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An Internet Exercise in Conveyancing Practice
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Abstract:

This paper describes an Internet exercise in Conveyancing Practice. The exercise involved students of the Legal Practice Course of the Universities of Glamorgan and Bristol who took part in an interactive exercise which involved obtaining title deeds for property, drafting and amending contracts. Students were required to use the Internet facilities of e-mail, file transfer protocol and the Web.

The background to the conveyancing exercise

Students who wish to train as solicitors take a post graduate course called the Legal Practice Course. This is an one year intensive course which combines skills training with instruction in procedures in the principal areas of conveyancing, probate, business and litigation. IT skills do not form part of the Law Society's Written Standards for the LPC, but providers are encouraged to give their students at least basic instruction in Information Technology.

Solicitors are making increasing use of computers to carry out such basic tasks as drafting documents, communicating with clients (particularly business clients with electronic mail) and researching points of law. A survey carried out in 1995 of over 300 firms consisting of 19,000 solicitors(i) revealed about half of all solicitors now have computers on their desks. As Susskind has said writing in the Financial Times in 1992(ii):

"It is hard to imagine a large law firm today operating without information technology. Word processing systems, accounting systems, electronic mail and many more administrative and management applications are widely used".

Legal education is increasingly providing students with training in a wide range of computer skills. As long ago as 1991 the British and Irish Legal Education Technology Association produced a report into computer provision in law schools. (iii) This report looked at the use made of IT in large and medium solicitors practices in England and Wales. It also reviewed the IT resources in law schools in terms of hardware, software, accommodation and staffing. It then made recommendations as to the resources which should be made available to undergraduates and legal trainees to enable them to function adequately using this technology.

The report identified the increasing expectation by the legal profession that law students should have information technology skills. These skills are needed for the efficient running of a legal office. The committee obtained evidence from practitioners both in large city firms (the Warwick Group) and high street practices (the Liverpool Group) on the use of IT in legal practice. The committee ascertained the skills in use in these practices and identified as desirable were as shown in the following table taken from the report:

Present Use of Computers by Lawyers and Skills Regarded as Desirable in Law Graduates

The report identified a gap between the expectations of practice and the training actually provided by law schools. In its conclusions the report focused principally on the resourcing implications in terms of hardware, software and staff support. It left decisions on specific IT training to the individual institutions, but did recommend that students should be introduced to the principal characteristics of standard software packages. The report also laid down recommended minimum standards of computer competency for law students and identified in particular the areas of document production, research, communication and computer assisted learning.

The Legal Practice Course at Glamorgan provides approximately twenty four hours of Information Technology training to students. This consists of word processing, electronic mail, use of spreadsheets, legal precedents and Internet research. Students have access to two laboratories with 25 computers. Bristol University also provides extensive IT training for LPC students with an emphasis on document assembly and legal research. Students at both institutions are encouraged to word process their work, and are required to use on line searching as part of their learning the skill of legal research. They are provided with and encouraged to use e-mail and the World Wide Web. Electronic forms, Precedents, Land Registry training packages, and IOLIS are available to students at both institutions on line.

Students on the LPC at both Glamorgan and Bristol work as teams of solicitors and participate in exercises which involve them in acting for clients on different sides of a transaction - for example as buyer and seller of a house or plaintiff and defendant in a litigation matter. However none of the simulations which they carry out involve them in working with students in other institutions. So they have no way of measuring their skills against their peers being trained in other law schools.

It was against this background that agreement was reached between staff at both Universities to run an exercise between the two institutions which would require the students to carry out a transaction using e-mail. In fact, due in part to software incompatibilities a wider range of facilities provided by the Internet - that is

- **Electronic Mail:** communicating between the institutions using e-mail
- **Remote Login:** connecting to a remote computer and via Telnet
- **File Transfer Protocol:** moving files to a private account from a remote host
- **World Wide Web:** accessing data at a remote site using the Web were used

Since the lecturers at both institutions were conveyancers it was decided that the exercise would be conducted through the medium of the sale and purchase of properties. However conveyancing is particularly suited to this type of exercise as it involves extensive document drafting and communicating with other solicitors in writing.

