
**Fran Cassidy**

Managing editor  
**Peter Archer**

Design  
**Grant Chapman**  
**Kellie Jerrard**  
**Celina Lucey**  
**Samuele Motta**

Head of design  
**Tim Whitlock**

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FUTURE LAWYER

# Take a glimpse of the future

In just a decade, a day in the life of a leading lawyer will be transformed by legal technology

DAVID COWAN

Confucius said: “When the wise person points at the moon, the fool looks at the finger.” The future lawyer pressing the buttons of their practice will be opening up a whole new world. Being connected through the internet of things means stepping from home to car to office is a seamless data process of arranging the day’s agenda, absorbing the morning news and responding to overnight developments in the practice at overseas offices. A file that needs to be shared with a client has been processed, not just in terms of the content relevance, but also through the most efficient channel.

Once in the office, the first duty of the day is to review a client dispute using predictive analytics. One of the firm’s accountants used the artificial intelligence (AI) system to run through what seemed like a chaotic set of data and found information suggesting there were efficiencies to be found in the client’s contracts. The future lawyer decides to run some analytics to advise the client and pings a meeting request.

With an eye to the future, Alessandra Almeida Jones, head of marketing and communications at Baker McKenzie, in London, explains: “This is the most exciting time to work for a law firm. We use the term ‘the new lawyer’ to mean a much more commercial individual taking a more consultative approach, surrounded by broader and more diverse team members.

“Legal project management and analytics will become core to what is currently provided, going beyond just the contract, the legal advice, and incorporate more non-lawyers into legal teams.”

Meanwhile, back to the future, after a swift cup of coffee, delivered by the office robot called Gene, the future lawyer has a briefing from the marketing chief about a campaign for a brand the firm wants to create to offer a new blockchain service for startup enterprises. They have been incubating the service for nine months and now it’s time to plan the rollout of the full service.

They are joined in the virtual reality meeting room by two enterprise experts, the chief data officer and the head of communications, who are in overseas offices, and a member of the future lawyer’s team, working from home while on paternity leave.



“The lawyer needs to have many more skills. Lawyers, of course, have always been entrepreneurial, at least at the partner level, but commercial skills need to be developed,” says Tim de Boer, head of marketing at Dutch law firm Houthoff, in Amsterdam.

Meeting over, it is time to discuss a case going to court in a defamation dispute over some alleged fake news. Earlier, online court proceedings had not turned up the desired result, so it is time to go for a full hearing.

Professor Richard Susskind, IT adviser to the Lord Chief Justice in

the UK, believes the future of civil justice lies in “asynchronous” courts in which judges rule on evidence supplied digitally. “Online is not an alternative to the courts system, it is the courts system. Within ten years, most cases will be resolved by online courts,” he says.

There had been a data breach at the client’s head office resulting in a social media spat where the client had made statements which turned out to be false. It’s for another colleague, but the future lawyer is collaborating because of the specialist expertise they can offer. The

presentation to the court has been put together using visual images, with the case law stacked up in an easily searchable database, able to respond to the changing nature of the case as the court goes through the process of hearings.

De Boer explains: “The text orientation of law needs to change. If you look at the law schools, the text books have no pictures. When we go to court, we bring presentation boards, which is a skill requiring a visual approach, collaboration: all those 21st-century skills.”

Using telepresence, the firm has hired actors to play the court officials and jury as they run through a mock presentation of the case.

“Paradoxically, with the advent of technology we are seeing more focused oral skills. There is a lot more room for emphasis on presentation of the case and oral advocacy because AI and other research and online tools help us deal with the more mundane work,” says Clíona Kimber, senior counsel and specialist in employment, equality law, and the internet and workplace law, in Dublin.

With a lunchtime cyberattack having been warded off, the lawyer of the future has changed passwords and entered the firm’s virtual library to consult some authorities for a case involving a particularly tricky point of law. The case involves an autonomous ship that had a collision with a conventionally crewed vessel while coming into port. There are still questions unanswered by legislators and the case law needs a deep dive.

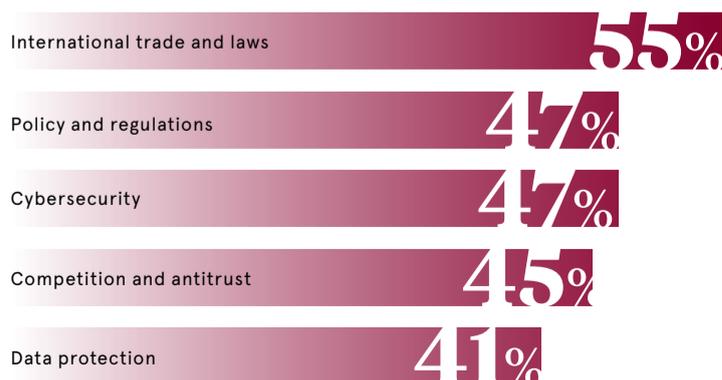
Sipping tea, the future lawyer reviews a finance statement on an iPad and, since the client’s business is processed by blockchain, each part of the client’s concluded workload has been processed for payment using cryptocurrency.

Almost time to go home, but there are farewell drinks for a retiring partner, who is being replaced by a colleague from the marketing function. The retiring partner recalls wistfully how she started out as a lawyer and was excited about IT applications speeding up legal file management and reducing costs. She concludes by lamenting the end of the billable hour.

The future lawyer goes home to relax and watch a digitally enhanced episode of *Rumpole of the Bailey* before retiring to bed and pressing the last button of the day... lights out. ♦

Areas of legal expertise most needed over the coming years

European survey of general counsel lawyers



# More move from firms to in-house

Lawyers are increasingly turning their backs on private practice and choosing to work in-house for corporations and other organisations

CATHERINE BAKSI

The number of solicitors working in-house has more than doubled over the last 15 years, from almost 13,000 in 2002 to almost 28,000 in 2017. According to the latest figures from the Law Society, the representative body for solicitors, more than one fifth of the profession now works in-house for commercial or not-for-profit organisations.

A training contract at a City law firm followed by years of climbing up the law firm ladder and reaching the peak of partnership used to be the career trajectory favoured by most wannabe solicitors.

But as the figures attest, lawyers are increasingly eschewing private practice and the long slog to the Holy Grail of partner in favour of working in-house, where the atmosphere is regarded as more business-like and tech savvy, and more conducive to a better work-life balance.

The comparable salaries now on offer mean that this better work-life balance available to many in-house lawyers make it more attractive, says Charlotte Lakin, in-house paralegal at Live Nation Entertainment and the former student representative on the executive committee of the Law Society's Junior Lawyers Division.

However, she insists that does not mean doing less work than private practice lawyers, rather it provides a means for greater flexibility and efficiency.

"Without the constraints of time-recording and billable targets, it makes it much easier to get the right balance," says Ms Lakin, who worked in private practice at a variety of firms before making the move in-house last year.

She may have gone straight in-house had her university and law school career advisers been better informed about the possibility. "I don't even recall the prospect of in-house roles featuring as an option," she says.

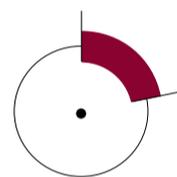
For Ms Lakin, another benefit is the quality and variety of work, with instructions coming from all areas of the business. "There are always new issues, which means there is always an opportunity to learn. No two days are the same," she says. But contrary to what some suggest, she insists that does not exclude the option to specialise.

Greater and more varied career progression is also available in-house, she says, providing a faster route to promotion because of the less rigid business structure.

As legal director at the Post Office Ben Foat explains, much of the shift can be attributed to the enhanced role of the in-house legal team within corporates. "Fifteen years ago, in-house lawyers sat in the proverbial backroom and remained distant from the business," he says. "Now they are seen as strategic business partners, whose work is core to the business and much more interesting and varied."

The changing role evolved due to heightened regulatory pressures since the global financial crisis, technological changes, increased complexity in some markets and the cost challenge.

Mr Foat says: "Businesses are having to do more with less, and legal



22%

of all working solicitors in the UK now work in-house for commercial or not-for-profit organisations

Law Society 2018

directors are having to look more closely at how they manage their resource and legal risk."

Sending work to private practice law firms can be four to eight times as expensive as dealing with a matter in-house and fees of £1,000 an hour charged by some City partners are an incentive to keep work within the business, he says.

The main driver for lawyers looking to work in-house, observes Angela Floyd, European managing director at legal recruiters Laurence Simons, is to be "closer to the business".

"In private practice, lawyers often get involved in a transaction at a certain point, when they would rather be involved sooner," she says.

An issue for in-house lawyers, says Ms Lakin, is demonstrating their value to the business. But this is where technology can come in, with the use of software systems that enable in-house lawyers to demonstrate to the business the work done by its legal arm, she says.

**Now in-house lawyers are seen as strategic business partners, whose work is core to the business and much more interesting and varied**

Ms Floyd adds that law firms are losing top talent to their in-house rivals because of their failure to innovate with tech, although she concedes: "They are doing more to become a little more innovative in how they evolve and develop."

Another area where law firms could be falling down and failing to attract the best people is in relation to diversity and inclusion. Corporates

generally do better in this respect, which is seen as a positive and something that attracts the brightest young lawyers, says Ms Foat.

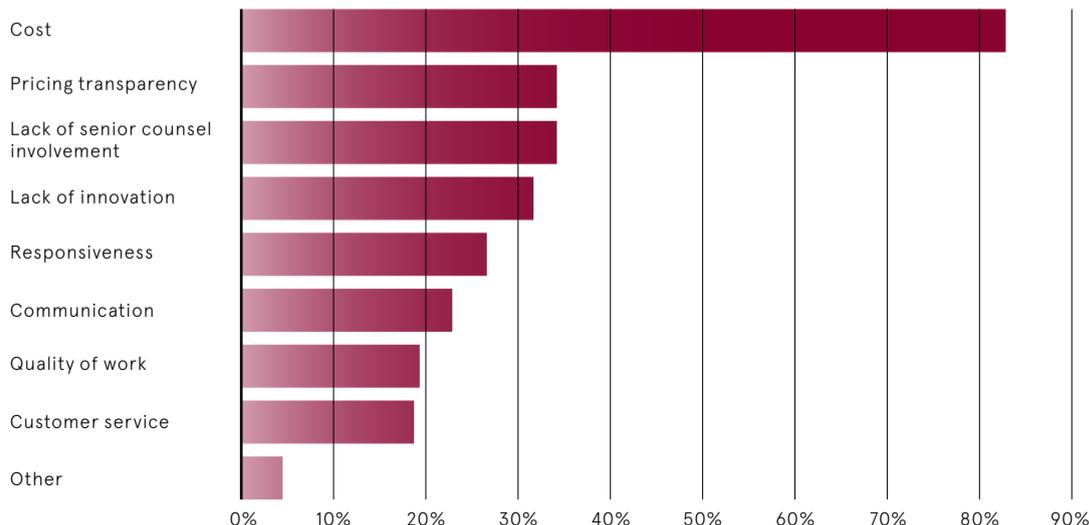
Bhavisha Mistry, general counsel at pharmaceutical company Mawdsleys, worked in private practice before swapping roles and taking a job as general counsel at fashion brand Missguided. Working in-house, she says, enabled her to be at the forefront of the business and see her advice put into practice.

But she had to become more innovative in the way she delivered her advice. "I learnt that all the traditional methods of advice delivery had to be discarded. I had to think of new ways of getting things done," says Ms Mistry.

"We lawyers get a bad reputation for being stuffy, unapproachable and deal preventers. We don't place enough weight on getting to know our clients and showing our true personalities. What I have found is that when I do show my true personality, I get better results." ♦

## Main sources of frustration when working with larger law firms

Global survey of general counsel and in-house lawyers





**The game-changer for our success has been the addition of E.V, our end-to-end AI contract analyst**

engineers and legal operations managers, are growing rampantly as the balance of power within the sector moves to stronger, more decisive in-house legal teams.

**Journey so far**

In many ways, ContractPodAi has been a benefactor of this tectonic market change; in a short, six-year period we have evolved from an upstart to becoming one of the world's fastest-growing legal tech providers. We have supported digital transformation projects for in-house legal teams of some of the world's largest corporations. Within the last 12 months, we have completed more than 40 such enterprise implementations.

