

THE LEGAL TECHNOLOGIST

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FEATURES

ARTICLE

Cloud Considerations

Thread.Legal gives some insight into what lawyers will need to consider when using and buying cloud computing applications.

CAREER STORY

From Lawyer to Legal Tech

Samuel Moore from Burness Paull LLP details his career journey from Solicitor to legal innovator.



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Insight into the future of law

The Legal Technologist

**Practical legal technology
for junior lawyers**

Page 1

Lawyer of the future

Pages 5, 11

**From lawyer to legal
innovator**

Page 6

Telemedicine

Page 8

**Post-recession digital
connections**

Page 12

Embracing the cloud

Page 14

A note from the editor

Later than billed but the third issue of The Legal Technologist is now published. In this issue I'm pleased to say we have some good articles on a variety of legal tech related topics, from the implications of telemedicine to the considerations lawyers need to think about when adopting cloud technology. As well as a career story detailing Sam Moore's journey from lawyer to legal tech manager. We have something for everyone. A big thank you to everyone who contributed an article or quote to this issue.

We are always happy to receive feedback so we can make things better for future issues. So if you have ideas on how we can improve please do let me know.

Marc May

Practical Legal Technology for Junior Lawyers

The legal technology sector remains fragmented and difficult to comprehend for many people embarking on a career in law. Various start-ups compete in diverse areas, such as e-billing, e-discovery, e-signing, legal analytics, workflow management and novel trial prediction technology. Elsewhere, law firms are investing in client customised document automation and due diligence, among other things.

For inexperienced lawyers, this jargon can be confusing. To achieve the required expertise on any useful legal technology product can be even more troublesome. Paralegal opportunities often desire candidates with experience on applications such as *Relativity*, *Magnum* and *Nitro*. These descriptions appear more like *Gillette* marketing brainstorms than tangible opportunities to boost workplace productivity.

Nonetheless, the diverse range of legal technology should not discourage anyone from enhancing their skill on the frequently used platforms. Below are common contexts in which junior lawyers typically encounter legal technology.



e-Discovery

Discovery or disclosure during litigation is the process of revealing information pertinent to the dispute to your opposition. Previously trainees sorted through millions of physical documents to find relevant evidence. Nowadays emails, contracts, slideshows etc are all uploaded onto a single platform, for example *Relativity*, and a trainee is now able to find any document at a click of a button.

Relativity prevents each file format opening up in separate locations – imagine Outlook, Excel, PowerPoint and Word tabs everywhere! The platform also allows machine learning to use human responses to several thousand documents to establish patterns. From these patterns, Relativity's algorithm estimates with considerable accuracy the relevance of the remaining documents. This saves countless billable hours of disclosure and helps to reduce the client's costs.

Trainees can gain real insight into E-discovery and Technology Assisted Review by watching the DiscoveryBrief YouTube channel. For more practical experience they should also explore the Relativity website. Relativity's website offers hours of valuable free training, including video tutorials on how to use the product to perform complex analysis tasks.

[Click here for the DiscoveryBrief YouTube channel](#)