Initial Research

To the best of my knowledge no exercise of this type has been carried out before so there was no prior research to rely on. So my reading had to be confined to general texts on the Internet to obtain an overview of the tools available.

The most useful text which I consulted was Ed Krol's *The Whole Internet Guide and Catalog*(iv) Krol's book is regarded as an authority on Internet use - early editions sold 700,000 copies. The Catalog provides a guide to the tools which are available on the Internet. Though not aimed at the academic reader, nevertheless it provides background to the different tools and the facilities which each tool provides. There are chapters explaining the functioning of electronic mail, file transfer protocol and the world wide web, all of which are facilities which I planned to use in the exercise.

On the legal side very little has been written about IT training for solicitors. In 1995 Robert Abbey of the University of Westminster published the first analysis of IT and its impact on the legal practice course in "Information Technology and the Legal Practice Course.(v) The article reviews information technology currently in use in the legal profession, surveys present teaching of information technology on the Legal Practice Course and makes general conclusions and recommendations for the future use of information technology.

Abbey's review of current use of IT in the legal profession is based on a survey of 312 solicitors' firms consisting of 19,000 fee earners and 20,000 support staff (the Robson Rhodes survey).

This survey found that

> "......there has been a significant growth in electronic communication with growing use of Email facilities, the Internet...... It is hard to imagine a large law firm today operating without information technology, Word processing ..... electronic mail and many more administrative and management applications ..."

Abbey adds:

> "If the LPC is to prepare the student for general practice and to provide a general foundation for subsequent practice it seems from the report from Robson Rhodes that IT and the LPC must be integrated at the earliest stage to achieve these aims"

He suggests that that integration can best be achieved by ensuring that students are able to use the range of IT facilities that students may encounter in most firms. This includes communication by electronic mail and transfer of files by file

transfer protocol. It also includes document assembly using standard word processing programs.

Robert Owen comments:-

"I was prepared to run this exercise without researching first as David did. Until I joined the LPC team at Bristol in 1994 I was an equity partner in a Legal 500 City of London firm of solicitors. One of my partnership responsibilities was the firm's IT policy. I am convinced that solicitors have to use IT. IT frees the lawyer from the routine tasks leaving him/her with the time (and energy) to deal with the difficulty questions of law and/or clients' commercial goals. Clients' requirements make extensive use of IT obligatory. For example my firm was, and still is, involved in the Lloyds of London litigation. Managing cases with hundreds of plaintiffs, many tens of defendants and tens of thousands of documents would not have been possible without our computer system. So it seemed to me that we would be failing our students if we did not introduce them to IT.

My experience in persuading lawyers to use IT systems, is that they expect to get an immediate pay-back because it requires them to change their working habits. There must be an immediate and tangible reward. E-mail is the application which provides the best reward; poor typing (at least in internal mail) is acceptable, and the message can be sent and answered at convenient times. And the recipient is ready to take (if not to reply to) your message when you send it. An exercise based on e-mail was, I felt, the best way to give students a pay-back for their use of IT."

Structure of the Exercise

It is clear both from research and our experience from practice that there is a need for law schools to provide their postgraduate students with a more focused training programme. We at the University of Glamorgan have been implementing such a policy for the last year. Our training programme introduces students to the suite of programs contained in Microsoft Office and also trains students in the use of law specific software such as precedents and forms on disk. We also provide students with training in Internet resources such as electronic mail and the Web.

The combined exercise with Bristol University was intended to harness most of these software packages and integrate them in an exercise which would simulate the type of legal practice which our students would find in the legal office.