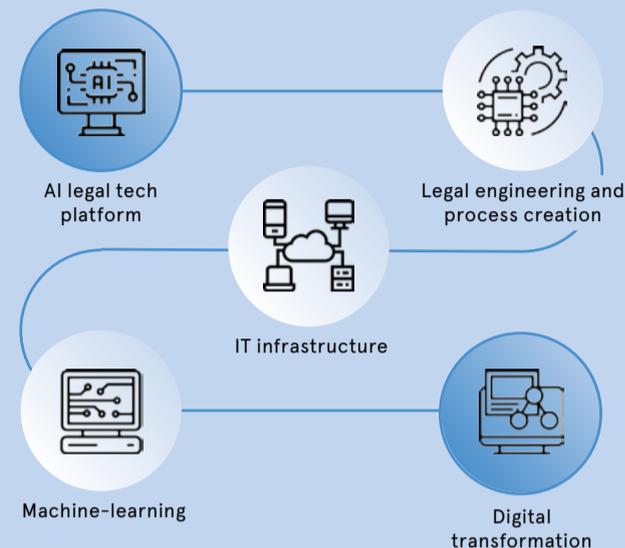
The game-changer for our success has been the addition of E.V, our end-to-end AI contract analyst. E.V is powered by IBM Watson, developed by senior commercial lawyers, and rigorously tested, using thousands of contracts' worth of training. It can read, analyse and interpret legal language within contracts and provide the user with a near-instant summary of principal legal obligations.

AI technology automatically populates these obligations into the platform, saving lawyers hundreds of working hours in reviewing contracts and abstracting key legal information.

While our success has been overwhelmingly exciting, I am a firm believer that we have only scratched the surface within this market segment.

**Legal AI as-a-service: leading transformation for in-house counsel**

Blending market-leading AI technology with machine-learning, legal engineering and best-in-class cloud infrastructure to lead the full end-to-end tech-led legal transformation journey for corporations across the world



# Legal tech for in-house lawyers is coming of age

Accessing artificial intelligence in the legal sector is a no-brainer, says **Sarvarth Misra**, ContractPodAi founder and chief executive

The legal technology renaissance is here, finally. The legal sector is traditionally tagged as an archaic industry that is slow to accept and adopt change. However, a generational shift in legal leadership has led to a willingness to harness the potential of technology in general and artificial intelligence (AI) in particular. Stories of the use of legal tech, and AI specifically, among major law firms that are striving to provide their customer with true value-add experience

are well documented. Less known is the growing revolution among in-house legal departments of corporations to transform their legal function digitally using AI-powered technologies.

This is no truer than for contract management where those in general counsel positions are now taking decisive leadership roles in transforming this broader business function through the use of technology.

That terrain is vastly different from where we were even six years ago when I left a career as a practising commercial lawyer to start ContractPodAi. I established the organisation as an end-to-end contract management platform "designed by lawyers, for lawyers" with built-in out-of-the-box workflows and functionality to meet the scaling demands of in-house legal teams in relation to contract management.

At that stage, the general counsel with a corporate business was, at best, an influencer in the decision-making process for procuring any legal software. Fast forward to 2018 and general counsel members are now the clear decision-makers when it comes to purchasing legal technology.

Furthermore, they have specific budgets allotted for purchasing these software and new roles, such as legal

Technology providers will need to focus on ease of use, competitive pricing and quicker implementations to drive more holistic and faster digital transformation for in-house counsel.

**Key elements**

I am often asked whether digital transformation is simply about buying the right software for a particular organisation. There is no question that is a most certainly a starting point and time should be taken to determine the correct tech. But while thinking about implementation, general counsel need to consider four key elements of managing implementation from both a financial budgeting and resourcing perspective.

These are the best legal tech platform; IT infrastructure, including hosting whether on-site or in the cloud; legal engineering; and machine-learning support, in the case of AI-powered solutions.

We, at ContractPodAi, differentiate ourselves from most of our competition by providing all four of these elements as part of our legal AI as-a-service fee structure, thus saving in-house counsel time and money to procure all the four elements separately.

For more information please visit [www.contractpodai.com](http://www.contractpodai.com)



**Sarvarth Misra**  
Founder and chief executive  
ContractPodAi

**Sarvarth Misra's five-point guide to digital transformation**

**01 Incremental versus big-bang transformation**

While there are two schools of thought on how the transformation should happen, our experience shows that in-house legal teams that have implemented an incremental strategy towards digital transformation have been able to reap the benefits of success faster and more consistently. Change management is hard; culture change is even harder. A "land and expand" phased approach ensures lessons can be learnt and appropriate changes at each phase can be made before implementing a full-blown rollout across the firm.

**02 Out of the box versus customised solution on day one**

Once you have chosen your legal technology product, aim to implement the product out of the box rather than

drawing up wish lists of customisations before you start using the product to its full capacity. Not only can you start reaping the benefits of the product faster, but customisations are expensive, project delays and failure risks are commonplace, and you wouldn't know exactly what you need customised unless you have been able to use the product to its fullest extent.

**03 Identify internal product champions**

User adoption is the critical factor in digital transformation success. Our biggest triumphs have come when customers have appointed internal ContractPodAi champion roles, with the aim of them being the voice of the product and its benefits to other users within their business function. These champions become drivers for behavioural change and ensure user penetration and usage within their business function.

**04 Focus on business outcomes**

Don't get bogged down with the technicalities of features and use the product to achieve clearly drawn-out business outcomes. Eventually, use the technology as a strategic tool which will help you achieve the big-picture result you are after.

**05 Set realistic ROI benchmarks and outperform**

While setting benchmarks for return on investment (ROI) is always a good practice, there is sometimes a tendency to set overly ambitious benchmarks that are hard to meet. Think about what you should realistically expect to save and improve in the next six, twelve and twenty four months. Making the ROI incremental and realistic will deliver better results, keep the team motivated to continue on the path of excellence and support long-term success.

# Calling time on lawyers' billable hour

It has been blamed for blocking business development and for penalising efficiency, yet despite its drawbacks, the billable hour has managed to persist in the legal profession

GEORDIE CLARKE

Faced with spending cuts by clients, stiffer competition from upstart legal services providers, and the rise of automation and artificial intelligence (AI), law firms' traditional billing model may have had its time in the sun.

"Law firms are looking for different ways to charge for their services, especially in the corporate market where clients are just not accepting the old way of billing," says Dani McCormick, director of solutions at Lexis Nexis.

Billable hours have long been the bedrock of how the legal profession works out how much to charge clients for their services. Fee earners log the time they spend on client work each day, usually in six-minute increments, and this helps them to provide clients with accurate bills and keep track of annual billing targets.

While this model was effective in the past, critics say its rigid structure is incompatible with the current

market, where clients are more price conscious, and see more value in project-based pay and success fees.

Most legal work these days merits an alternative billing method, says Nick Pryor, regional innovation solutions director for Europe, the Middle East and Africa at Bryan Cave Leighton Paisner.

He says his firm frequently prices work according to the value of the solution provided to the client, rather than by the hour, adding: "Our lawyers' contribution is augmented by a diversity of other tools and skills, and so it rarely makes sense to price solely by reference to the lawyer's time investment."

Crucially, Mr Pryor says his firm's early adoption of data analytics played a crucial role in the way it bills clients. "This makes it easier and more reliable to predict the legal effort involved in resolving different matters, which in turn enables law firms to provide more price certainty to their clients and share the risks more effectively," he says.

Gerard Endedijk, partner at Rutgers & Posch, Globalaw, agrees.



**If predictive analytics and AI kill off the billable hour for good, they may also prove to be the saviour of a profession that has been under pressure to change for years**

"The traditional hourly-rate system is losing importance and alternatives, such as fixed fees, capped fees and success fees, are seen more frequently," he says. "Clients emphasise the value law firms create for business issues, more than the actual time lawyers spend on cases."

The rise of data analytics and AI mean much of the grunt work, which clocked up countless billable hours in the past, can now be achieved in a fraction of the time.

According to Luminance, the AI platform, the same document review task, which would take 15 hours for paralegals and junior lawyers to complete at a law firm, takes just ten minutes through its platform.

Yet Emily Foges, chief executive of Luminance, is quick to point out the platform is intended to enhance a law firm's capabilities rather than render staff redundant.

"If you save 50 per cent of your time on your review, I would hope you spend the remainder of your time on analysing the data and giving your client the best advice," she says. "I don't think AI can ever replace the lawyer. The technology is there to augment the firm; to supercharge the lawyer."

If predictive analytics and AI kill off the billable hour for good, they may also prove to be the saviour of a profession that has been under pressure to change for years.

Alex Purvis, client manager at automation platform Thoughtonomy, says

the legal sector has been much more proactive at adopting technology because they see the benefits both in terms of employee development and client retention.

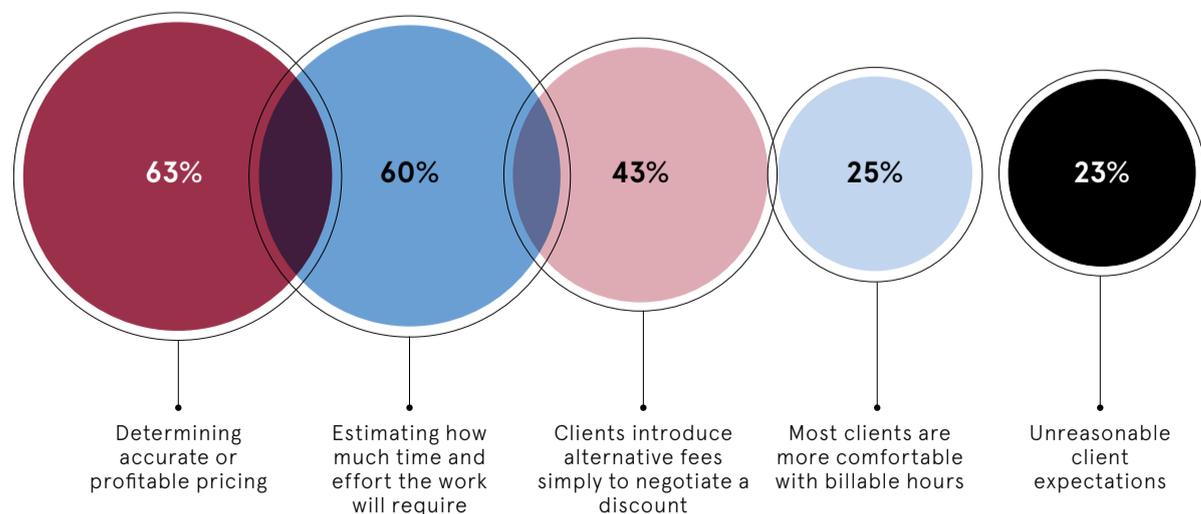
"Law firms don't really have a choice when it comes to adopting technology because the expectations of their clients is rapidly changing," says Ms Purvis. "They realise that some of these innovations, especially in the back office, will give you more time to be competitive and win more business."

More importantly, tech is likely to lead to commodification in the legal sector, where work that is easily automated moves away from the traditional firms towards alternative service providers, Mr Endedijk says.

Ben Stoneham, chief executive of process automation platform Autologyx, agrees. "We see the legal market becoming very transactional, especially for the more routine legal matters where there is little qualitative input," he concludes. ♦

## Barriers to alternative fee arrangements (AFAs)

Percentage of law firms that cited the following as a barrier to implementing AFAs



Insight

### Billable hour bites back

Increasingly the billable hour is giving way to fixed fees, capped fees, value-based pricing and success fees.

Many such alternatives aim to switch risk back on to the law firm and provide greater incentive to achieve results. Nevertheless, according to Nick Pryor at Bryan Cave Leighton Paisner: "There will probably always be some contexts in which legal work will be appropriately priced on a time-cost basis."

One area is litigation, where firms keep track of the hours spent working on a case, says Andy Ellis, managing director

at consultancy Practico.

"A main reason billable hours aren't dead in litigation is because there's an expectation you will recover costs, so you bill on an hourly basis," says Mr Ellis. "As a law firm, the only way to determine profit and loss is to keep track of the time spent on a case."

Arthur Shay, senior partner at Shay & Partners, Globalaw, says the efficiency gains from legal technology are having the reverse effect on billable hours. "Artificial intelligence is helping to increase the value of the billable hour, demonstrating to clients that law firms are effectively commanding the necessary modern skills to improve the quality and efficiency of their service," he says.

# Transforming legal services for a fast-moving digital future

Technology is changing the way we live, work and interact

We can book our holidays, do our banking and order our weekly shop online, and with a swipe on our smartphone we can hail a ride home and even find love: the so-called “democratisation” of services.

The pace of change is fast. Cars and trains can drive themselves, robots are doing the work of surgeons and, whisper it softly, machines are even entering the legal realm in ways previously thought impossible.

The smart use of cutting-edge technology has the potential to transform the delivery of legal services, but the traditional structure of law firms has so far made the pace of change within the sector slow.

