

Better, cheaper, faster

"In professional services if you aren't addressing technology you really don't have a future". This slightly alarming quotation from a KPMG video presentation at the **Alternative In House Technology Summit 2017** summed up the mood of the conference. The delegates at such a summit were of course likely to be people who take technology and its impact seriously, being willing to take two days out of their busy schedules to attend the event. They were rewarded with interesting discussions and presentations and plenty of practical tips and shared experiences.

This summary is provided by Melanie Farquharson of 3Kites Consulting, one of the event sponsors, www.3kites.com

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The summit was attended by some 165 delegates from in house legal teams of varying size. A significant number of heads of legal operations were amongst the audience as well as GCs and other in house lawyers.

A number of key topics were addressed:

- What technology should in house legal teams be looking at?
- How to build the business case to get buy in (and a budget) for investment in technology
- Tips for delivering technology projects
- The impact of technology on the role of the in house team and the legal ecosystem

For a full conference agenda and list of speakers please see [here](#)¹.

It was recognised that in house teams are at an early stage in their technology journey. The conference chair, Julia Chain of RPC Perform, pointed out that relatively few teams (even amongst those at this event) have basic platforms for document management and document assembly. Furthermore, where teams do have technology tools, they are often under-used because getting proper adoption is difficult.

Nevertheless, some encouraging cases studies, particularly in the area of using Artificial Intelligence (AI) and machine learning were mentioned. These included:

- Using AI to identify areas where a company was not enforcing its contracts, an in particular identifying chargeable services which were not being invoiced². The technology looks at the contracts as well as other data points such as bookings of engineers' visits to customers. The aim here was additional revenue and significant amounts have been generated.
- Auditors using AI to analyse large volumes of transactions where previously they would have had to adopt a sampling approach.

What technology should in house legal teams be looking at?

The number and range of new technologies is bewildering, and it is important to move from browsing in the technology sweetie shop to designing sweets for the diet the organisation needs³.

Artificial Intelligence (AI) and its use in the legal context has received a good deal of press coverage, to the point where all the magic circle law firms now have announced that they have AI projects under way. Derek Southall of Gowling WLG gave a lightning overview of technology from digital basics through to disruptors providing an overview, ranging from the more mundane email management tools to the prediction that humanoid robots will soon be in the workplace - the optimum size being that of an 11 year old child, apparently.

Key technology areas discussed during the conference included:

Communication and collaboration tools	These may be amongst the digital basics but they can be important in enabling cross office, remote and mobile working, all of which are key capabilities needed to deliver an efficient service.
AI and machine learning	Numerous examples of the use of AI were discussed at the conference and it was noted that there are over 60 providers in the market (with 4 of the top 20 being the big four accountants). RAVN and Legerton were providers sponsoring the conference. But it was recognised that AI projects can be a hard slog – they are not just 'plug and play'. The long term view of some ⁴ , however, was that the use of AI technology by publishers, along with the increasing availability of government and court data will lead to black letter law being completely commoditised by 2040. Furthermore, the technology will enable almost instant analysis of major disputes, providing suggested ways forward, which will cut out a huge raft of legal work and analysis.

¹ The writer could not attend all of the parallel roundtable discussion, but has had the benefit of the summaries of those discussions.

² This was covered in a roundtable led by Horia Selegian of BT Global Services

³ As neatly put by Jeremy Barton of KPMG

⁴ Including Jomati's Tony Williams

Cost management and e-billing	These technologies were discussed numerous times in the conference with Royal Mail's successful implementation being showcased. It was recognised as an important tool to get on top of and manage legal spend and to provide data against which to make decisions about the future.
Document assembly	The technology here ⁵ has come of age and there are examples of projects being delivered by collaboration between law firms and clients and also between clients and legal publishers. It can be a fundamental part of enabling greater self-service from the business to free up legal department resources.
Digital signatures	This technology is gaining traction and can deal with the whole workflow of document approval, saving time and a lot of grunt work.
Document management	The risks involved when key documents exist only on a single lawyer's laptop - or are spread across several shared drives so that the final version of a contract cannot be found when a dispute arises - have led to legal departments adopting document management systems. Legal DMS requirements are different from those that may apply to the rest of the organisation ⁶ . DMS implementations used to be monster projects, but they are getting easier, especially when cloud-based solutions are involved.
Current awareness/ news aggregation	Many solutions are now available so that current awareness can be delivered in a tailored and consolidated way.
Managing matters/ workloads, dashboards and MI	A number of legal department management solutions are available (including that of sponsor, Busy Lamp). Some of the e-billing and case management systems can also provide some of this functionality. Many of the panel commentators at the event extolled the virtues of having clear data about the work being undertaken in the department, how long it is taking and who is doing it. Across the conference there was a notable emphasis on the need to have reliable data. Tools to present the data in a way which facilitates decision making can be very valuable.
On demand resources (paralegals and others)	The availability of paralegal, locum or other resources from a number of providers, whilst not a technology change as such (except to the extent that users can see available candidates online), can be a valuable addition to the legal department.
Online dispute resolution	This technology is already dealing with large volumes of low value claims and is only likely to grow.
Blockchain and smart contracts	Whilst Blockchain hasn't yet had a mainstream impact, it is likely to be a major disruptor of the way in which transactions are recorded in the future, bringing about a fundamental change in contracting.