The structure of preparation and delivery of the exercise was as follows:

> Creation of IT links between Bristol and Glamorgan servers
> Creation of Instructions and Title Deeds
> The Exercise
> Evaluation of the exercise

Creation of IT Links Between the Bristol and Glamorgan Servers

The first stage was to set up a link between the two institutions so that documents could be stored at one site but be accessible from the other. For simplicity we decided to use the Bristol Professional Legal Studies server as the point of storage of all the materials for the exercise. John Harris, the Computing Officer at Bristol created a directory on the server - GAME. This directory contained four sub directories - one for each of the student law firms which would take part in the exercise. These were Jackdaws (JA), Eagles (EA), Barlow Baldwin (BB) and Morton Flowerdew (MF). Each of these four firms had ten separate files 1 - 10, into which the instructions would be placed.

During November we carried out a series of tests to ensure that students would be able to access the files and retrieve materials without too much difficulty.

Diagram One: Files as seen on Bristol Server

By the November 1995 the system was in place. John Harris the Computer Officer at Bristol and Robert Owen the head of Conveyancing visited us at Glamorgan to look at our system and make sure that the software was working properly. We then agreed on the time scale for production of documents and carrying out the exercise.

Creation of Instructions and Title Deeds

We now required instructions for the 40 groups of students who were to participate in the exercise - ten sets for each of the four solicitors firms. Robert Owen at Bristol created sets of title deeds and estate agents' instructions for his groups in the practices of Morton Flowerdew and Barlow Baldwin while I created instructions and title deeds for the Glamorgan practices of Eagles and Jackdaws. Specimens of these documents can be seen in Appendix One.

Diagram Two: Estate Agent's Instructions

Each set of instructions contained one complication to add variety to the exercise. For example Eagle 1 was given a Possessory Title while Eagle 4 had to deal with the sale of a house by a surviving spouse.

Diagram Three: Materials lodged in the Bristol Server

When the materials were prepared they were transferred electronically on to the Bristol server and put into the appropriate directories. A standard form of conveyancing contract was also placed on the machines. This task was completed in December.

In summary therefore we now had 40 files, 10 in each of the four solicitors' practices. Each file consisted of two documents; agent's particulars and title deeds, and would be used by four students working in a group.

In addition to the preparation of the materials we had to provide training to the participating students in the use of the File Protocol Transfer. Normally it is possible to attach a file to the e-mail and send it direct to the recipient. This however requires software which allows document attachment. Bristol uses Microsoft Mail which has such a facility. However at Glamorgan our laboratories are equipped with Alpha Mail which does not have such a facility. So though students would be able to send e-mails to each other, documents in files would have to be transferred using a file transfer system. For this reason it was necessary to provide the extra instruction to the students. An extra class was held for students in the use of FTP and an explanatory leaflet was prepared to help them to use the system

The final preparation was the grouping of students into e-mail groups. At Glamorgan we were assisted in this by the Information Technology Centre of the University. We provided student names and e-mail addresses and they organised the batching of students into mailing groups for the receipt and transmission of messages. Computing Service did the same at Bristol.

The Exercise

We had planned to hold the exercise over two days. But in the event it had to be conducted over the course of one week. At Glamorgan due to pressure of use of the laboratories at the Law School it was not possible for students to have long periods of reserved time in the laboratories. They had to get access when they could and between other class activities. Unfortunately the week which we had selected was the final week before courseworks had to be handed in. So there was heavy use of the computer facilities by other students for word processing. LPC students were also busy completing 2 assessed assignments and so had less time than we would have hoped for the exercise.

There was much less pressure on both machines and time at Bristol. There are more machines available to Bristol students. They are exclusive to the LPC. Furthermore the Bristol timetable differs from the Glamorgan timetable and Bristol students had less on during that week. In particular they had only one assessment. Unfortunately Bristol students were frustrated by, and complained about the delays.

On the first day of the exercise the teams of "solicitors' practices" were required to obtain the title deeds and the estate agents instructions from the server at Bristol. They then had to obtain the precedent contract and draft a contract to sell their client's property to their sister practice at Bristol. This task took each group about two hours. When the contracts were prepared they had to be transferred by File Transfer Protocol (FTP) to the Bristol server. Finally the students send an e-mail message to their sister practice and waited to receive a similar contract from Bristol.