The business model of most law firms lacks transparency and responsiveness, promotes inefficiency and costs too much, while the partnership structure has also meant firms lack the agility and enterprise that would encourage transformative investment.

Within corporations, while business service functions such as human resources, IT and finance have transformed in response to the highly competitive customer-driven climate, the legal function has been allowed to lag behind.

**\$1bn**

total business impact delivered

**30%+**

spend reduction through UnitedLex Enterprise Legal Services transformation

**25+**

globally integrated delivery centers

**25%**

of the Fortune 500 served by UnitedLex

But all that is changing. Cost pressures from corporate clients are forcing law firms to become more innovative and, having made all the savings they can with offshoring and nearshoring, some are now gradually turning to technology for the answer.

Similarly, corporates are casting their gaze on to their legal function and expecting it to shape up and get in step with the rest of the business.

UnitedLex, a US company little known in the UK until this summer, has been quietly seeking to drive that change on a scale unmatched by other players in the market and, with a recent injection of significant funds from private equity, has the capital as well as the vision to shake things up.

A global enterprise legal services provider, UnitedLex is reinventing the legal landscape, and long-standing law department and law firm business models, and seeking to pull the legal industry into the digital age.

Founded in 2006 with the mission to improve the performance of law firms and leading corporations, it combines management consultancy, legal expertise and powerful technology platforms to drive innovation, excellence, efficiency and cost effectiveness in the legal marketplace, to revolutionise the industry, providing better results for clients.

As founder and chief executive Dan Reed puts it: “UnitedLex is democratising the provision of legal services.”

It works with businesses in a holistic manner to assess their legal ecosystem and workflow, and provide the latest digital solutions to improve the speed and quality of service delivery and task allocation. This includes identifying which functions are best delivered by technology or by people.

UnitedLex addresses which functions should be performed in-house and which are better outsourced, thereby improving risk mitigation, efficiency, cost and overall performance, ensuring firms stay competitive in a rapidly changing market.

Results for organisations that work with UnitedLex speak for themselves. On average, the company delivers a 35 per cent increase in operational effectiveness, achieving cost-reductions worth tens of millions of dollars a year, as well as greater budget predictability, increased sales and improved efficiency.

For example, at the end of last year, UnitedLex agreed to a five-year deal with IT business DXC Technology, a Fortune 500 company, which was created in April 2017 following the merger of Computer Sciences Corporation and the enterprise services business of Hewlett Packard Enterprise.

This landmark deal to transform the newly combined legal department across 26 jurisdictions worldwide is believed to be the biggest-ever managed legal services contract.



After critically evaluating all aspects of the company’s global law function, UnitedLex rebuilt DXC’s law department from scratch, deploying cutting-edge contracting technology, which integrated with DXC’s customer relationship management tools and significantly accelerated the contract-generation and approvals process, as well as streamlined a full spectrum of compliance and litigation functions.

In addition, UnitedLex rebadged more than 175 DXC employees, which lowered overhead costs with no loss of productivity or institutional knowledge for DXC.

**UnitedLex is democratising the provision of legal services**

As a result, legal operating costs fell by 30 per cent, creating a more agile, strategically aligned and cost-efficient department. The merger effectively doubled the new legal department’s workload and the UnitedLex team absorbed this increase, handling more than 60,000 contracts a year compared with 30,000 prior to the merger. The radical reorganisation reduced internal contracting costs by more than 35 per cent in the first year and dramatically increased the speed to final contract. Faster contract review is giving DXC’s sales team a competitive advantage and new business wins have increased from 64 to 84 per cent.

Not content with revolutionising law departments, in June UnitedLex launched a strategic business platform

for private practice law firms called ULX Partners.

Working initially with entrepreneurial Am Law 200 law firm LeClairRyan, UnitedLex created a framework where a constellation of law firms could access new sources of capital, business management services, advanced tools and technologies, and other legal resources. Non-client-facing roles, such as HR, IT, finance, pricing, procurement and other functions, are dealt with using ULX Partners, reducing each firm’s overhead and the need to manage these functions.

Having started small – the company launched with two people in 2006 – UnitedLex has grown organically at a rate of 35 per cent year on year and now employs more than 2,700 attorneys, engineers and consultants across four continents, working for clients in 18 countries. Given the scale and global nature of its operations, UnitedLex’s closest competitors are probably the big four accountancy firms that have been making serious investments in the legal services space and related technology in recent years. However, the ambitions of these players will ultimately be limited by regulation prohibiting the sale of additional services to audit clients. UnitedLex has no such constraints.

In the last 18 months, the company signed contracts worth \$1.8 billion. It has UK revenue of £53 million and global revenues around \$275 million.

In September, UnitedLex received a boost that will help it make an even louder noise and have wider impact in the legal industry. Europe’s biggest private equity house, CVC Capital Partners, one-time owners of Formula 1, took a majority stake in the business, investing \$500 million in UnitedLex,



**Dan Reed**

Chief executive, UnitedLex

which is one of the biggest transactions with any legal services provider.

But it is not all about the money. UnitedLex has a bigger picture in mind and recognises the importance of training the next generation of lawyers. It has invested significant sums in its pioneering legal residency programme, which provides recent law school graduates with a two-year residency to increase their technology and wider business skills, and improve their employability. Over the last four years, UnitedLex has hired more than 350 graduates from the seven law schools that have taken part in its programme.

This integration of technology, legal services, business and education is the future of law – and it is already here.

For further information please visit [www.unitedlex.com](http://www.unitedlex.com)

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# Empowering the legal function through its data

Several corporate functions have been transformed in the last 15 years thanks to the march of technology. Now, following developments in the human resources, tax and finance departments, we see the beginning of an evolution of the in-house legal function, says **Cornelius Grossmann**, EY global law leader

Following the financial crisis of 2007-08, in-house legal departments started to grow significantly to handle an unprecedented surge of regulatory changes and investigations. While various industries have been affected, this was particularly prevalent in the financial sector.

In times when an organisation is at risk, legal budgets are under far less scrutiny compared with other business departments and board members do not want to be challenged by regulators for not providing their legal function with enough resources to keep the business fully compliant. Avoiding scandal or investigation has provided another good reason to support the legal function with further resources and increase its budget for third-party legal advice to help.

Sure enough, after such surge comes the period for budget restraints and challenges by the procurement functions. Not only outside legal providers, but also the in-house function were requested to “deliver more for less” when the fallout from the financial crisis became less severe. While regulatory change is ongoing and investigations in various industries remain

at a high level, legal functions are no longer different to other central functions in business in terms of mounting cost pressures.

As a consequence of these pressures, legal functions now strive for the right balance between outside spend, in-house staffing and technology. There is certainly no silver bullet to achieve a successful balance, but surprisingly only a few legal functions have turned their focus on their operating models and, most importantly, the power of their own in-house data.

As other industries and functions have experienced, we see the ongoing pressure for efficiency in the legal function as an opportunity to transform the operating model and significantly empower the general counsel. By maximising the use of data, it will transform the function from a cost centre to an aligned business-enabler unit.

As cost and regulatory pressures mount, in-house legal functions are recognising that merely keeping pace with changing demands and expectations is no longer sufficient. Indeed, there is a growing need to consider new operating models to align with strategic and growth objectives of



**Cornelius Grossmann**  
Global law leader, EY

“Technology will empower the legal function and make it a major strategic player

the organisation, and legal functions are analysing how technology, process and people can help facilitate their transformation journey and drive innovation. Moreover, a common legal function platform will deliver transparency regarding work allocation and workflows.

To be successful, digital transformation in the legal function should be more than a cost-saving exercise. The transparency achieved through the process is the fuel that is driving this revolution. By establishing a common platform that captures critical business information, it will create one robust repository for templates, precedents and knowledge-sharing across the organisation.

Further, it will allow possibly automated triage to help decide what work should be done through self-serve, in-house, an outside panel law firm or an alternative services provider. It will also enhance document automation and enable artificial intelligence-powered applications to improve document drafting and processes continually.

The crucial point is the whole concept of the legal function is evolving, from a cost centre into a business-enabler unit. Those in the legal function no longer view themselves as supporting actors or a “tagged-on” department. The legal function’s position will change; it will become an integral part of the business as an effective business enabler, and by analysing the information in its own expanding data lake it should offer great insights.

For instance, if you are a big manufacturer or retail company and the data of every sales agreement is captured on the legal function platform, analytics will tell how long it usually takes from the first draft of a contract to the signing. Therefore, armed with the right data and analytical tools, the legal function can start predicting when sales will close and, by collaborating with the sales function, informed

decisions can be made to create better business outcomes. Increasingly, general counsel will become a most reliable source of sales forecasts.

Additionally, greater analytics of data will engineer further efficiency improvements across the organisation and taking on board feedback is essential. The information that the legal function gathers can help understand and support the painpoints and speed up processes.

Technology will empower the legal function and make it a major strategic player and right now we are at the very start of this new curve. There is so much more transformation in the legal market to come, as more corporations start to update their operating models, realising the value of the legal function to the business.

Looking beyond point solutions, the necessary transformation of the operating model should be viewed as a golden opportunity to drive transparency and efficiency, integrate the legal function into the business and make use of the data it captures. With technology and data analytics improving, there has never been a better time to empower the legal function.

For more information please visit [ey.com](http://ey.com)

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The views reflected in this article are the views of the author and do not necessarily reflect the views of the global EY organisation or its member firms.

# Entertaining the possibility of injustice

Trial by TV is criticised by some, but others insist it has the potential to overturn miscarriages of justice that would otherwise go unchallenged

DAN THOMAS

True crime has become a hugely popular entertainment genre over the last few years thanks to hit documentary series and podcasts such as *Serial*, Netflix's *Making a Murderer* and more recently *The Teacher's Pet* in Australia.

The best-known shows revisit unsolved or contested murder cases and challenge potentially wrongful convictions, leaving audiences outraged at apparent injustices and desperate to know what actually happened.

But while proponents say the shows hold the justice system to account, they have infuriated some legal professionals who worry they are sensationalist and simplistic, omitting key information that gets in the way of the story.

Perhaps the best known is *Making a Murderer*, which follows the story of Steven Avery and his nephew Brendan Dassey from Wisconsin, in the United States, who were convicted in 2007 of the murder of Teresa Halbach on Avery's property.

Filmed over 13 years, the series explores allegations that Manitowoc County Police set Avery up to discredit him as he brought a \$36-million civil case against them for a previous wrongful conviction.

It also delves into allegations of evidence tampering and prosecutorial misconduct during the Halbach trial, and prompted hundreds of thousands of people to sign a petition to the White House calling for Avery and Dassey's release in 2015. The men remain imprisoned after several unsuccessful appeal attempts.