⁵ Including that of conference sponsors exari and LexisNexis, who are offering managed services to automate and maintain documents which the business can use.

⁶ iManage, as a legal sector focused DMS supplier was amongst the conference sponsors, as were Phoenix, and Ascertus, both of whom offer DMS implementation amongst their services

Specific targeted applications	There may be instances where a highly tailored technology solution could deliver benefits in a specific situation. Using customs data to help identify and stop counterfeit products was mentioned as a good example. Furthermore, solutions to help with regulatory needs, such as the new GDPR are worthy of consideration. ⁷
Cyber security	<p>A presentation from David Imison of Schillings noted the four key areas where in house legal teams should be taking a leading role. These were:</p> <ul style="list-style-type: none"> ○ Cyber due diligence – ensuring that acquisitions of tech (or of companies that use tech) take into account not only technology due diligence but cyber security due diligence as well ○ Inoculating the employees – making people aware of phishing, carrying out phishing tests and providing training ○ Tecchie culture clash – organising exercises to ensure that differences in approach and understanding between senior management, technology, legal and corporate affairs are addressed in a ‘peacetime’ situation, rather than only when a crisis arises. ○ Insuring your reputation – looking at how insurance offerings are changing to provide cover and assistance when a cyber attack occurs.

Faced with a seemingly overwhelming choice of technologies to focus on the conference stressed that you have to start somewhere and pick your targets. Start by doing the analysis and place your bets.

Richard Kemp of Kemp IT Law made the case that technology is more of a friend to the in house team than to the law firm: law firms have hierarchical structures, short term approaches and an aversion to experimentation which inhibit them.

Several speakers emphasised the need for the legal team to have a clear vision of what they want to achieve with tech investment. The first thing is the need to convince yourself that it is worth spending the money⁸.

Building the business case for investment

The conference touched on several key areas when approaching building the business case⁹:

- **Analyse what you do now.** The CFO or CEO won’t necessarily approve investment just to make the legal department’s life easier: there has to be something in it for them. It can be painful, but it is necessary to look critically at what the department is doing and how it compares with the business’s views of the value the department delivers. Identify the business’s pinch points and how you can improve the internal client’s experience, focusing on their goals and not just those of the legal department. Getting hard data from this analysis will enable you to make strategic decisions about where to invest and back up the business case. Gut feeling is not enough.

⁷ A GDPR compliance roundtable was facilitated by DocsCorp, one of the event sponsors

⁸ According to Richard Tapp of Carillion

⁹ Useful sessions in a panel sessions on this topic involved Richard Tapp of Carillion, Sarah Barrett-Vane of Royal Mail Group, Martin Bowen of Dyson, Jeff Eneberi of Just Eat, Klass Evelein of Unilever, Chris Newby of AIG and Dr Solomon Osagie of TSYS.