As with most innovations we had a number of teething problems. The Glamorgan experience was:-

There were no difficulties finding the appropriate contract precedent in Microsoft Word from our server and preparing a draft contract. The main difficulty arose when students wished to transfer the files back to Bristol using the FTP system. Students found the FTP system difficult to use. They were not always able to locate the correct file area on the server. In the end we found it easier to assist them to obtain the title deeds and instructions from the Bristol server by using the Web. They also had difficulty transmitting their drafted contracts back to Bristol. They received no indication and did not know when their documents had reached the Bristol server. So there were some difficulties due to problems with the software which we were forced to use.

Bristol students did not fully understand the use of Word templates and of Windows directories. The result was that some students drafted directly on to the contract template and over-wrote each other's work. Even if they used the template correctly they had difficulty in saving files to the right directories, prior to transfer. They had less trouble than Glamorgan with using FTP, simply because the Bristol front end is easier to use.

However by the end of the first day most of the groups had drafted their contract and sent it across to their counterparts at Bristol. They had also sent an e-mail message to their counterpart groups advising that the document had been sent. Similarly the Bristol students had prepared their contracts and lodged them in their files on the Bristol server.

On the second day of the exercise it was intended that Glamorgan students would retrieve the contracts prepared by the Bristol students and revise them - making changes to suit the requirements of their clients. And vice versa. Most of the Glamorgan groups received contracts from Bristol. Bristol received rather fewer from Glamorgan. In the event seventeen Bristol teams and ten Glamorgan teams sent contracts to their opposite numbers. This was due no doubt to the pressures at Glamorgan we have already mentioned.

Students then used the red-lining facility in Word. This task took some time as they were not always certain whether the drafts which had been sent by their counterparts were correct. In some cases differences in practice between conveyancing teachers at Glamorgan and Bristol let to discussion as to what was the most appropriate form. This debate however helped students to understand that solicitors may use different conventions in drafting documents and that there may be a variety of appropriate drafts. When the contracts had been revised the groups transmitted them back to their peers at Bristol. At the same time they were receiving their own contracts back with amendments.

Progress was not however altogether satisfactory. Due to other commitments students at both universities were not able to spend the time necessary to complete this part of the assignment. Some groups did not receive a contract from their counterparts nor any reply to e-mails which had been sent. So this final part of the exercise was less than satisfactory.

Specimen draft and amended contracts can be found in Appendix 2.

Naturally at this stage there was some discussion as to which groups had drafted their contracts correctly. So we prepared specimen "answers" for our students. 20 model contracts were drafted for each of the 20 groups. These were lodged in the respective files on the Bristol server on the Friday morning. At lunchtime on Friday students were invited to download the "answer" and compare it with their own drafts. With this the exercise was at an end.

Evaluation of the Exercise

Following the completion of the exercise the Glamorgan groups were invited to answer three questions:

  - did you feel it was a worthwhile exercise
  - did you manage to send/receive contracts
  - how could it be improved on.

Overall students found the exercise to be beneficial. However they made several criticisms about its implementation. Their criticisms revolve round three basic problems:

  a. problems with the FTP system
  b. difficulty of access to the laboratories
  c. conduct of the exercise too early in the year.

Bristol students were asked to say what they liked about the exercise and how they felt it could be improved. Comment generally was to the effect that it was a good idea but the technological difficulties and the waiting for contracts , which in some cases never came, made the exercise frustrating and of less value than it might have been. In our end of course evaluation of the whole conveyancing unit some Bristol students listed his exercise as one of the least enjoyable parts of the conveyancing course, while only a few said it had been very helpful.

We hope to repeat the exercise next year but have learned from the experience and propose to make the following changes to address the criticisms.