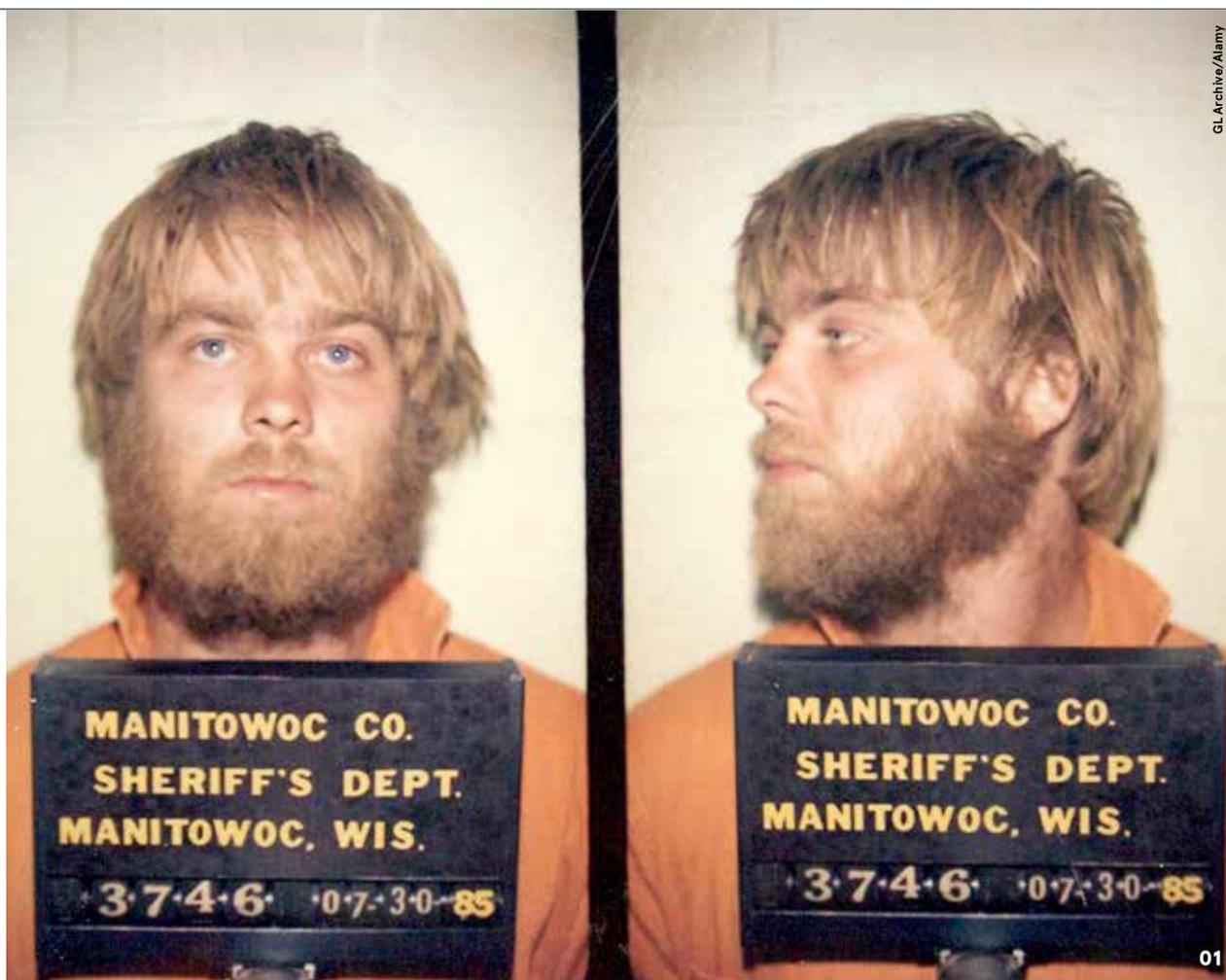
So inspired by show was Shima Baughman, a law professor at the University of Utah, that she set up a class based on *Making a Murderer* last year to teach students about the US criminal justice system. Classes cover issues such as ethics, DNA and juvenile rights, and it uses transcripts from the trial as source material.

She says *Making a Murderer* demonstrates "the uncertainty and reality" of the criminal justice system. "It is expensive, unclear, sometimes biased and often unfair for the poor. *Making a Murderer* has also helped people realise that judges are not always right, nor are lawyers," she says.

None of this gets away from the fact the show was heavily criticised by Ms Halbach's family, who called it "one sided", while prosecutors said it left out key information such as Mr Avery having called the victim's mobile phone three times on the day she died. But Professor Baughman says some oversimplification was inevitable in a series that boiled down nineteen days of trial testimony into ten hours of television.

"Having read thousands of additional pages of briefs and testimony in the Avery case, along with watching the show, I think the show has actually accurately captured the key disagreements between the two sides," she says.

Some true crime shows have impacted the criminal justice system directly by raising awareness about



GL Archive/Alamy

01



Karl Merton Ferron/Baltimore Sun/TNS via Getty Images

02

01 Steven Avery, the central character in Netflix's *Making a Murderer*

02 Adnan Syed, whose murder charge has been analysed in the podcast *Serial*, being escorted from a courthouse in 2016

wife of rugby league player and teacher Chris Dawson. It uncovers details about their marriage, the relationship between Chris Dawson and a 16-year-old schoolgirl, and flaws in the original police investigation.

Most damningly it highlights the unwillingness of Australia's Commonwealth Office of the Director of Public Prosecutions (CDPP) to pursue the case despite two coronial inquests concluding that Mrs Dawson was most likely to have been murdered by her husband. Mr Dawson has strongly denied killing his wife.

"Public prosecutors mess things up just like any other civil servant, but they are far less accountable," Mr Thomas says. He points to the fact the CDPP had considered prosecuting the case at least three times in the last 20 years, but never went ahead.

"In each of those cases they did an internal review of the evidence, but you can't access their reasoning or the detailed internal legal memos on why they decided not to run the case. If that was another publicly funded body, there would be much more transparency," he says.

Since *The Teacher's Pet* was aired, police have excavated the garden of the Dawsons' home, but no body was found. However, Mr Thomas says the CDPP is considering investigating once more and hopes they will finally lay charges.

As for the criticism of *The Teacher's Pet* – some have called it speculative and sensationalist – Mr Thomas is defiant. "I'm not going to pretend my podcast is going to contain absolutely all the evidence and details. But when I started it, there was no prospect of there ever being a prosecution. The family had given up. And if journalism can't perform a function to help them get justice, then what is it there for?" ♦

overlooked cases and helping prisoners secure retrials. Adnan Syed, the protagonist of *Serial*, was convicted in February 2000 of murdering his girlfriend Hae Min Lee and given a life sentence of more than 30 years. But after *Serial* became a hit – it has been downloaded more than 100 million times – Mr Syed was granted the right to have his case reheard. Two courts have since overturned his conviction although he remains in prison as prosecutors pursue a counter appeal.

However, Kevin Jon Heller, a professor of criminal law at SOAS University in London, does not believe true crime shows impact the wider criminal justice system. "I think the US criminal justice system is incapable of reform; lawmakers aren't taking cues from these shows."

Where they do have influence, he says, is on how ordinary people perceive the criminal justice system. He points to the "CSI effect", the theory that forensic science television dramas such as *CSI: Crime Scene Investigation* influence American jurors to believe in the "infallibility"

of DNA evidence and to expect more of it to convict defendants.

"To some extent that is healthy given the majority of wrongful convictions are because of faulty witness testimonies. Then again, if juries could never convict on the basis of witness testimony alone, many guilty people would get off scot free," he says.

Australian investigative journalist Hedley Thomas does think true crime shows could have a wider impact, however. His series *The Teacher's Pet* investigates the 1982 disappearance of Lyn Dawson, the

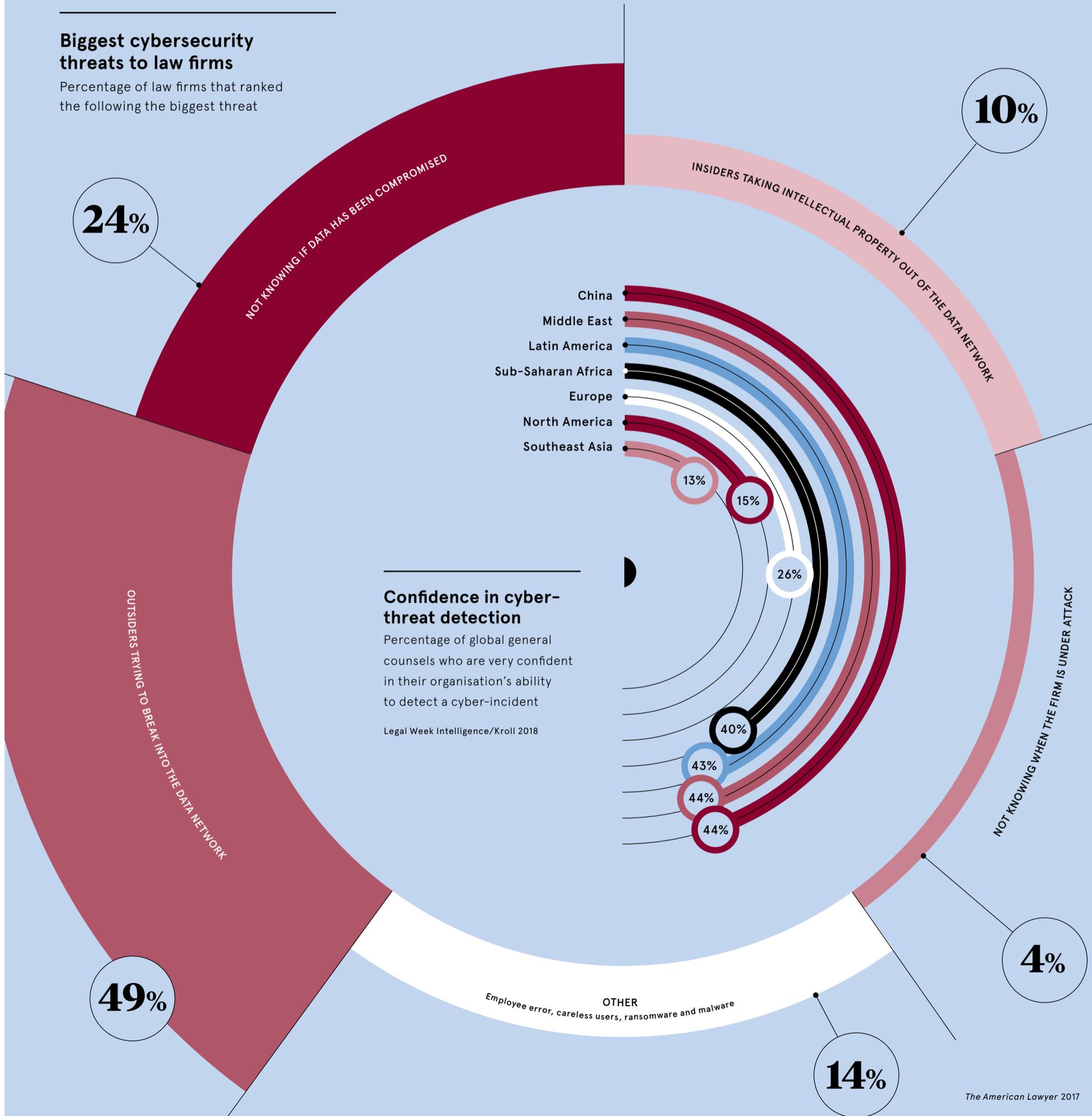
**Some true crime shows have impacted the criminal justice system directly by raising awareness about overlooked cases and helping prisoners secure retrials**

# CYBER-SECURE LAW

From phishing and social engineering to malware and the theft of client information, increasing cyber-risks to law firms mean security processes and protocols need to be top notch and kept up to scratch with the fast-evolving threat landscape

## Biggest cybersecurity threats to law firms

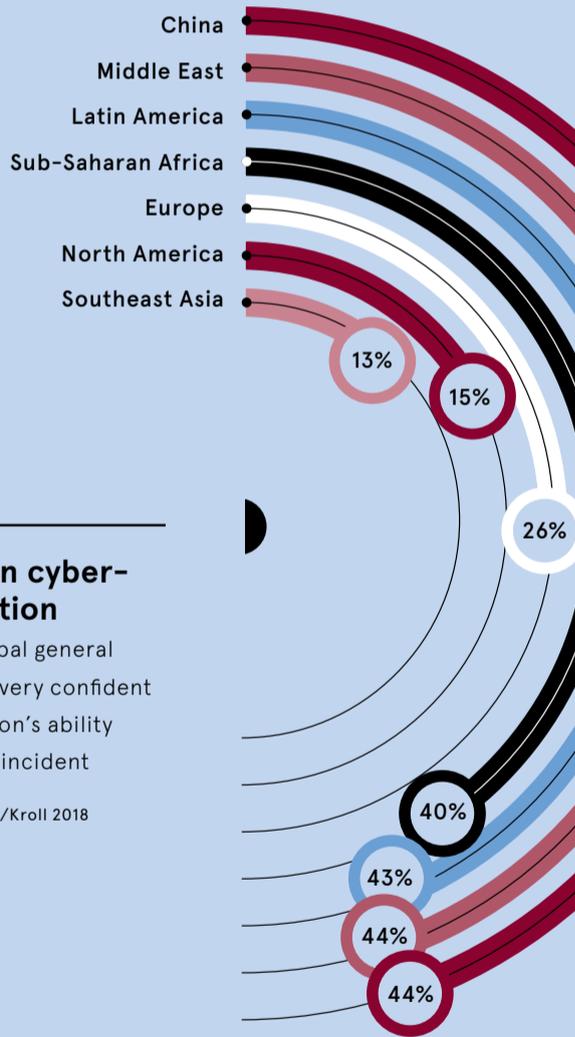
Percentage of law firms that ranked the following the biggest threat



