



Legal Practice Transformation Post-COVID-19

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Table of contents

Introduction	5
I. Different legal teams will have different solutions	9
1. Rapid integration of digital technology in the delivery of legal services is the new 'killer app'	9
2. The current state of play with legal practice	12
3. Will we hire lawyers through an app?	13
4. COVID-19 is a disruptive moment that favours challenger firms	14
5. COVID-19 and the delivery of legal services through digital platforms	15
6. The medium is the message – how legal services are delivered is becoming more important than who delivers them	16
7. 'Legal teams', not 'law firms' + 'in-house' – the death of the siloed lawyer	18
8. Conclusion: reimagining the legal profession post-COVID-19	19
II. Remote working is here to stay	21
1. Location, location	21
2. Home sweet home	23
3. All change!	25
4. Change as a constant	25

- 5. Change as an opportunity 26
- 6. Change as a threat 27
- 7. Change as a force for good 29

- III. Health and safety for legal teams post-COVID-19 – uneducated guesses? 31**
 - 1. Nobody knows what the return to work for legal teams will look like 31
 - 2. “You must work from home if you can” 32
 - 3. COVID-19, difficult conversations and unspoken bias 34
 - 4. Glimmers of hope: will ‘work from work’ be something special and different from ‘work from home’? 39
 - 5. Grief for what was lost 41
 - 6. The unasked question is now asked: can UK employers mandate COVID-19 vaccines for employees? 41
 - 7. Legal teams after COVID-19 – trauma and transformation 43

- IV. Culture and community 45**
 - 1. “Trust me, I’m a lawyer” 45
 - 2. Trust under attack 47
 - 3. Trust rediscovered 50

- V. Partners will foot the bill 57**
 - 1. Yes – but maybe not straight away 57
 - 2. Survival of the fittest? 59
 - 3. What’s next? 60
 - 4. Think the unthinkable 63

- VI. A changed profession: will old values still triumph? 67**
 - 1. Keep calm and carry on lawyering? 67
 - 2. Or might fortune favour the brave? 69
 - 3. “Brave? Me?!” 72
 - 4. Flexible lawyers – great lawyers 74
 - 5. The brakes are coming off – which way now? 82
 - 6. Closing remarks 83

- Notes 84**

- About the authors 87**

- About Globe Law and Business 88**

I. Different legal teams will have different solutions

1. Rapid integration of digital technology in the delivery of legal services is the new 'killer app'

We start with the hypothesis that the legal profession is in flux and that the changes already taking place have been heightened by COVID-19, in that the pandemic has accelerated certain developments. For instance, the trend towards virtual law firms that emerged before the pandemic continues, although it is likely that what was once an outlier has certainly become more mainstream. In short, availability in the legal profession has moved from an emphasis on location to logging in online.

The move to virtual practice is indicative of a transformation that is taking place in the delivery of legal services. Legal outputs such as drafted documents are no longer produced 'under one roof', but are undertaken, delivered and implemented through a digitised process 'in the cloud'. The use of automation platforms that operate across law firms, in-house legal departments and related professional advisers such as auditors, risk managers and integrated service platform consultants requires us to rethink the current legal working environment.

Instead of dividing the legal profession into the static business entities

which lawyers have established in order to operate their enterprises, our assessment of the way in which legal professionals have been operating during the pandemic suggests that a realignment through digital technology is enabling lawyers and allied professionals to operate more efficiently across organisational boundaries.

COVID-19 has transformed how lawyers and clients communicate and interact with each other. While digital technology is a ‘force multiplier’ for the legal profession, in that it allows work to be completed more quickly, it also means that less time is spent travelling and commuting. COVID-19 has brought about a loss of community cohesion for the legal profession, in that digital technology does not allow for the sort of ‘water cooler’ talk that informal networking opportunities previously generated. The loss of spontaneous ‘cheek by jowl’ interactions outside the courtroom, in the pub and at networking lunches or continuing professional development events means that lawyers are now more isolated than ever.

