

Process, Collaboration and the Competitive Edge

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If law firms are to emerge from the recession as strong and healthy businesses, they will need technology that genuinely facilitates a change in their business processes. Until now, with some small exceptions, technology has only played a supporting role in the legal profession. Although word processing has enabled documents to be drafted and redrafted swiftly, technology has in most cases merely allowed existing processes to happen more swiftly. But a change in the role of lawyers and their relationship with clients and third parties is afoot, and firms that are to meet the challenges this brings will need to have slick and smart technology.

The Legal Process

Recently there has been renewed interest in the idea of analysing the legal process in order to establish which parts of it can be made more efficient. In the past, legal work was able to retain a degree of mystery, with clients scarcely daring to ask, 'what do you actually do for all those hours?' Client scrutiny of law firms' costs has increased over the last decade and the current climate is accelerating that process. And greater transparency shines a light on any inefficiencies that have lain hidden for years.

Faster communication, especially via email, has allowed easier passing of information between clients and their lawyers. However, sometimes the result has been a less systematic approach to gathering the necessary information in the first place, making the process ultimately quicker but less efficient.

Nowadays many large clients will need convincing that the more routine aspects of a matter cannot be dealt with more cost effectively than by using armies of junior law firm associates. Legal Process Outsourcing (LPO) organisations, whether based offshore or simply in a less expensive part of the country than our big cities, are gaining from this approach. It is no longer enough for the law firm to resist involving a third party by talking about the risks of issues falling between the cracks – indeed law firms have worked on matters in collaboration with independent law firms in other jurisdictions quite happily for years. Clients now have the bargaining power to override such concerns and to require law firms to take responsibility for managing the risks involved, which may mean training the people in the LPO organisation in order to ensure that they work in the required way. This may be galling for the law firm, but it is a fact of life in the current climate.

Supporting Collaboration

This situation requires technology which can facilitate seamless collaborative working between teams from the client, the law firm, and third party service providers. The mere exchange of information in an unstructured way is not enough. Ten years ago extranets and online deal rooms promised this kind of support. However, they achieved only limited penetration of the market. To a significant degree this was because lawyers and their clients generally spent their working day in

their email inbox, and diverting to another place (particularly if that required jumping through security hoops) was more trouble than it was worth. In many cases the routine exchange of documents and information continued to happen via email, with the online collaboration site lying unused and unloved (especially in the hectic stages of a matter), such that it became a dangerous place to go, because it was likely to give an inaccurate picture.

In practice areas where matters follow a pattern that can be prescribed in great detail, case management systems have been able to provide a genuinely useful platform, because the users within the law firms are largely working on the same kind of matter all the time, and could regard the case management system as their working 'home'. It is debatable, however, whether such systems are really designed to facilitate collaboration with clients and others, as opposed simply to giving the client access to an overview of what was going on. Nevertheless, much can be learned from the use of case management systems, where a great deal of upfront analysis of the legal process was undertaken in order to establish which parts of it could be systematised, and which would always require a lawyer's consideration. Lawyers working outside the areas that are termed 'commodity work' have traditionally maintained that their work cannot be systematised at all. That position is becoming harder to sustain, with individual parts of the work being scrutinised to see where efficiencies can be gained. This scrutiny, aimed at clarifying exactly what is required to be done at each stage, and what information is required in order to do it, can make the delivery of the work far more efficient, even if little of it can actually be automated.

What can technology do?

The tools required to facilitate these different approaches need above all to be user friendly and clear, so that lawyers and their clients will feel as comfortable working with them as they do in using email. They need to integrate (much less clunkily than has been the case to date) with email, too, since most lawyers are likely to regard their inbox as their on-screen home for some time to come. They need to provide an appropriate level of security and confidentiality, but without making the barriers to logging in too cumbersome. They need to be able to transfer and absorb information using prescribed formats, in order to minimise the amount of rekeying of data, not only as between lawyer, client and any third parties working in the team, but also with external bodies such as government entities. Further, these tools need to put the firm's knowledge into a context where it can be used. This will include a workflow element, not necessarily at the level of detail which the traditional case management systems have provided, but at a higher level, so that all involved are led through the process with a degree of transparency about what is likely to happen next. It will also include the automation of document production, where standard templates exist and data relevant to the matter can be used to create a first draft. Furthermore, the tools need to be flexible and easy to adapt, since the legal and commercial environment is unlikely to stand still.

These tools are beginning to emerge, but there is much development still to be done. There is a great prize for the supplier who can swiftly implement a platform to support these new ways of working. The success of such an implementation, however, will depend on how readily the law firm is able to adapt to working in a different way. Even when the economic climate eases, those clients who have seen the efficiencies that can be generated out of the legal process are unlikely to turn a blind eye. Further, the firms that have shown that they take seriously the efficiency of the service

they deliver will have a competitive advantage that will stand them in good stead to take advantage of the upturn.

Melanie Farquharson is a lawyer and a consultant with 3Kites Consulting (melanie.farquharson@3kites.com) advising law firms on knowledge management, legal process and technology.