## Confidence in cyber-threat detection

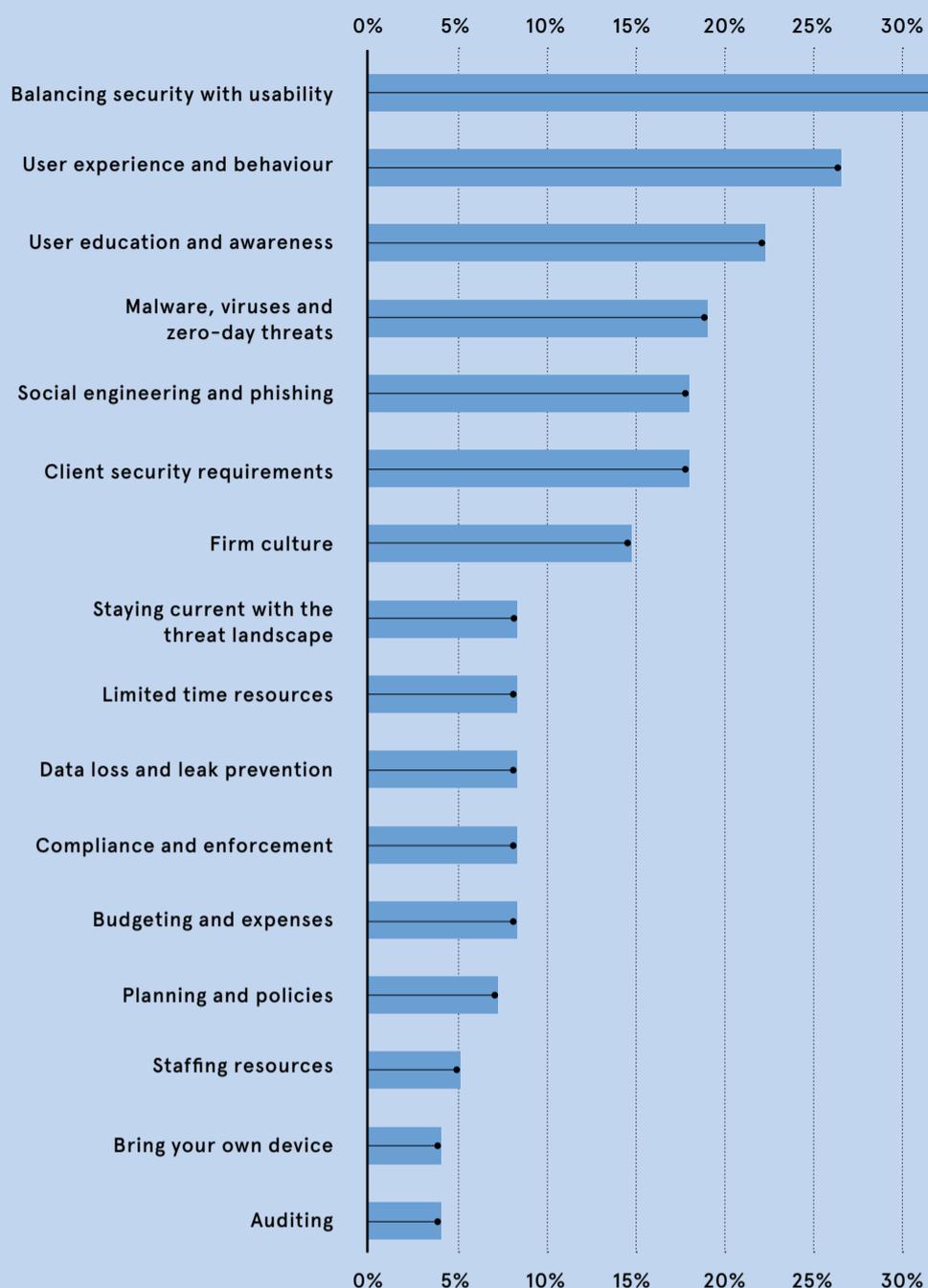
Percentage of global general counsels who are very confident in their organisation's ability to detect a cyber-incident

Legal Week Intelligence/Kroll 2018

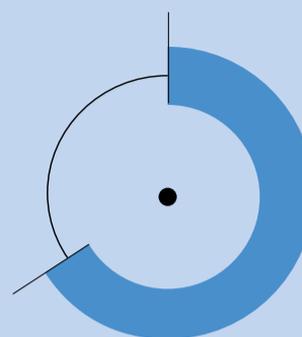


### Biggest security challenges for law firms

Percentage of law firms that find the following a challenge

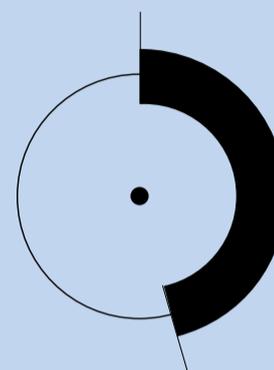


International Legal Technology Association 2017



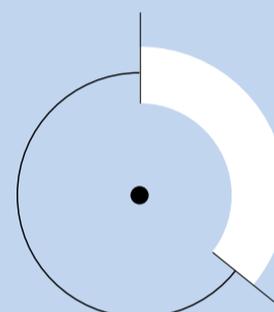
**66%**

of law firms\* do not have a proper security executive



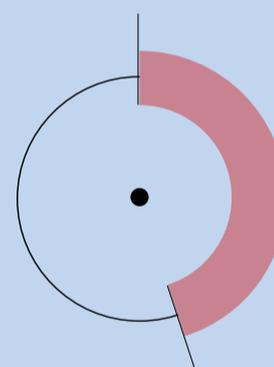
**46%**

had an information incident related to their own staff over the past year when there had been a loss or leakage of confidential



**36%**

do not have cybersecurity insurance



**45%**

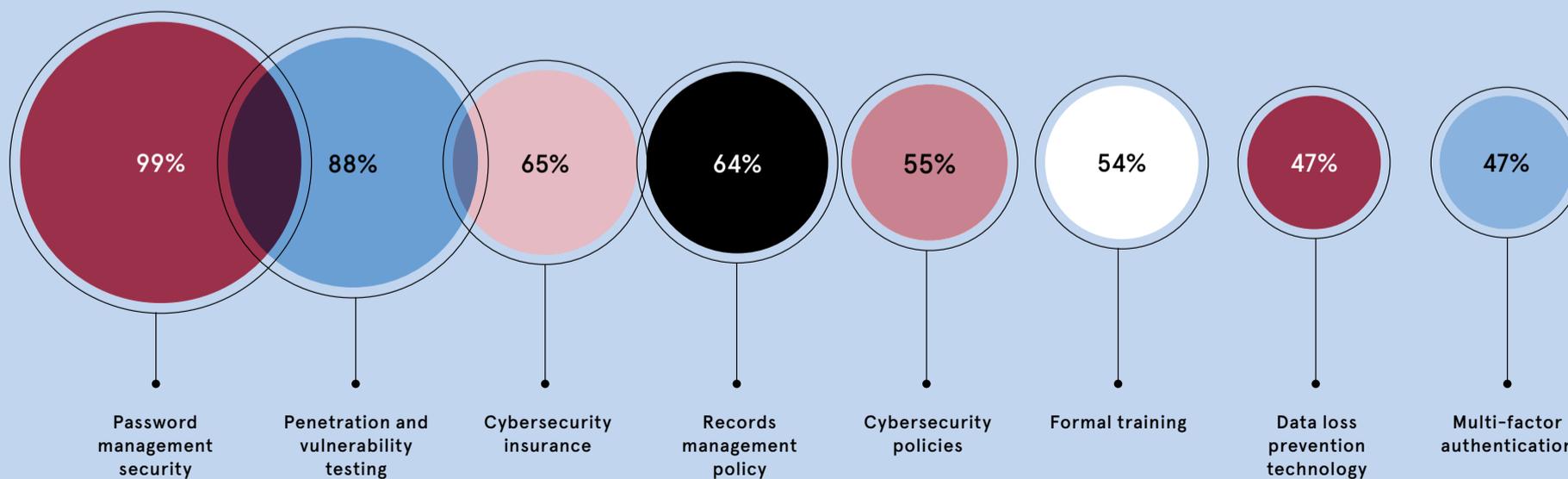
do not have formal cybersecurity policies

Logicforce 2018

### Cybersecurity methods at law firms

Percentage of law firms that have implemented the following

Logicforce 2018





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## LEGAL TECHNOLOGY HUBS



Singapore  
Academy of Law

# Worldwide growth in legal tech innovation

While America is widely regarded as the home of pioneering legal technology, innovative law firms, practitioners and startups are proliferating around the world

## OLIVER PICKUP

### SINGAPORE

**T**he forward-thinking island city-state, off the coast of southern Malaysia, boasts an impressive legal technology culture. The state-appointed Singapore Academy of Law (SAL) launched its LawNet database as long ago as 1990, Singapore's Supreme Court went paperless in 2014 and last year SAL launched its Legal Technology Vision roadmap.

“Singapore has become a leader in cutting-edge legal tech in the past year, particularly since the SAL launched its Future Law Innovation programme in an effort to position the country as a trailblazer in the industry,” says Zoe Morris, chief operating officer at Frank Recruitment Group, which opened its Singapore office in 2010.

“Earlier this year, Singapore's government took a huge step towards positioning the nation as the Asian hub for legal tech when it launched the LegalTech accelerator, with an aim to coach startups, and nurture emerging business models and services in the habitually traditionalist legal industry.

“Though its domestic legal sector is relatively small, a move to shoulder the tech aspects of the industry isn't such a puzzle for a country that's been called Asia's Silicon Valley.”

**“Earlier this year, Singapore's government took a huge step towards positioning the nation as the Asian hub for legal tech**

Indeed, strong government commitment to innovation has enabled Singapore to thrive as a legal tech hub; a recent World Economic Forum report suggests the city-state offers one of the best pro-business environments in the world. But it is the collaborative attitude that makes it flourish, according to Emily Foges, chief executive of Luminace, an artificial intelligence (AI) legal platform, whose clients include three of the big four Singaporean law firms.

“The close links between the academic and business communities sets Singapore apart,” says Ms Foges, who in October was one of a select group of business leaders to join the Department for International Trade's technology trade mission to Singapore.

“Businesses are quite literally building bridges with local universities to ensure a strong connection is nurtured from the outset. By physically reducing the distance between academia and industry, Singapore is successfully speeding up research and development insights into practical applications in business.”

Ms Foges points out that Singapore's four official languages act as a driver for innovation. “Language-agnostic tech holds huge potential to boost efficiency,” she says. “For example, AI now allows lawyers to rapidly review large volumes of documents and digital material, in multiple languages and dialects, meaning huge time and cost-savings.”

It's clear that legal tech innovation is abundant in Singapore. For instance, Maxwell Chambers' arbitration centre utilises Opus 2 litigation technologies. Also, chatbots on LawGuideSingapore's Facebook page provide users with legal advice.

**MADRID**

The Spanish capital is a leading legal tech hub in Europe because of a number of factors, not least the global approach adopted by the city's leaders. Madrid's IE Law School offers a course in legal technology and startups, and has established a competition, partnering with universities around the world, to seek out the best new legal tech organisations.

"The Global Legaltech Venture Days competition, launched earlier this year, fields pitches from legal tech startups that aim to use tech to solve major issues within the sector," explains Zoe Morris, Frank Recruitment Group's chief operating officer. "It is fantastic that the competition backs emerging legal tech companies. The winner receives support to bolster their operations and promote access to justice."

"Madrid is also the base for some of the legal tech sector's most proactive companies when it comes to tech innovation; law firm Garrigues, for example, runs an in-house think tank which seeks to devise and create new legal technologies."

In addition, Garrigues has pioneered a search indexing and speech-to-conversation tool, called Proces@, and other organisations in Madrid are displaying

a progressive attitude. Instituto de Innovación Legal, for example, offers consulting and training for legal tech and law firms.

There are numerous other examples of innovations in the Spanish capital's legal tech space, but this should be no surprise, says Daniel van Binsbergen, co-founder and chief executive of Lexoo, a lawyer marketplace, whose clients include Vodafone, eBay and Monzo.

"What makes it a natural home for the legal tech sector is the high density of lawyers," he says. "There are actually more practising lawyers in Madrid than in the whole of France and a greater density of lawyers than in any other major European city. What's particularly exciting for legal tech startups in Madrid is the access to central American developers and markets."

Mark Blunden, partner and head of UK-based law firm Boyes Turner's commercial and technology team, shares Mr van Binsbergen's excitement. "Madrid has been on the rise as a leading technology hub over the last few years," he says. "The technology hubs coming to the fore are typically aligned to rising world financial centres, with Madrid frequently mentioned as one to watch. The stats show that Madrid is well positioned to become one of the next hubs for greater technology innovation and legal innovators are best placed to follow suit."

**HONG KONG**

The legal tech scene in Hong Kong is striving to keep pace with change, and includes an impressive and rapidly mushrooming community of legal hackers. The region has a local chapter of the International Legal Hackers Summit, for example, and recently hosted both a two-day access-to-justice hackathon, organised by the Law Society of Hong Kong, and the Hong Kong Computational Law and Blockchain Festival.