While lawyers began to adjust to working in an environment in which there is less opportunity to consult with each other informally, COVID-19 also required that work get done within an accelerated timeframe. Lawyers had to scramble to meet the demands for a speedy response

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in uncertain circumstances for which no precedents were readily available. The response times in such a crisis often needed to be instantaneous, as the situation was changing daily and there was thus less time for lawyers to reflect, consult and gather their thoughts.

Lawyers (or private practitioners, at least) who are more accustomed to looking back at precedent have had to advise on situations for which precedents simply do not exist. The lawyer's temptation to cover all angles has always been obsessive; yet during the pandemic, the angles have been changing all the time. So is the discomfort that lawyers are now feeling a good thing or a bad thing? Will it generate more creativity or lead only to more frustration? Is this a problem or a cause for celebration?

Technology and urgent challenges have forced the entire world, including the legal profession, to respond far more quickly than in the past. For example:

- COVID-19 vaccines were developed in less than a year, whereas previously such an endeavour would have taken years; and
- the Brexit trade deal between the European Union and the United Kingdom, which would normally have taken years to negotiate, was finalised in an eight-month period in 2020.

Likewise, COVID-19 required greater use of appropriate technology platforms to operate in different ways and adapt to the demand for a 'work from anywhere' environment. The business improvement cycle mandates behavioural change to keep lawyers effective and responsive to a crisis that has beset us all.

So the question becomes: how do lawyers interact with technology?

One solution might involve better change management: how can lawyers adapt to change to drive professional success?

Questions to ask of all legal team managers in the age of COVID-19 include the following:

- "Why are we doing this?"
- "What values does this bring to our organisation?"
- "Can we use COVID-19 to make changes in how people work together?"

The pandemic should be viewed as a moment of transformation, enabling the legal profession to change and practise creativity to survive and thrive.

2. The current state of play with legal practice

Outside of the law firm environment, legal teams have always been seen as a cost function of the business. Can technology make legal teams a more collaborative partner? The way we look at legal, as a sunken cost, is inherently problematic and the traditional legal structure highlights these issues. No longer can we distinguish between the lawyers and the business partners they work for – we are now all one team. Legal work is typically characterised by the entity that does the work. Work is done in-house, at a law firm or sometimes contracted out to a barrister in specific circumstances. Law firms typically handle ‘high-impact’ or ‘enterprise-threatening’ work; while in-house legal departments handle commoditised services that are too mundane in scope and not cost effective to hand over to private practitioners. For instance, litigation is generally handled through law firms. The projects that are ideally suited for in-house legal teams should typically be handled by someone with a long-term institutional memory or who is keenly aware of internal political sensitivities (eg, competitive fiefdoms, difficult personalities). Organisations are not dissimilar to families, in that they too do not want to air their dirty laundry in public – even to their trusted legal advisers.

The ‘bricks and mortar’ model of the legal services entity – whether part of a larger company or a standalone entity – has tended to be characterised by boundaries, structures and hierarchies. However, this is now giving way to new models that are more amorphous, at the behest of businesses and/or clients which are increasingly demanding that legal structures suit their specific needs and requirements – not the other way around. In the old days, clients simply adjusted to their lawyers’ work environment: lawyers were put on a pedestal, not to be bothered except at special moments. Today, lawyers are fully involved in the ‘sausage making’, embedding legal concepts throughout the process from beginning to end.

- Project management is a key skill here. Getting to the end of a deal is just the beginning – think of on-boarding and off-boarding a dozen or so stakeholders in the process.
- Pragmatism is also crucial: you cannot say “No” as a lawyer when your business people must engage with hundreds of different processes and systems.
- New blood in the organisation – such as coders, project managers and IT people – can help; but budgets are stretched.