Problems with the software

This is a problem with software and it arises at the Glamorgan site. Students generally found difficulty in grasping the principles of File Transfer Protocol - having to connect to a remote computer, login and transfer files to that remove host. Students would not need to use FTP if the computers at the Law School were equipped with Microsoft Mail which allows attachments of documents to e-mails.

In addition it proved too much to expect of students that they grapple simultaneously with:-

- conveyancing law and practice
- word processing
- e-mail
- FTP
- WWW.

Other universities which are interested in carrying out a similar exercise with us - Cardiff, Stafford and Central England - all have Microsoft Mail. It is expected that all student computers at Glamorgan will be equipped with Microsoft Mail by early next year. This will mean that there will be no further need to use the FTP system.

Difficulty with the Schedule

The exercise was originally conceived to take place over one week. Students were told to organise their own schedules with their counterparts and no timetable slots were created to allow for access to the laboratories. On reflection if would have been better if the exercise had been programmed into the laboratory timetable. This would have had the benefits of ensuring that members of staff were available to assist students and computers would have been available for student use when required.

As a result we propose to make changes to the schedule for the exercise this year. One possibility is to run the exercise over a longer period of time - perhaps two weeks. Alternatively we could find a slot in both timetables when students are free of other demands and computers are available and run the exercise in less than one day. A swift 'in and out' would address Bristol students complaints. Perhaps the exercise should be voluntary or a carrot (e.g. making it an assessed coursework) applied.

We will also require an introductory session in the preceding week where students at the two institutions establish contact by e-mail and set their own schedule for the completion of the exercise. A staff imposed timetable is doomed to failure.

Conduct of the exercise too early in the year

Glamorgan students felt that they had not learned enough about conveyancing to be able to complete the exercise. This is probably more a result of feelings of inadequacy when dealing with students from another institution who have been trained in professional skills in slightly different ways. I do not think that extra time would have improved student performance. We hope however to conduct the exercise later in the year when the students are more familiar with conveyancing procedures.

The Bristol students' work showed some had not fully grasped what is required to draft an acceptable form of conveyancing contract. Provisions which were unfairly weighted in favour of the seller were produced by some teams; they seemed unaware of the concept of the 'balanced' or fair draft. Some basic errors were also thrown up e.g. inserting the contract and completion date in the first draft. Some Bristol students would have benefited from more contract drafting exercises before the e-mail exercise.

While Glamorgan teaches conveyancing to the entire student body over two terms and Bristol to half the student body over one term and the other half the next term, there will always be timing problems.

In fairness to the second Bristol cohort, Bristol ran the exercise internally in Spring 1996. Without the FTP, timing and related issues, the exercise worked rather better, but it did demonstrate again the lack of understanding of file management, the word processing package and 'red-lining'.

Future Proposals

Despite the difficulties which we encountered we would have no hesitation in running the exercise again. Students at Cardiff and Bristol gained confidence in dealing with their unseen peers and drafting legal documentation which would bear scrutiny. As one practice, Jackdaws 2, observed :

"Although there were a number of drawbacks, we did feel that the exercise was worthwhile. It introduced us to something that we had never used before that would most certainly be of value in the future. We look forward to the next one!!!!"

Also there has been considerable interest from other LPC course providers. Conveyancing teachers at Stafford, and Central England (who all teach drafting and are interested in the application of IT) have expressed an interest and wish to

participate in a larger exercise next year. I also hope that Glamorgan's part time LPC students will be able to participate in an exercise with the full time students. In this way we will integrate the part time and full time provision and provide contacts between students taking courses at different times of day.

In the longer term; and once the IT problems identified by the first exercise have been ironed out, we propose to run a larger scale exercise involving Glamorgan, Bristol and Stafford Universities. The exercise will require students to synchronise the sale of one property and the purchase of another among the three institutions. Thus the loop would be Glamorgan sells to Bristol which sells to Stafford which sells to Glamorgan. This reflects the normal linked conveyancing transaction. It will have to be run over a longer period of time (probably two to three weeks).

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