Decoding Law and Zegal are two of the brightest legal tech organisations to emerge in recent years. The former has created an internet browser extension powered by machine-learning that simplifies legalese, while the latter provides useful legal document management and drafting tools.

"As Asia's leading market, and commonly referred to as Silicon Delta, it's no shock that Hong Kong has become a leader in legal tech innovation," says Mark Blunden from Boyes Turner.

"According to a report published in August, by the Hong Kong Trade Development Council, the Shenzhen-Hong Kong technology cluster has been ranked the world's second largest and is still growing. Earlier this year, Hong Kong financial secretary Paul Chan Mo-po set

aside HK\$50 billion (£4.9 billion) in funding to support greater innovation and technology development in Hong Kong."

D2 Legal Technology, a fintech and legal data consultancy with offices in London and New York, has recently opened a branch in Hong Kong "to be at the forefront of the legal tech and legal services innovation", says Akber Datto, the organisation's managing partner.

"The innovation, vibrancy and successful value creation by legal tech hubs depends on a large number of interrelated factors, such as technology vendors and enthusiasts, the proximity of buyers and beneficiaries of legal services, access to investors, regulatory initiatives to foster new approaches, especially in a conservative profession like the law, and local law schools and legal education," he says.

"The strength of the British legal system, and common law more generally, in industry verticals such as finance, has given an added advantage to hubs such as Singapore and Hong Kong.

"Hong Kong, on the doorstep of a vast technology hub in mainland China, has been a booming target for startups more generally and the legal industry has long seen it as a wonderful growth opportunity."

The potential for Hong Kong in this evolving sector is huge, as Mr Datto concludes: "Legal tech is viewed as a way of unlocking the potential of China's legal services market." ♦

# Cloud holds key to better engagement and security

As ageing and costly on-premise systems continue to hold back law firms, modernisation through secure, cloud-based software is crucial to driving better profitability and client satisfaction

While conditions for the legal sector remain buoyant, competition is growing and new approaches to client engagement have the potential to compound this. Most firms, particularly the larger ones, recognise the need to innovate to survive and thrive.

Client engagement is crucial to the success of any law firm, but both corporate and consumer customers are increasingly demanding the kind of seamless user experience they have become accustomed to from the likes of Amazon and social networks.

Modernising systems not only gives them the agility to innovate faster, but it also enables them to exploit the transformative capabilities of artificial intelligence (AI) and other emerging cloud services to serve their clients better as well as reduce costs.

YouGov research conducted by Microsoft and Goldsmiths, University of London discovered companies that have started to use AI are already outperforming others by 5 per cent. Organisations deploying the technology were found to be "more productive, have higher performance and experience better business outcomes".

However, a worrying number of law firms are hampered by aged systems and old-fashioned deployment methods. Many of the mainstream systems they still purchase were written decades ago and lack the flexibility needed to succeed in the digital age.

"They are no longer fit for purpose," says Tony Cox, chief sales officer at Peppermint Technology. "They're

poorly suited to cloud deployment and attract huge, but often hidden, costs to maintain. If you are still in this old world of on-premise solutions and out-of-date software, your firm will be increasingly excluded from accessing new services and open to the risk of rapidly rising support costs."

Worse still, many of these solutions are not sufficiently secure. Law firms that still deploy them are increasingly vulnerable to fast-growing security threats as fraudsters shift their focus to an ever-smaller pool of firms that are not securely in the cloud.

When using on-premise systems, keeping everything up to date in near real-time requires huge effort and costs. The ageing nature of this technology also means law firms are using systems that were designed when security was not the critical factor it is now.

"This leaves law firms exposed," says Mr Cox. "While perpetrators are interested in the law firms directly, they are also very interested in the client data within the firm. As others toughen their security by moving to the cloud, hackers will be chasing the fewer and fewer firms that remain on-premise. The big risk for law firms is reputational; that clients simply won't trust them with their data being held on-premise."

With all this in mind, secure cloud-based solutions that provide "one version of the truth" across all systems and data are of growing importance to law firms. They not only provide access to powerful automation technology that drive client engagement and keep pace with user expectations, but also underpin good governance, increase process efficiency and enable high-quality business development.

For high-value complex matters, direct personal relationships will remain the bedrock of successful law firms. However, for partners and fee earners to be able to maintain those relationships fully and profitably, everything else has to be done in a joined-up and efficient manner, releasing them to do the things that only they can do. For lower-value, high-volume transactional matters, automation and workflow is the key.

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**Tony Cox**  
Chief sales officer  
Peppermint Technology

platform is uniquely placed to address the needs of law firms today. "From the client's perspective, having a firm that runs securely in the cloud on an industry-standard platform that they recognise will deliver competitive advantages," says Mr Cox. "Peppermint customers can securely use the service from anywhere using any compatible device, including tablets and mobile phones. Our Peppermint Business Development solution allows firms to engage digitally with clients and service partners, and enables levels of customer experience and end-to-end process automation that simply cannot be accomplished with older technology."

For more information please visit [www.pepperminttechnology.co.uk](http://www.pepperminttechnology.co.uk)





## Conference Calls and Client Security



While law firms are increasing efforts to protect client data from cyberbreaches, a glaring hole remains when it comes to remote meetings

Typical lawyer hosts



7 conference calls per month

Mean call duration is



31 minutes

With an average of



5 participants

65% of lawyers still dial in to conference calls rather than using a more secure access method



Dial-in conference calls are an obvious security risk

85%  
of lawyers say



that they discuss or share confidential information on conference calls



of lawyers have been unsure if uninvited guests are on their dial-in calls

Source: Enterprise Conferencing - User Behaviour & Impact Report

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## 'A modern legal department might have nipped Europe's biggest scandal in the bud'

**D**anske Bank of Denmark announced last month that more than €200 billion in laundered, illegal money had passed through its Estonia branch's coffers. Amid allegations of massive money laundering, Russian interference in European economies and corporate impropriety, Danske Bank's chief executive resigned. The European Commission is now investigating.

But what makes the Danske case frustrating is that it was preventable, as an internal investigation revealed. Clearly, the Danske board's oversight fell short. We assert the board was missing a key ally: the general counsel (GC).

Danske rearranged its reporting lines in 2012. The GC ceased reporting directly to the chief executive; he reported to the chief financial officer who maintained a direct line to the chief executive. In 2014, in-house counsel sought additional investigation of whistleblower allegations, but two executives overruled them.

It's a case of stymied in-house counsel, unable to do their jobs. A modern legal department might have nipped Europe's biggest scandal in the bud.

Whereas the auditor and the audit committee hold watch regarding compliance, the role of the GC is evolving from a purely legal expert to the guardian of the conscience of the company, working proactively and applying a much broader vision and multidisciplinary approach.

Growing regulatory demands and challenging new technologies make GC input evermore important, necessitating their indispensable seat at the table and direct reporting to the chief executive, alongside the chief financial officer.

Case in point: US-based National Association of Corporate Directors (NACD) issued its *2017 Blue Ribbon*

*Commission Report on Culture as a Corporate Asset*. NACD recommended that boards pay greater attention to the role and positioning of the GC, suggesting that the GC's absence from executive management is a red flag that law, ethics and compliance are insufficiently prioritised. It's hardly a lone view. In Europe, GUBERNA, an academically based network of directors and companies, independently opined that smart corporate decision-makers insist upon having the view of legal.

Unfortunately, corporate leaders across Europe have been slow to evolve. Association of Corporate Counsel research found European GCs are not integrated into key business decisions and strategies. Globally, about 64 per cent of GCs report executives "almost always" include them on important strategic decisions; the European percentage dips to 58 per cent. Worldwide, GCs who report directly to the chief executive find other executives frequently seek their input, whereas in Europe it's only 52 per cent.

The implications are clear. The role and position of the European GC requires re-examination. While there is no one size fits all in governance, a direct reporting line to the chief executive and exposure at board level gives the GC the stature needed to impact corporate culture. Further, it is crucial to risk management and transparency that the board hear from the GC during strategic deliberations. This was thwarted in Danske as their GC lacked direct access to both the chief executive and the board.

We are entering the age of the chief legal officer. Smart chief executives and boards welcome the GC to join their decision-making table. In Europe, the stakes have never been higher.



**Liesbeth De Ridder**  
Secretary general  
GUBERNA



**Veta T. Richardson**  
President and chief executive  
Association of Corporate Counsel

TECH SPECIALISTS

NICOLA LAVER

Technological innovation has a notorious tendency to outpace the law. This means the in-house lawyer in the biggest tech companies must anticipate legislative and regulatory changes while performing their broad legal functions.

With the likes of Google, Uber and IBM dominating the technology innovation market, the in-house lawyer's role in the big tech companies is unique. Though they have the legal expertise, a sound understanding of the products being developed and how the business wants to exploit them, they can't do it all.

Suzanne Townley, solicitor at Pannone Corporate, says: "Those in general counsel roles often have a broad remit of responsibilities and don't have time to dig deep into the relevant law and all its implications."

Here's where external specialist technology lawyers step up to the vital role of supporting the in-house legal function at tech innovation companies. Emma Jelley, legal adviser at Fondia, headed up Google's legal affairs in the UK and Ireland for a decade until 2016. She firmly believes in-house lawyers will have a business leadership role and "not get into the weeds" if they have the resources to hire or outsource to get the technical legal work done.

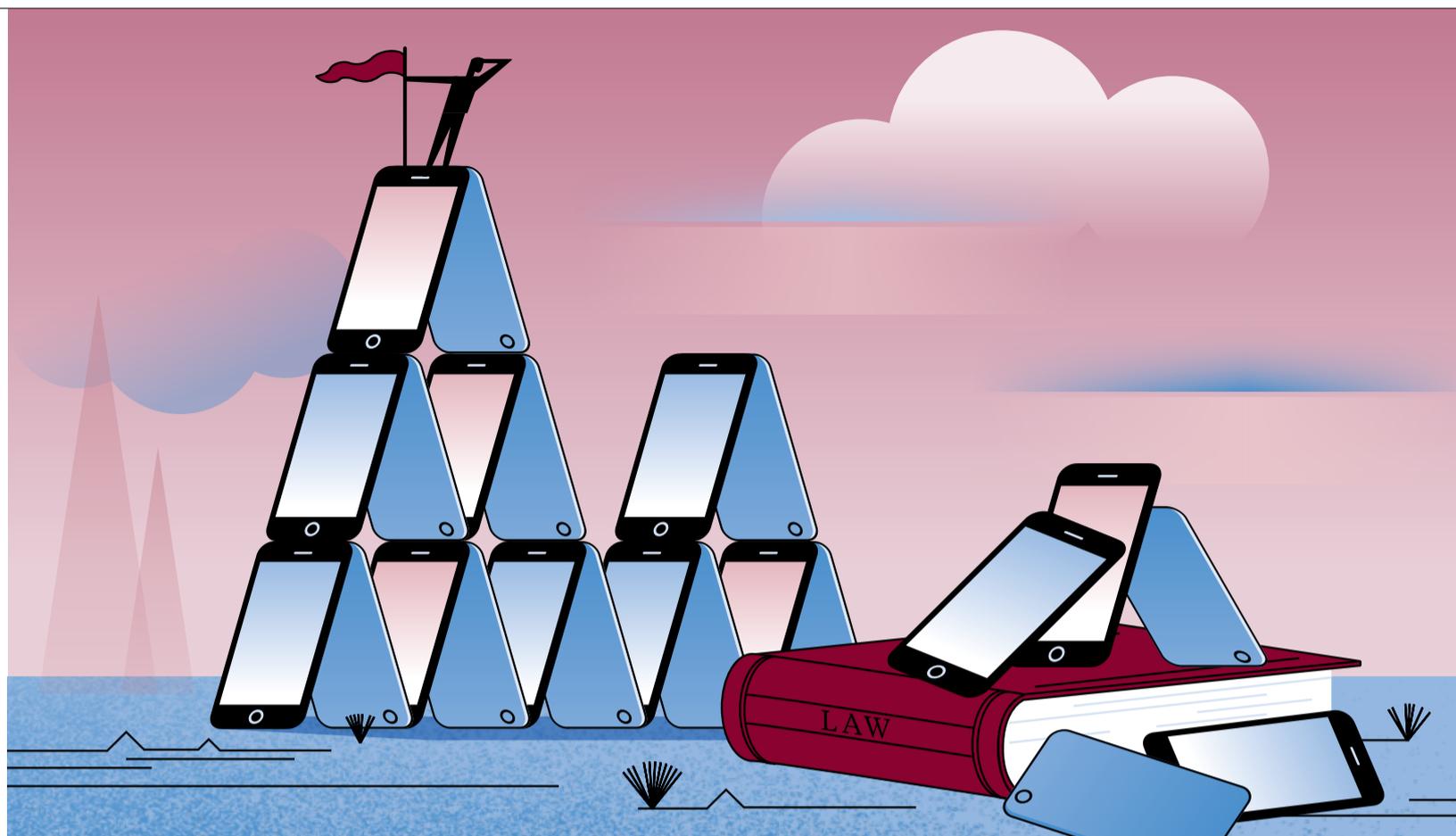
Alex Cravero, solicitor at Herbert Smith Freehills, says: "With regulatory change often necessitating technical development, it is a practical reality that lawyers must be involved from the outset of a project to ensure its compliance with matters legal, ethical and regulatory."