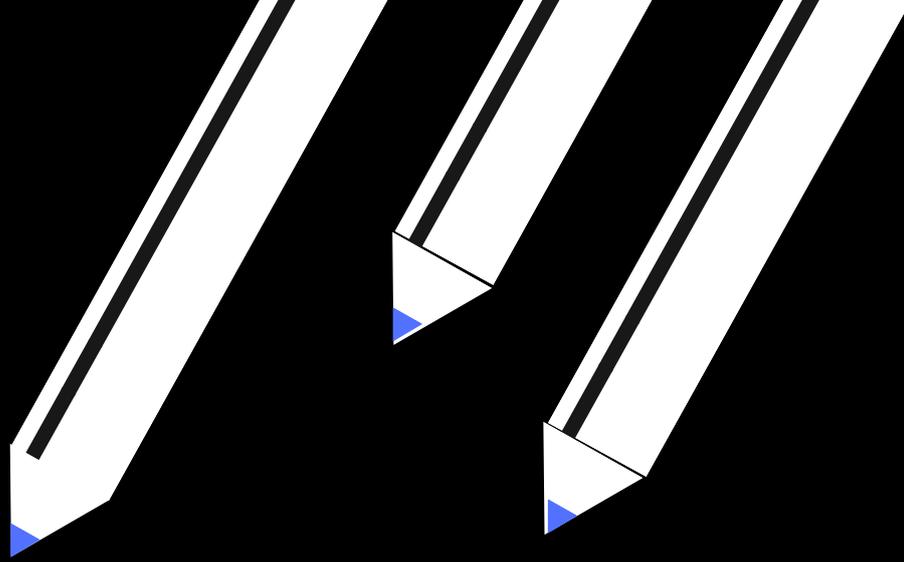
Case Management

When working on a litigation matter as a junior lawyer, you might be part of an international team. Your colleagues may want to annotate, edit and hyperlink useful witness statements, video testimony and deposition evidence. Additionally, to avoid multiple lawyers scrambling through cumbersome paper bundles, usually the case management requires a simplified online workflow. Your team will want the evidence that assists their objections easily available and searchable. Furthermore, cases habitually need to be accessed by worldwide partners and external counsel.

To assist in these tasks many firms use *Magnum*. Magnum is a cloud-based document management and electronic bundling tool. The platform is a centralised workspace that can also contain courtroom transcripts and video. It allows teams to work digitally and respond to one another in real time throughout the trial.

For greater insight into the changes Magnum has brought to trials, please listen to 'The Evolution of the Digital Courtroom' by Legal Talk Network. The podcast extensively discusses the development of Magnum and the platform's prominent role in litigation.

[Click here for 'The Evolution of the Digital Courtroom'](#)



e-Signing

Signatures are required to make most deals official. With contracts increasingly featuring signatories from multiple jurisdictions, physical signings have become more problematic. Likewise, the cumulative time that lawyers spend printing, signing and scanning documents, is not brilliant for their time = money equation. Consequently, many law firms now have a preferred e-signing partner. Nitro is one such partner. You can freely download and test Nitro out via its website.

E-signing is not particularly exhilarating. Yet, a mastery of the software involved in legal administration, allows you to perform the basic tasks easily. This enhances your productivity, creating more time for stimulating work.

[Click here to go to Nitro website.](#)

Conclusion

These are just three ways in which those embarking on a career in law can get ahead of curve and learn about the legal technology being used by firms today. There may be other applications out there that serve a similar purpose but at the very least understanding why those applications are being used will serve you well. Having an understanding of the above applications, and learning about them using the resources listed, will give you an edge when it comes to recruitment at the junior end.

by Matthew Dow (@matthewdow99)

LAWYER OF THE FUTURE #4

Every issue of The Legal Technologist will now include quotes from people who have an opinion on either the future lawyer or the future direction of the legal profession. These opinions will be from a broad section of society and not just those that are actively involved with legal technology. In this issue we are lucky to have two quotes from Rebecca Abercrombie and Alex Smith. These are designed to make you think first and foremost and consider how the profession may change in your lifetime.

"It's no secret that the worlds of law and technology struggle to co-exist. You occasionally find technologists who understand the law, or lawyers who are interested in the intricacies of software but more commonly you find lawyers and law firms who have a hard time accepting change. The future lawyer will be equally skilled in both disciplines. The automation of the legal process needs to be acknowledged as a tool to help streamline existing practices. Technology has the ability to allow the future lawyer to do what it does best – deal with the law. The legal industry needs to keep up and the only way it can do that is through innovation."

Rebecca Abercrombie
Trainee Solicitor
Stephenson Law

From Lawyer to Legal Innovator

Sam Moore, from top Scottish firm Burness Paul LLP, discusses his career journey



Some day soon, it may be common to encounter legal technologists, or legal engineers, or other legal innovators who have worked in such a role since day one of their professional careers. Today however, all of us are converts in one way or another. I'm no different in that respect, albeit my career path did start with legal technology, before taking a lengthy detour!