- **Involve ALL your stakeholders**, including the potential blockers. There may be more people affected by your project than you think. They may be inside and outside the organisation. You need to be able to explain to each of them why you are implementing technology and what is in it for them, even when they perceive your initiative as a negative. More self-service in some areas may free up legal resource for a quicker turnaround elsewhere, for example. Maintaining relationships with the stakeholders through the project is hard, but important. If you can get them in the room to see the technology and its potential this may help.
- **Identify the cost savings**. The CFO and CEO will be looking for cost savings or higher sales. Will you be able to reduce headcount and/or external spend? It can be hard to predict the amounts at the outset, but you may need to make predictions and then deliver on them speedily. An indirect cost saving may be a reduction in churn in the legal department, if the lawyers are able to focus on more interesting and satisfying work and have higher job satisfaction.
- **Non-financial benefits**. The business case isn't only about numbers, risk issues may also have some weight, such as when increased regulatory requirements will need to be met *either* by technology *or* by headcount increases. Having had a disaster or a near miss in the organisation can help – even better if you can point to such a situation in a similar organisation.
- **Use peer pressure**. Include information about other comparable organisations which have already invested in the kind of tech you want to implement.
- **Include all the costs**. Don't forget all the implementation costs, training and maintenance etc. It will be hard to go back for more money later.
- **Present the business case in the right format**. The organisation may have a particular form that is required. Write the business case in the way the recipients want to consume it.

Tips for delivering technology projects

The conference benefited from the experience of many presenters and panel members who had implemented technology in legal departments. Some useful tips emerged¹⁰:

- **Process before technology**. You need to address the underlying roadblocks before applying technology to the situation. If you apply technology to a rubbish process you just get faster rubbish.
- **Boring before sexy**. You may have tools under your nose that will help you (especially in the areas of communication and collaboration). Don't panic and buy the latest sweeties in the shop.
- **Focus on change management**. The fact is that people resist change. Sometimes you will have to take a hard line with those who won't come on board. Find some evangelists, enlist the help of your marketing colleagues in formulating the messages, and use change expertise from elsewhere in the organisation. If you don't carve out time for training the project will fail. If necessary go back and retrain old systems too. You may need to create user guides for external stakeholders (such as your law firms if they are amongst the stakeholders).

¹⁰ Useful tips were provided in sessions delivered by Bjarne P Tellmann of Pearson, Jeremy Barton of KPMG, Derek Southall of Gowling WLG, Andrew Dey of RPC Perform

- **Don't make people's lives harder.** If your new technology means that data has to be entered twice – in the old systems and the new one – you have not improved efficiency and you won't get buy-in.
- **Data curation is still important.** If the GC's role is to assure the quality of the legal advice you have to be sure that the data being used in the system is of good quality. This will be an ongoing challenge.
- **Keep it simple.** Resist the temptation to add 'nice to have' functionality which will over-complicate. Implement the basics and add to them later if you find you really need to.
- **Collaborate.** Other in house legal teams won't be competitors and crowd sourcing may help to get projects off the ground. Or collaborate with tech companies who may be willing to develop their product alongside you¹¹. There might even be other functions within your organisation which could benefit from the tech and would be willing to collaborate on the project.
- **Deliver some low hanging fruit.** Focusing on delivering some tangible benefits quickly may help to loosen the purse strings for the next steps.
- **Plan for post-implementation.** Consider who is going to manage the technology once it is in. There will be snagging to do, as well as ongoing training, change management and future maintenance and development to make sure it continues to deliver what the organisation needs. If the initial adoption is low or there are teething troubles and bugs you do not want the system to wither because the implementation team have moved on to other priorities.
- **Lead the change with passion.** Tech projects require a lot of personal energy.
- **Stay alert for unintended consequences.** New technologies may influence behaviour in ways you had not anticipated. In particular, you want to ensure that people do not stop thinking for themselves.
- **Make the progress you can.** There will always be some people/situations that you have to work around.

Impact on the in house lawyers' role¹²

New thinking. In house legal teams operate in a context of ever increasing demand and greater and greater threats such as regulation and cyber-crime. But, with the global corporate profit pool predicted by McKinsey to shrink substantially by 2025, the need to deliver more with less is going to be even greater. Managing costs and achieving efficiency are key drivers. Tech literacy and the ability to keep the possibility of disruptive change at the forefront of the thinking are essential qualities. Legal teams need to have cultural resilience to withstand change and evolve. As one presentation noted, *"You can't solve new problems with old thinking."*

The ability to connect. Today's organisations have a need for people with deep cognitive skills and the ability to connect with others – described at the conference as T-shaped people. It was felt that lawyers fit this profile and are therefore likely to take on more and more responsibilities for areas such as HR, PR and security, becoming "mini-CEOs".

¹¹ Conference sponsor LexisNexis have for example developed products in collaboration with law firms in order to provide a platform to manage the process of creating key common contracts.