Ironically, legal practice itself is being disrupted by technological innovation, but there are practical solutions for tech lawyers supporting the tech innovators. Herbert Smith Freehills is hiring technologists and data scientists, and using cutting-edge IT tools, so it can best serve the needs of in-house lawyers, such as the Australian National Blockchain, which Mr Cravero is heavily plugging into in the UK.

Google uses the concept of a product counsel, who partners closely with a product manager from early in the product development process, to give a legal steer. Mrs Jelley explains: "Later, commercial counsel will be brought in for contract drafting. The teamwork between product and commercial counsel needs to be seamless and, depending on the product, the split may not be worth making at all."

Either way, she says a product launch is likely to be painless from a legal perspective, if the product manager trusts and respects the lawyer they are partnering with, and the same project management software is used.

A particular challenge is navigating legal and regulatory uncertainty around new tech innovations. "Lawyering the next 'big thing' requires a lawyer to be comfortable with uncertainty," says Mrs Jelley. "When lawyering a product



# Staying ahead of the curve and market

In-house technology lawyers have a pivotal role to play in the development and marketing of innovative tech products

development team through legal uncertainty, don't let that uncertainty paralyse you. Take what you know, based on the data you have, and form a risk-based recommendation for moving ahead."

Mr Cravero says anticipating such changes with the maximum possible lead time is vitally important for mitigating risk and identifying business opportunities. But how? "Horizon scanning," he explains. "Implementing systematic processes for gathering, analysing and

disseminating information relating to possible legal, regulatory and technological developments helps lawyers identify emerging issues and support organisational decision-making."

He says tech lawyers in private practice are particularly well placed to support in-house counsel with balancing the pressures of business demands around technological innovation with risk and compliance. Fortunately, businesses usually have some notice

of impending legal and regulatory changes, though Mrs Townley warns businesses not to bury their heads in the sand.

Supporting the development of new tech innovations can also trigger ethical considerations depending on the technology, use-case and industry. Mr Cravero cites artificial intelligence (AI) as a good example: "Companies developing AI need to consider their products in the context of ethical issues around employment and equality arising from AI's near-boundless landscape."

Lawyers must ensure their organisation's ambitions don't overstep fundamental ethical, legal and regulatory boundaries, a particular challenge in the context of data. He says lawyers in companies operating blockchain platforms, for instance, must balance the benefits of immutability against legally enshrined data privacy rights, such as the right to be forgotten or the right to rectification.

There's also the need for humanity. As Mrs Jelley says: "Lawyers can and should bravely bring their whole humanity to a decision-making table. If you evaluate that something is legal, but it makes you react badly as a human being, say so honestly and thrash it

out with your colleagues openly. It may be that the product is best limited to a sandbox or beta phase for testing, until such time as society is ready for it."

The early involvement of tech lawyers in the development process is vital. While historically clients tended to come to them with a finished product, sometimes leading to wasted expenditure if further development was needed, or amendments to meet legal requirements, Mrs Townley says: "Clients are involving us earlier, enabling them to design the product or service from the outset with data protection and privacy considerations in mind, and to meet the requirements of the General Data Protection Regulation."

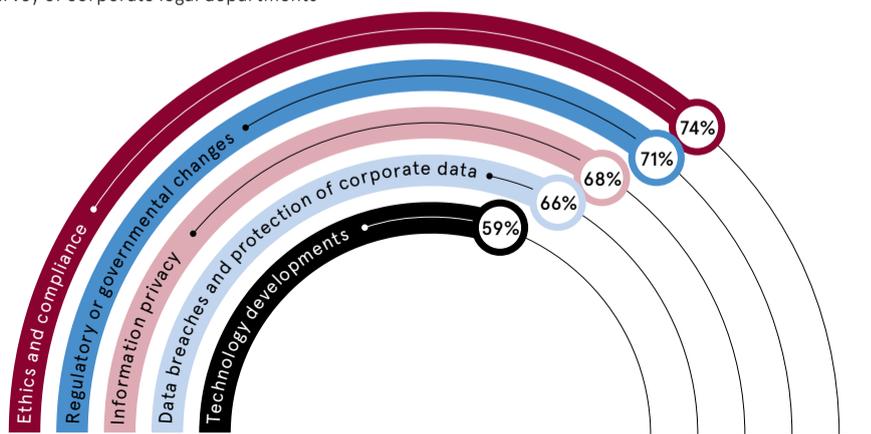
**Lawyering the next 'big thing' requires a lawyer to be comfortable with uncertainty**

However, she warns that within the business, seeking support or approval from "legal" may be viewed as a hurdle to be overcome, rather than an important part of the development process. There is a balance to be struck. Mrs Jelley points out: "The legal input does have to be positive, creative and enabling."

What's clear is that the advice of external tech lawyers, who are practical, business-minded, able to cope with legal uncertainty and engender the respect of innovative product developers, will be sought out by the big tech firms. ♦

## Top issues keeping chief legal officers awake at night

Survey of corporate legal departments



Association of Corporate Counsel 2017

# Tech can open up justice to the public

Technology has the potential to democratise the law, opening up judgments and representation to the under-represented

MAGDA IBRAHIM

If we are to keep our democracy, there must be one commandment: thou shalt not ration justice.

Yet some 2,500 years after Sophocles made his proclamation on legal equality, access to justice is still one of the most frequently raised concerns directed to the European Parliament, while on average only 54 per cent of people worldwide feel confident of a fair outcome to a legal problem.

Technology could play a pivotal role in changing that as jurisdictions across the globe are grappling with improving digital access to theoretically public court judgments, while chatbots provide signposting for everyday legal issues and civil tribunals are becoming available online.

"The principle that tech can play a large role in getting access to justice to more people is clear," says Lord Peter Goldsmith, chair of the Access to Justice Foundation.

Easy, free access to public legal information is a key concern for Daniel Hoadley, research and development manager at the Incorporated Council of Law Reporting.

"A significant number of [public] judgments are only accessible to paying subscribers, effectively creating a scenario where comprehensive access to the decisions of judges depends on the ability to pay for it," he points out.

In the United States, a Harvard team has been tackling the problem and last month launched its Caselaw Access Project in partnership with Ravel Law, the culmination of five years of work to digitise 40 million pages of court decisions.

Adam Ziegler, director of the project, aims to encourage individual state jurisdictions to move to digital-first publishing of case law and believes it "can definitely be replicated".

"It is expensive, but given the impact, it should not be prohibitive," he says.



"A core part of access to justice is public access to the law itself, but it is also important that lawyers can access the law efficiently, so price does not become a barrier to lawyers serving the underprivileged and under-resourced in society."

In the European Union, the Eur-Lex legal data platform's freely available statutes and case law from EU institutions are now available in a mobile-friendly format, after revisions to the service in September.

Meanwhile, the £1-billion digital reform process being undertaken by the UK's HM Courts and Tribunals Service will be in the spotlight alongside other international programmes during the inaugural International Forum on Online Courts next week, discussing the technological advances being made in justice systems globally.

"While tech is exciting, it's important to map and redesign the system properly," says Alex Smith, innovation manager at global law firm Reed Smith. "The people and process driving the justice system are probably more important in such sensitive areas as any technology."

Online courts are already a reality in Canada, where the province of British Columbia launched its Civil Resolution Tribunal (CRT) service in 2016 and has dealt with more than 8,000 disputes to date.

Currently dealing with small claims and strata property, or apartment buildings, the CRT's success is leading to its expansion and from April 2019 the tribunal will also tackle motor vehicle accident claims.

There are pros and cons, says Lord Goldsmith: "There is a risk that as tech is used more in wider delivery of justice,

there will be an increased justice gap for people who don't have that access or tech literacy."

A combination of technology and face-to-face help is a model supported by Lucy Scott-Moncrieff, adviser to the International Bar Association's Access to Justice and Legal Aid Committee.

Currently working on the pilot Jeanie Project, a triumvirate of civil society volunteers, a tech platform and *pro bono* lawyers, she believes information must be backed by specialist knowledge.

"Legal tech that gives people unjustified confidence is hardly helpful," says Ms Scott-Moncrieff. "Knowledge is power, but pure information isn't necessarily knowledge."

As mobile use expands, the role of the legal chatbot, such as DoNotPay, is gaining ground, though access

**A core part of access to justice is public access to the law itself, but it is also important that lawyers can access the law efficiently**

to justice expert Roger Smith questions the "hype" around the current "quite mechanical" processes.

This year saw the launch of the Global Legal Hackathon, with entrants competing to share their innovative tech projects.

Among winners was the Hong Kong-based Decoding Law project, a machine-learning browser plugin that has already gained the attention of the region's Department of Justice.

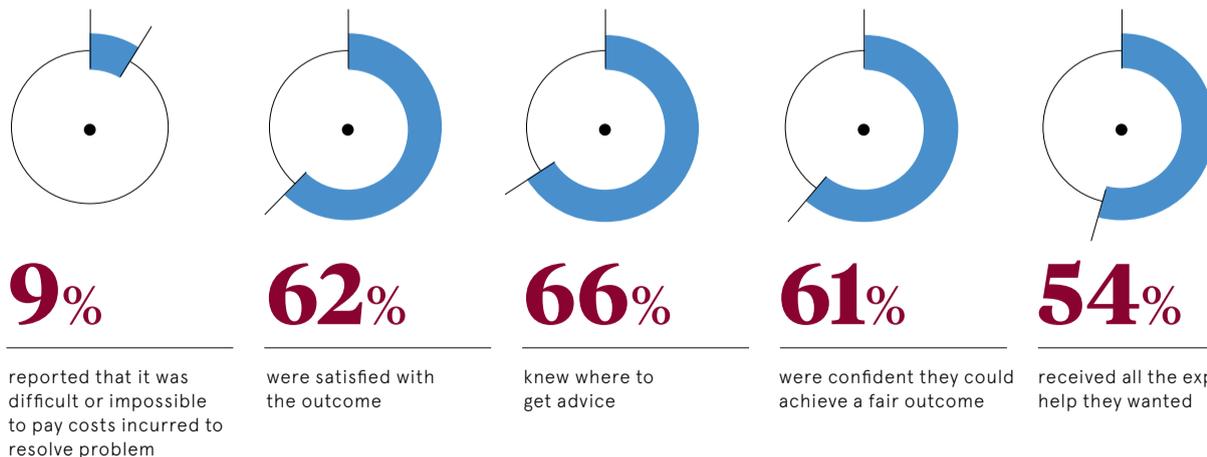
The chatbot-style programme aims to democratise law, say its creators, and help people, especially unrepresented litigants, by breaking down complex legislative drafting into simple language.

Mr Smith believes the chatbot model has the potential to grow in sophistication, using more advanced artificial intelligence and facial recognition to deliver a more tailored service.

Lord Goldsmith concludes: "We have to look carefully and intelligently, so tech meets the need, but doesn't exacerbate problems for those who are the most in need of these services." ♦

## UK justice system

Survey of people experiencing legal problems in the UK





CrowdJustice

A judicial review campaign by the Justice for Health group of junior doctors challenged the legality of a controversial new contract in the High Court

## Case study

**CrowdJustice**

When the UK's Supreme Court ruled that Parliament must have the final say on government plans to depart the European Union, the decision represented a landmark victory for ordinary citizens.

The judgment set a constitutional precedent to uphold parliamentary sovereignty, ruling by a majority that MPs and peers must give their approval before the government could trigger Article 50 and formally initiate Brexit.

What was unusual was the challenge had been brought by a group of concerned citizens, led by business owner Gina Miller and backed by interested parties including expat Grahame Pigney.

Leading the People's Challenge to the Government on Article 50 campaign, MR Pigney had successfully raised £170,550 through crowdfunding for legal services.