Whereas in the past, legal structures were defined by office hierarchies and compensation structures, today law firms are subject to an assault from flat hierarchies where form follows function. Thus, the delivery of legal services today can level out the players and has reduced, to a certain degree, the advantages of the traditional

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hierarchies in the legal profession (eg, Magic Circle, Silver Circle). For instance, if a professional services firm (eg, one of the Big Four accounting firms) can gain an asymmetrical advantage over a top law firm by leveraging technology with lower cost overheads, it will win the business. Everyone wants to avoid a ‘Kodak’ or ‘Nokia’ moment, where your organisation becomes obsolete because it does not adapt to the market. Think of how Google Maps and the Uber ride-hailing app have devalued the much-vaunted ‘Knowledge’ of London black cab drivers. No one wants to be a dinosaur!

3. Will we hire lawyers through an app?

One cannot minimise the loss of the physical contact that typically characterised the operation of the legal profession pre-COVID 19. Traditionally, legal practice development depended on contacts and networking. Contacts require a certain degree of locality – the adage “all politics is local” is certainly applicable to the legal business. People generally hire lawyers or legal teams based on where they are located and who else they work with, and by referral. Law firms and barristers tend to situate themselves around the courts in which they appear. They also tend to locate in city centres, near the large financial institutions and companies that they advise. With lawyers and legal teams now isolated from the physical closeness facilitated by shared workspaces and the endless networking synergies available in

metropolitan legal centres, can LinkedIn and firm websites bridge the gap?

While an online presence may help, it alone cannot 'seal the deal' like a handshake.

- Will COVID-19 do for the legal profession what Uber did to the ride hire business?
- Will the selection of legal counsel be determined by what an app pulls up?
- Will lawyers who are not included on these platforms lose business because they are not seen, so they cannot be heard?
- Will lawyering become more about how you access the lawyers you choose, rather than who they are and what their skillsets are?

4. COVID-19 is a disruptive moment that favours challenger firms

Prior to COVID-19, many large legal services established 'back-office' functions in second-tier UK cities or in other jurisdictions with lower cost overheads, such as India and South Africa, setting up local legal process outsourcing operations to carry out sophisticated work through digital platforms. The pandemic has increased the ability of smaller players to gain asymmetrical advantage against their more established competitors by adjusting quickly to uncertain market conditions through the development of innovative service delivery strategies. These challenger firms can act in an agile manner that larger, more established firms cannot match, as the latter face legacy issues with digital technology, high fixed costs (eg, premium commercial property leases) and other fixed overheads that do not adjust for reduced business volumes (eg, insurance coverage, utilities costs, subscription services, pension obligations).

Delays to in-person learning for children, the absence of available day care and increased redundancies at law firms and in in-house legal operations all mitigate towards the rise of virtual law offices, which can quickly act as a gap filler to address shortcomings in market demand and legal expertise capacity. Having your primary workspace at home and using shared office conference space on an 'as-needed' basis to meet with clients is no longer seen as second-best to a fully dedicated office space; the gig economy has transformed legal services as much as it has other service industries. The rise of nomad lawyers and 'lawyers on demand' (LODs) may worry some who feel that a lawyer who does not operate from a fixed support infrastructure base as a 'safety net' is someone who is risky to use. However, the perception that LODs are 'lawyers of nowhere' died a quick death once it became clear that we have all become nomads of some sort through remote working requirements.

Flexible legal services – such as those embodied in start-ups designed to match lawyers pursuing a portfolio career while working part time with clients in need of their services – have proven quite attractive for lawyers who ‘want off the treadmill’ to achieve a better work-life balance. This is not to say that the large law firm model is dead in the water after COVID-19. In fact, after a slower start in 2020, for many the year finished stronger than initially feared.

This is an extract from the chapter ‘Different legal teams will have different solutions’ by Jonathan Fortnam and Stuart Weinstein in the Special Report ‘Legal Practice Transformation Post-COVID-19’, published by Globe Law and Business.