¹² Discussed by a number of speakers including Nilema Bhakta-Jones of Ascential Group, Merlie Calvert, Vanessa French of Wolseley UK, Richard Given, Mike Polson of Ashurst Advance, Derek Southall of Gowling WLG and Tony Williams of Jomati.

Tech replacing people? Many fear that technology will simply replace people. But the view of the conference was that the situation was more nuanced. Lawyers will have to adapt to working differently, but clients are still looking for a kind of wisdom which goes beyond the data and even judgement that machines can deliver. Jeremy Barton of KPMG noted that machines can deal with things that have clear boundaries (playing chess being an easy example), but human interaction is without boundaries because we can apply our whole range of senses in assessing a situation. There will still be a need for people to work alongside the technology, ensuring that it is not delivering perverse results.

What is the legal department there for? The conference posed the fundamental question whether the legal department is there to provide a lawyer to assist on an issue (or even sometimes acting as a priest to bless a decision), or to provide a specific service which may be delivered in a number of different ways. Triage, to ensure that the right issues are handled in the right way and by people at the right level of qualification and experience remains important, but the choices may be wider.

Data, data, data. There was a notable focus on the importance of having access to good data at the conference, with discussions about how to make the data visible to assist decision making¹³. Once you have transparency of what work is being done, by whom and how long it takes you can address areas for improvement. It was stressed however, that you cannot always measure the things you want to measure and in this respect it is more helpful to start from the perspective of the end user and what they want, than from an abstract management view.

Unbundling and disaggregation. Access to this information enables the GC to think more strategically about how to provide the service that is needed. This may mean more unbundling and disaggregation of legal work, with the external law firm no longer being seen as the one-stop shop. The relationship with law firms is often only capable of delivering a gold plated solution, because law firms' PI position makes it hard for them to deliver a risk-based approach. In house teams are now increasingly taking back aspects of the work such as e-disclosure and due diligence and doing them internally or outsourcing them.

.. in the legal ecosystem

Options of offshoring, nearshoring, super temps, and ABSs¹⁴ are readily available, but there is a need for integration of the right combination of services in any given context. Delivery doesn't all have to be done by lawyers. Additional inputs may come from, for example, e-disclosure vendors who now offer consultancy services on how to run the case. Or the organisation may have its own low cost shared services centre which may be useful. This range of options puts a renewed focus on the GC's authority and responsibility as a risk manager. Rather than a bilateral transaction between in house lawyer as consumer and outside counsel as provider, there is now a whole ecosystem of legal services, with the business as the ultimate consumer.

There was much comment on external law firms and their role in relation to technology¹⁵. Many felt that law firms had invested in technology to create efficiency for themselves and were not passing on the benefit to their clients. GCs heard about what law firms were doing with technology via the press but weren't being offered the use of it in the context of their own work. It was noted however

¹³ Discussed in particular in a panel session involving Karl Chapman of sponsors, Riverview, John Doyle of Barclays, Hywel Evans of HSBC and Mike Naughton of Cisco.

¹⁴ Including sponsors Riverview and Axiom.

¹⁵ Discussed in particular on some of the roundtables including that led by Mo Zain Ajaz of National Grid.

that in many cases law firms are not using the AI tools as much as their PR would indicate. The law firms' implementations are often in small silos because of their structure.

Technology and innovation are now even more relevant to law firm appointments and panel reviews, with firms being excluded from the process on the grounds of their approach to technology alone. Asking for a tech audit with your law firms was one approach suggested, going in to the firm to see how they are using technology and discussing how it can be applied for the client's benefit.

There is an inherent conflict in the law firm/client relationship. One of the roundtable discussions at the conference discussed the 'value added services' offered by law firms and whether these really add value¹⁶. There is also the conundrum that whilst it is not helpful to their client to have each law firm offering a different technology approach (including MI in different format or through different portals), clients are also wary of linking themselves too closely to a single firm. Furthermore it was acknowledged that there had been examples of clients asking firms to make significant technology investments for a client and the client then never logging into the system that had been built for them. Perhaps third parties are better placed to deliver the platforms through which in house teams and law firms collaborate.

Delegates left the summit with plenty to think about and a sense of urgency to act, bearing in mind the pace of change of technology. When the event is run again in 2018 it will be interesting to discover how the learning from this summit has been put into effect.

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¹⁶ This session was part of a piece of research being undertaken by the Knowledge Management Group of the Society for Computers & Law. If you would like to participate in the research and receive a copy of the report please contact melanie.farquharson@3kites.com