I initially studied Computer Science at Strathclyde University, starting out in 2001. At that time (but sadly no longer) the University offered a BSc Honours course in 'Computer Science with Law', which mixed some LLB classes with the core curriculum of a Computer Science degree. At that time the hot topics in technology law were issues like whether software is really a 'contract for goods' or a 'contract for service' (there was not yet any such thing as SaaS!), and whether something as crazy as mobile-only banking could ever get off the ground. 'Innovation' at that time meant giving your lawyers Blackberries, and maybe some basic implementation of Hot Docs.

After graduating, I studied the LLB as a graduate entrant (also at Strathclyde), then the Scottish Diploma in Legal Practice (equivalent to the LPC). I had decided that a career in law was for me, and whilst I hoped my computer science background might come in handy someday, there wasn't yet a clear place for that skillset. I completed my traineeship with Pinsent Masons, qualifying in 2009. As anyone who was in practice in 2009 can attest to, that was a bad year to be looking for your first qualified position! Opportunities were so thin on the ground that I decided to leave the profession, at least temporarily. I had greatly enjoyed a trainee seat in construction law, so I decided to look to the construction sector for my new career.

In spring of 2010 I went to work as a bid writer for GAP Group, the UK's largest independent construction equipment rental company. From there, I moved up to become the leader of their bids team, and then retrained as a project manager. In 2013/14 I was seconded to the Commonwealth Games, to manage the various supply contracts that GAP had won, including such enviable tasks as delivering and installing around 30km of crowd control barriers!

On secondment I met a former classmate from Strathclyde. He had managed to stay in private practice, and had himself been seconded to the Games as part of their legal team. After the Games were over, I decided that now was the time to come back to a career in legal services. It had been a slightly longer absence than expected, but there were certainly more opportunities in 2014 than there had been in 2009!

I applied for an NQ position at Scottish law firm Burness Paull, as part of their construction team. This was a good fit for me, having spent those preceding years in the construction industry. It was challenging to re-learn some of the legal skills which had become rusty since my traineeship, but with a supportive team and a well structured training plan I found it was manageable. I also found that having had professional training in project management was a real bonus, and today this is something I recommend to any trainee who will listen!

My eventual return to technology came in 2015, when Burness Paull created their first Legal Technologist position. I jumped at the chance to finally make use of my technical background, and so I switched from my conventional fee-earning role to the newly created position towards the end of that year.

Over time, my role has become just as interested in people and ways of working as it is about legal tech, and so in 2018 my role was re-worked and I became the firm's first Innovation Manager. In this current role, I have overall responsibility for implementing the firm's innovation agenda, and for scoping, running and assessing all legal technology projects.

In my day-to-day work I'm fortunate enough to use almost all of the skills and experiences I've picked up along the way; technical knowledge and skills as a computer scientist, project management skills to keep all my various projects moving along, fee earning experience to understand how my colleagues work, and commercial skills from my time in industry. The one career skill I haven't yet found a use for is my forklift truck licence – one day though, you never know!

My career path is certainly not what you'd call 'typical', but then again I don't think there is such a thing as a 'typical' legal technologist. Almost all of us come from some other earlier profession, and I think this melting pot of skills and experiences is part of what makes the legal technology scene so exciting today.

If you'd like to discuss any aspect of becoming a legal technologist, or want to hear more about my own experiences, please feel free to connect with me on LinkedIn.

Telemedicine

Legal considerations for the future clinical negligence lawyer

The healthcare sector in the UK has seen a boom in interest from tech companies in recent years, and telemedicine is one such area receiving a lot of attention. The clinical negligence lawyer of the future will need to take note as the sector adopts the latest technologies.

Introduction

Matt Hancock, the UK's Health Secretary, praised the app "*Babylon Health*" earlier this year. The app claims to monitor your health, check symptoms and lets you ask a question amongst many other features it advertises. Matt Hancock has been accused of acting unethically after praising GP at Hand, another app similar to Babylon Health and is classed as a full NHS GP Practice. He claims that "*GP at Hand helps to deliver a better service. I think that it helps patients and it can help clinicians*". Whilst these apps seem like an attractive option the key concern that arises is whether the law is able to keep up with such developments whilst balancing patient's right to confidentiality, regulation and professional standards of those doctors delivering it.