Using the platform CrowdJustice.com, the group was able to communicate directly with potential funders, providing regular updates and explanations of the case, and sharing details of the lawyers who would be paid for the work, ultimately gathering small amounts of money from almost 5,000 donors.

Mr Pigney's campaign is one of more than 600 cases which have so far adopted the model of crowdfunding for legal services through CrowdJustice.com, prompting donations from hundreds of thousands of people.

The model aims to break down the financial barriers to accessing justice, so people otherwise without the means to do so are able to exercise their rights and challenge legal decisions.

Other high-profile cases include the judicial review campaign by the Justice for Health group of junior doctors, who challenged the legality of a controversial new contract in the High Court.

Julia Salasky, who founded the CrowdJustice.com platform,

**Julia Salasky**

Founder of the CrowdJustice.com platform

says the majority of people who have a legal problem do not get legal advice because of a lack of funding and information, both of which "are problems that tech can help overcome".

"There can be a misperception that CrowdJustice is only for high-profile public interest litigation or indeed for litigation full stop," says Ms Salasky.

"In fact, people using the platform have ranged from an octogenarian challenging a local council's decision, to gig economy workers getting legal advice on employment, to local communities getting planning advice in relation to a new development.

"We're constantly educating lawyers about CrowdJustice's utility as a tool to enable more clients to access their services and, in so doing, to help a much wider range of people get legal redress."

Lucy Scott-Moncrieff, adviser to the International Bar Association's Access to Justice and Legal Aid Committee, agrees there is a role for crowdfunding for legal services, but is cautious of its ability to plug the gap left by stripping back legal aid.

"Crowdfunding is dependent on the goodwill of others, so there can be a differentiation between attractive and unattractive cases," she points out.

## Commercial feature



# Dealing with data requests

## Handling Data Subject Access Requests under European Union regulation has its pitfalls

Companies of all sizes have been dealing with Data Subject Access Requests (DSARs) since the introduction of the Data Protection Act in 1998. These allow an individual to request a copy of any personal data that an organisation holds on them, but since May the General Data Protection Regulation (GDPR) has made some significant changes, especially on how businesses must respond.

Before the new GDPR regime came into force, businesses had 40 days to comply with requests, which has now been reduced to one month, and companies can no longer charge a £10 fee for each DSAR. Most importantly, from a financial perspective, the fines for failure to comply with a request have increased substantially.

"If an organisation fails to comply with a DSAR, then they could be facing steep fines. The fines should be imposed on a case-by-case basis and take into consideration what each case involves,

but they must be 'effective, proportionate and dissuasive,'" explains Mark Anderson, senior project consultant at leading end-to-end eDiscovery company Complete Discovery Source (CDS).

Under GDPR, penalties can be as much as €20 million or 4 per cent of annual turnover, whichever is greater. In certain cases there can also be criminal liability and reputational damage for being named as one of the first companies to fall foul of the rules. Yet, according to Mr Anderson, not enough businesses know the ins and outs of DSARs until they actually receive one.

For example, firms should be able to allow DSAR requests electronically and have procedures in place to act on a request almost immediately. "As there is only a one-month turnaround, every day really counts. You don't want to be spending the first week of a request working out how to deal with it or understanding what one is," says Mr Anderson.

Organisations should be proactively preparing for receiving a DSAR, and get a clear sight and an in-depth knowledge of their systems. There should also be workflows in place that can quickly identify personal data and answer questions like "Is HR using a document management system that stores data?" and "Could employees have been texting each other personal information on business devices?"

Mr Anderson says: "It's quite surprising how many businesses don't know exactly where their emails are stored or what systems they use internally. So having a specific person such as a compliance officer or IT specialist within the organisation who can say 'we have this number of systems and this is where data is stored' is key."

Even for organisations with strong IT resources, it often proves difficult to

create a DSAR framework from scratch or reply to an unexpected request within the deadline. But companies such as CDS are able to support businesses through the DSAR process by employing advanced analytics to look at the textual content of all potential documents that may need to be disclosed and thereby reduce the amount of information that has to be reviewed.

"We start by working with clients to identify, collect and extract relevant personal data through a process called data-mapping. Once this data is extracted, we then process the data to make the required documents searchable and run a process called de-duplication, so we only provide one copy of each document. We then utilise analytical tools to reduce the document population by removing further duplicative data," says Mr Anderson.

**Organisations should be proactively preparing for receiving a DSAR and get a clear sight and an in-depth knowledge of their systems**

The risks of going it alone when dealing with a DSAR need to be considered. Not having the right tools in place to discover which documents need to be provided can lead to either an under-disclosing or over-disclosing of personal data.

"One of the complications with a DSAR is that you can't disclose another individual's personal data to the requester. By using our redaction tool kit, we allow a company to redact a user's personal information electronically, either manually or through automated tools. This helps to streamline the entire process to meet the tight timeframe," Mr Anderson concludes.

For more information please visit [cdslegal.com](http://cdslegal.com)



**Mark Anderson**  
Senior project consultant  
Complete Discovery Source

# Five steps to predicting a legal future

Developing a successful strategy for predictive analytics lies in knowing a balance between big data and people

DAVID COWAN



## 01

### Know your strategy

Creating and implementing any successful strategy demands a good grasp of various scenarios and a probable universe of outcomes. Predictive analytics (PA) informs users about what is likely to happen, using algorithms and machine-learning to interpret data to give the fullest picture of a situation and predict logical outcomes. This certainly makes it a useful tool for lawyers, though more useful in some areas than others. In litigation, for instance, PA is a powerful tool in case law research and ediscovery. Intrapexion uses deep-learning and PA to predict and prevent

potential litigation based on their patented software. An early-warning system, it analyses company emails to identify risk factors so, for example, it can flag emails containing text patterns indicating sexual harassment or discrimination. DISCO is another provider using PA to support ediscovery, with more than 200 AmLaw firms currently utilising their tool to automate tasks and conduct large-volume document review with the help of artificial intelligence (AI) software. PA can help provide robustness in a legal strategy. It can help lawyers assess the merits of a client's case and provide analysis for offering sound legal advice. However, even with PA, elements of potential bias remain, and a good strategy needs to excise such bias to avoid incompetence and error being built into the strategy. There is a danger in overstating big data's renowned objectivity due to these concerns, but also because human beings do not behave optimally. The data we choose or exclude, and how we interpret the data, influences outcomes.

## 02

### Know your data

Data-mining in law firms requires interrogating big data sets: docket data, legislation, case law, client contracts, property titles, to name a few. Bad data risks decisions and policy being based on simple correlations and averages thrown up by the data, hence lawyers need to interpret the meaning of such correlations and see underlying causal relationships in context. Facts, and thus data, may be stubborn things, but they can still remain elusive and undefined. PA can discover patterns, abnormalities and correlations in large amounts of data to help build a case, generate a legal strategy, understand opposing counsel strategies, assess suspects and predict case outcomes. Machine-learning tools can analyse data, while regression analytics can estimate impacts in relationships between variables, establishing causal relationships in different aspects of a case. Brainspace uses machine-learning and intuitive semantic technology to automate workflows and tackle discovery documents, and is integrated with other ediscovery platforms and management software. Docket Alarm has long helped lawyers by replacing manual checks for updates on a case's docket. Their PA tool linked to a database of court filings enables users to track and analyse full court records, large volumes of cases and provide judicial profiles. Time-series modelling can collate data points in chronological intervals, enabling lawyers to predict future cycles or patterns. Graph analytics, or network analysis, aids identification of criminal patterns, fraud detection and other such research. In document handling, NoSQL search technology can help find the relevant document in a timely fashion.



### Know your people

PA can help law firms decide optimal composition of teams and ensure all needs are covered by relevant expertise, including deciding on what outside counsel, consulting, strategic partnership or individuals best fits the client's needs. Using PA in the hiring process helps match the right candidates to the firm as well as selecting individuals both for ad hoc projects and long-term relationships. The emergence of gig lawyers will expedite new ways of building teams. Who can best

## 03

represent a client is as important as detecting trends and highlighting patterns in the data. Unique and proprietary data can be leveraged, such as case notes, records, legal strategies, models, resources and expert profiles to create an effective team with the right data collated to tackle the workload. PA, like other legal technology, can take over many legal tasks and reduce the mundane but essential work involved in a case, which usually comes at a cost. For instance, Everlaw provides control over the end-product in discovery and sifts documents in readiness for lawyer review as a second step. Everlaw's Conduent Analytics Hub gives insight and real-time visibility across the range of legal and compliance matters, identifying risk that may become a future liability. Commoditisation of such areas of law opens the way to emphasise the people involved, bringing together the right legal talent to do the high-level work supported by PA to tackle the complexity and sheer volume of data that needs to be managed on behalf of a client.

# 04

## Know your research

Research is a thinking process, not simply data analysis, which puts technology and people into a dynamic relationship. Clean and enriched data underpins the technology and the people. PA supports quantitative research, making sense of big data and unwieldy data sets, which support qualitative data. PA uses statistics, algorithms and heuristics to predict outcomes. But the courts will take into account more than the rational as they also include human behaviour and emotion. In case management, lawyers often seek to second-guess the best time to file a case, which jurisdiction to use or what judge might be more sympathetic, but also to understand the human task of legal reasoning by judges. Ravel Law, part of LexisNexis, seeks to help lawyers to be data scientists through user-friendly data-mining that can uncover patterns in a range of outcomes. Ravel's Judge Analytics enables lawyers to find out whether a judge is sympathetic towards an argument by analysing past decisions. Lex

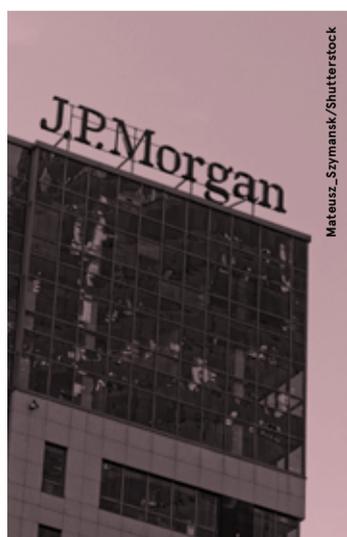
Machina also mines and analyses data from past lawsuits, revealing connections and making predictions about outcomes, assisting legal departments to select and manage outside counsel. One of its most popular products is ContraxSuite, which uses AI and human input to augment and integrate the user's experience in document research. However, this is to suggest a sense of optimality and artificial inevitability to legal reasoning that may not be present. Lawyers are well advised to see PA the way they use their sat-nav; it offers powerful support, but does not replace them.



## Know how to make it pay

Whatever we call it, we are seeing a commodisation, increased offshoring or "Amazon-ification" of the law business. Tools like AI are reducing costs by replacing mundane tasks, but not necessarily lawyers. Proofpoint tackles the data growth in the legal field and the bottlenecks experienced by firms, seeking to reduce the financial and time-costs associated with ediscovery, while keeping processes in the control of lawyers instead of third parties. PA is part of a shift away from the billable-hour model and traditional "pass-through" pricing, as firms seek to maintain profits and

reduce costs. Fast access to strategic insights into law-firm operations can generate significant time-savings for senior partners as they shift gears from non-billable administrative work to billable client work, thus increasing competitive advantage. What may be happening is an evolution of lawyers, raising them to new levels of service with the expensive labour-intensive tasks taken out of the equation. Certainly we will see more cases like JPMorgan Chase, which reduced some 360,000 billable hours at an average of \$200 an hour resulting in \$72 million of legal fees evaporating. Equally, there are opportunities for firms to use PA in identifying new business, being more effective in bringing new clients on board, leveraging data use within the firm, cross-selling and upselling existing clients, and reducing their own operational costs. Thus creating better metrics, enhancing partner profitability, matching lawyers to client need, using gig lawyers or other consultants and more creative fee structures can all be advanced by effective use of PA. ♦



# 05

## INNOVATIVE LEGALTECH TO INCREASE LITIGATION SUCCESS



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Using our proprietary technology, we provide fast and efficient dispute resolution that is revolutionising the legal services market for the benefit of all stakeholders.

Located in Cheshire's prestigious Alderley Park, the ME Group has rapidly grown from its inception in 2017 to become a market leader in its sector championing access to justice for consumers. Our mission is to improve the quality, and reduce the cost, of dispute resolution for all parties through the use of LegalTech.



- 
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 Our dedicated R&D team are continually assessing new legal developments to enable our clients to seek redress across a wide range of financial and negligence matters using our legal technology.
- 
**ORIGINATION**  
 We utilise the most up-to-date digital channels to engage clients using our proprietary technology.
- 
**QUANTIFICATION**  
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