Medico-Legal Considerations

As with any doctor-patient relationship there is a privacy and confidentiality issue that arises more prominently with a telemedicine app. The General Medical Council, public body that maintains the official register of medical practitioners within the United Kingdom, states in their guidance that "*patients have the right to expect that you will not disclose any personal information which you learn during the course of your professional duties, unless the patients give permission*".

With such apps, there has to be sufficient IT protection as health records are much more personal and therefore of high value to third parties. Last year the British Government came under pressure after many NHS hospitals experienced a cyber-attack which not only jeopardised third parties accessing patient records but also leaving it vulnerable to deletion.

Challenges

In addition, consent may not always be appropriately sought in relation to who is at the receiving end of the transmission. There is also the issue of accessing patients' long term medical records and the quality of text-based relationships, tele-imaging and standardised emails may not prove as beneficial as a dialogue.

Malpractice Claims and Jurisdiction

To overcome the issue of jurisdiction and regulation Europe Economics, a company which provides economic analysis, has published the document "*Regulatory approaches to telemedicine*" which states that Care Quality Commission (CQC) is required to register telehealth providers under the regulated activity of '*transport services, triage and medical advice provided remotely*'. However, the CQC still does not provide specific requirements for doctors and neither do other national regulators provide specific telemedicine policies for healthcare providers.

To briefly recap; for a clinical negligence or malpractice claim the doctor should have offered a standard of knowledge and skill lower than that is expected of a doctor in the jurisdiction for which they are licenced or registered to practice medicine.

The challenges this arises with the context of telemedicine is that in theory a negligence claim could be brought to the jurisdiction of the doctor providing telemedicine, or in the jurisdiction where the intermediating company is located or in the jurisdiction of the patient.

However, it seems that regardless of the jurisdiction for which telemedicine operates for the general requirements stated by the GMC guidance is not that different to a Hospital Doctor. They are listed as follows:

- Using the Bolam test a doctors actions must be to the same standard of knowledge and skill to another individual skilled in that particular art.
- Having access to sufficient information
- Assessing the appropriateness of telemedicine
- Having an already established relationship

In addition there are also procedural requirements laid out in the guidance to be fulfilled by telemedicine services:

- Ensuring confidentiality, safety and/or security of the exchanged information
- Obtaining patients' consent
- Confirming patients' identity
- Maintaining medical records
- Technical and equipment requirements

If these requirements listed above are not met it seems highly likely that telemedicine service will be experiencing high volumes of negligence claims due to an error in scans/electronic images or the failure of technical equipment.

Conclusion

The benefits of telemedicine are undeniable for NHS healthcare providers under ever growing pressure. They will be able to treat their patients quicker and faster, thus potentially alleviating the pressure on beds in the UK. In remote areas of the world it can prove crucial for collaboration between various healthcare professionals from different locations, allowing them to communicate and share research fundamental in developing the practice of medicine itself.

However, it is clear that – for all the pressures facing NHS – the telemedicine app is still far from solving the root of the problem such as shortage of doctors and lack of funding to improve services. In fact, with the soaring clinical negligence pay-outs having an app to meet the healthcare demands of individuals would be a boon for the NHS, but until it is fully regulated and the data security elements of it are resolved it may just end up contributing to the ever increasing numbers of negligence claims.

by Ceylan Simsek

LAWYER OF THE FUTURE #5

"The lawyer of the future should be investigative, curious and adaptable. They should have an interest and understanding of data but they definitely will not need to code."

Alex Smith
Innovation Hub Manager
Reed Smith LLP

Post-recession digital connections – how leading UK firms use technology to improve relationships with clients (abstract)

by Marc May (@doublemarc)

Not a day goes by without at least one of the leading UK firms putting out a press release on how they have used legal technology for this or partnered with a legal tech start-up for that. So what is the reason for this avalanche of technology-adoption marketing material and how does the adoption of technology improve firms' relationships with clients?

Since the recession there has been a culture shift in the legal profession as law firms respond to client price sensitivity and the absorption of legal work by businesses. It is clear since the recession clients now want more for less and law firms have needed to reduce their overheads to improve their profit margins. This has primarily included the reduction of floor space and non-lawyer personnel.

Not only is client pressure a key factor in the technological change for law firms but also competition from their peers and the new breed of legal services provider, the alternative business structure. These pressures combined have meant law firms have needed to adopt legal technology to reduce their overheads, differentiate themselves from the pack and provide the best possible service to their clients.

The investment in technology assists firms in one of two ways: it can provide a law firm with the ability to make their own work or processes more efficient, or give a law firm the ability to make its clients' legal services more efficient.



The focus for the majority, if not all the firms, is on internal efficiency and streamlining processes. By doing this it allows firms to supply legal services more profitably and competitively. Good examples of this include firms' use of technology to expedite the review of documents or contracts, the use of automation to speed up drafting and the use of document management systems to improve remote working.

The second use of technology relates to making legal services for clients more efficient. Firms are using it in a variety of different ways, including creating apps and automating their clients' in-house legal documents. Some firms have even created their own start up incubators to invest in and develop next big legal tech application.

Investing in technology can be hugely beneficial to law firms. It means they can access new markets, improve service levels and provide clients with services which mean they can get more for less. Adopting technological solutions benefits these firms by providing them with an easy way to make their own operations more efficient, and in tandem with fixed fees can make the legal work they supply more profitable.

Those firms that really get to grips with legal technology can develop a culture which allows their lawyers to change the way they do their work and try new things. Clifford Chance is a good example of this as it has essentially formed a business within a business which is devoted to innovative use of technology.

The top 10 leading firms, and a select number of trend setters in the tiers below, are making great strides towards legal technology adoption and innovation. However, there are still those that have not yet fully engaged with the modernisation of the legal profession. In my opinion, the era we are in is a golden opportunity for law firms to strengthen relationships with their clients, whether you are a £billion firm or a small firm on the high street. Clients across the board want easy access to affordable legal advice. Now is the time to give it to them.

This is an abstract of the original article of the same name. The full version of this article can be found in the Modern Legal Practice journal here (subscribers only).

Embracing the cloud: Balancing the risk vs the reward

As of 2017, 88% of UK organisations had adopted cloud technology, and this has continued to rise throughout 2018. This trend has also been seen within the legal industry, both within individual firms and legal governing bodies. The Law Society of England and Wales recently moved to their data to the Microsoft Azure platform, and adopted Office 365, Microsoft's cloud document management solution, signalling to the entire legal industry that cloud is here to stay. This article shows what law firms will need to consider if they want to embrace cloud technology.

The Rewards

One of the key advantages of cloud software is mobility in terms of both location and devices. Having access to the entire company dataset on a train, in a client office and on a tablet or mobile allows lawyers to work flexibly, and to respond quickly and accurately to clients whilst on the move. In an industry where client service is paramount this is hugely beneficial to law firms.

Specifically for lawyers, the ability to add time and billing information in real time offers advantages over having to make a note and then update a system once back in the office. It also allows lawyers to have an entire case's documents at their fingertips, wherever they are – no more carrying paper copies, or phoning into the office to check a detail on a case. Finally, it also allows for greater collaboration and efficiency. Lawyers in different locations have access to the latest information in real time and can work together on documents and cases in real time as well.

Another key advantage of cloud computing is the security of data itself. If a Tier 1 cloud provider such as Microsoft Azure or Amazon Web Services is used, data can often be safer than if it was stored in-house – and if a catastrophic event such as a fire or flood were to hit the office, client data would not be affected.

The Risks

Both the Law Society and the Solicitors Regulation Authority, whilst embracing cloud themselves have expressed concerns about cloud technology. The SRA has identified cloud computing as a risk factor for lawyers because it involves users “surrendering true control of their data and software to a remote provider”. This is of particular concern for the legal industry, because even sole traders process significant amounts of confidential information and personal data.

Under the GDPR, it is a lawyer’s responsibility to ensure data has an appropriate level of security – this includes when data is being held within a processor such as a cloud platform. Everybody knows that significant fines occur under the GDPR if personal data is compromised. What is less well known is that the fine is based not just on the breach itself, but on how well the organisation tried to protect its data. Lawyers who choose a cloud provider without carefully considering security not only make data breaches more likely, they also open themselves up to higher fines under the GDPR. These fines can be up to €40 million, or 4% of turnover.

As a Lawyer, What Should You Do?

How can law firms balance the risks and rewards, and ensure that they are keeping data safe whilst reflecting modern working practices? The key is in due diligence, and in thoroughly questioning potential providers during the buying process.

Case management software providers will naturally focus on features and benefits, as that is what will encourage prospects to buy. Several of the top case management software companies do not contain information on where law firm data will be stored anywhere on their website. This means that if firms do not ask, they sign up to a contract with no knowledge of how safe their data really is.

It is up to law firms to determine themselves what information they require from a provider. However, here are a few of the questions we suggest you ask your potential software provider:

The Cloud Provider

- 1) Who is the cloud provider? Is this a third party, or does the software provider itself hold the data? *As discussed previously, many case management providers use a third party as the cloud host.*
- 2) What physical and online protections does the cloud storage provider deploy? How do they protect from insiders inappropriately accessing data? *The software provider should be able to provide you with comprehensive information on how their chosen cloud provider will keep your data safe.*
- 3) Does the cloud provider have any independent certifications, such as ISO qualifications or UK Cyber Essentials certification? *This proves that the cloud provider has independent verification of any claims they make.*
- 4) Is the data encrypted both in transit and at rest? *Encryption of data protects it in the case of access by malicious parties. Most providers will encrypt data in transit (when moving between user and cloud system) – but you should ensure that they also encrypt it at rest (sitting on the cloud system). This provides data with an additional layer of protection if a breach does occur.*
- 5) Where is the data stored? *Under GDPR, all EU data must be stored in the EU. Companies who transfer data outside of the EU without an EU-approved data processing contract are liable for the highest level of fines under GDPR.*
- 6) Does the cloud provider ever schedule downtime to update its systems? When would this typically occur? *One risk factor with pure cloud software is that if the cloud is unavailable, then no company data can be accessed. You need to know in advance how disruptive scheduled downtime could be to your operations.*
- 7) What is the Service Level Agreement for uptime, and what was the uptime level achieved last year? *Uptime is the amount of time that the system is live and working. Reputable cloud providers should be providing at least 99% uptime. As with the previous question, unscheduled downtime can be even more disruptive to a business, so if a cloud provider has had previous issues with uptime this needs to be a consideration.*

The Software Provider

1) Can the software provider see my data? What physical and online protections does the software provider deploy? How do they protect from insiders inappropriately accessing data?

This will vary between software providers. If they can access your data, you need to make sure they have appropriate measures in place to prevent inappropriate access from insiders or outside parties.

2) Does the software provider ever schedule downtime to update its systems? Could an issue with the software provider's application ever cause unscheduled downtime? What was the total downtime for the previous year?

As with the cloud provider, if the software application has scheduled or unscheduled downtime then all data will be unavailable to users. You need to be aware of any potential disruption to your business operations in advance.

3) Do I retain control of my data, and how would I migrate to another provider if I decided to terminate my service?

Many companies do not consider this until they decide to terminate and realise that they are unable to move their data from one system to another. They may equally find that data can be migrated – but only for a significant fee. You should ensure that you have a clear understanding of the exit plan if you do decide to end your contract and that your data can be transferred easily and for a reasonable fee.

Conclusion

Lawyers are generally not IT experts, so it can be easy to trust a provider when they say that they have everything covered. However, in order to ensure the safety of one of their most significant assets, lawyers need to make sure that they are asking the hard questions of their providers and continue to question until they are satisfied that both software and cloud provider can keep data safe.

Lawyers have a responsibility under the GDPR to keep personal data safe – or face significant, potentially business-ending fines. Equally importantly, lawyers have an ethical responsibility to their clients. Clients trust lawyers to act in their interests, and to keep their personal and confidential information safe and secure.

When lawyers are confident that their data is securely protected within the cloud, they can then focus on the benefits that cloud software can provide. You can work more flexibly, collaborate more efficiently and provide an excellent service to clients no matter where you are.

by Sabina Horgan

**VP of Marketing and Development
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We are always on the look out for article contributors interested in legal technology or the future of law.

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