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The Law Office of the Future
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1 Aim of this paper

This paper does not pretend to be an academically rigorous analysis of the use of information technology (IT) in larger law firms in this country. In essence it reflects my own experience as Director of Training and Knowhow at Linklaters & Paines (L&P) over the last ten years and the conclusions that I think, can be derived from them. The focus will be on the use of IT rather than on the technology used.

2 The firm and its current use of IT

L&P is one of the world's largest law firms. Its practice relates principally to the legal aspects of raising and investing money. The practice is none-the-less broad. It is conducted by 786 lawyers and 178 partners out of London and nine overseas offices worldwide.

The firm is, I think, a sophisticated user of IT. All fee-earners (including trainees) and virtually all support staff have their own desktop terminals which deliver a wide range of applications covering the following areas:-

2.1 back office functions

including accounts, premises management and a large range mundane of clerical tasks such as completion of leave of absence forms, applications for travel loans etc.;

2.2 management of practice and practice support

including business planning, monitoring of budgets and plans, project management, etc.;

2.3 handling of client work

including wordprocessing, administrative tasks such as time recording and a worldwide document management system giving instant access to workproduct wherever created;

2.4 the provision of legal information required for client work

including practice manuals, precedents, experience banks and increasingly, published information available on-line, on CD-ROM and the Internet;

2.5 communications

principally through e-mail internally and externally through the Internet and special arrangements with clients.

It is, I think, true to say that the partners and staff could not function effectively without these systems. In many ways, this is a remarkable achievement but there is a sense in which it is true to say that it represents only a beginning. The purpose of this paper is to attempt to explore developments that are likely to take place in the future. It represents my personal views and should not be taken as reflecting in any way the views of the firm or its IT strategy.

3 How will the use of the systems develop from here on?

3.1 The changes likely to be made in the foreseeable future will, I think, fall into two broad categories.

3.1.1 The first will involve the improvement of the efficiency of systems frequently by using technology to automate processes currently done manually. An example would be the electronic distribution of both internal and external information.

3.1.2 The second group relate to the way in which lawyers actually handle their work - how they gather the information they need and process it in the course of delivery of a service to the client. Specific examples here would include the drafting of documents and the gathering of information which will form the basis of work done for clients.

3.2 At first sight, the former should not present major problems. The issues are no different to those that arise in the improvement of any service delivery process but we need to bear in mind that:-

3.2.1 in automating a process, we often need to change completely the way it is currently handled;

3.2.2 this gives rise to organisational and psychological issues which are difficult.

3.3 Predicting where we should be going with the second category of changes (those that are concerned with the way in which the lawyers themselves work) is likely to be much more difficult for a number of reasons. The areas into which we are moving are to a very large extent uncharted. They are relatively untouched by technology. The activities supported by the systems are complex and varied. They represent the core of the lawyer's work and therefore require the adaptation of deeply entrenched working practices. Finally the benefits of any changes will be difficult to quantify partly because the work itself is varied and partly because the principal benefits are often intangible and therefore difficult to measure - eg. increased consistency, greater confidence, better quality of end product and greater job satisfaction.

3.4 In these circumstances, it seems best to proceed by way of working hypotheses - best guesses as to what is likely to happen.

4 Areas of potential change

My current best guesses are as follows.

4.1 IT will be used to develop **worldwide legal information systems** where the location of the work done or the source of the information being used will become increasingly unimportant. Geographically dispersed teams will be able to work effectively together on the same job and the same documents. The need to spend considerable time in the office and the design of that office will change. The impact this will have on relationships between those involved and their ability to work effectively together is as yet unknown.

4.2 We need to create a **seamless source of information**. At the moment, IT systems consist of largely discrete pockets of information both internal and external. To make use of all the information available, lawyers often need to draw on a number of pockets to perform a single task. We know that this leads both to under-utilization of all the information that is available and the provision of information that is inappropriate (in nature or quantity) for the task in hand.

4.3 The new technology gives us the opportunity for **increased onscreen access to legal information by fee-earners at their desks**. In principle, desktop access should be both easier and quicker. In practice, this is less certain. Giving direct access to end users can result in greater inefficiency and less effectiveness than access through expert intermediaries. Most fee-earners are both more expensive and less likely to be skilled users of IT systems than support staff. The real question will be how to divide the work between the two.

4.4 The future will see **much more extensive use of external (particularly electronic) sources** of information. This is partly because as the role of the lawyer is more broadly defined, the range of information he or she requires broadens accordingly. Most of this (general/commercial) information is best available electronically. Apart from this, an increasing amount of strictly legal information is becoming available electronically. This will require the abandonment of internal systems that have been slowly and painfully built up over recent years. There is little point in maintaining labour intensive (and therefore, costly) in-house systems to provide information which is publicly available at a cost which is shared by other subscribers.

4.5 We have now reached the stage where **technology could be used to assist in the performance of those tasks which are core to the lawyer's job**. Document assembly packages are a good example. They enable a fee-earner to bring together harmoniously the component parts of a document in response to a series of questions. The advantages seem self-evident but the difficulty experienced in securing the use of these systems shows that they are not easy to achieve. This is partly a question of user friendliness but mainly a question of when this approach is appropriate and cost effective. The answer to the latter question appears to depend on whether the changes are sufficiently simple or

repetitive to justify the set-up and maintenance costs and make the result usable by the non-expert.

4.6 As the concept of the lawyer's role has broadened, a need has emerged for **better integration between the traditional areas of knowhow (law and practice) and information about the commercial environment in which the legal service is delivered**. This is reflected in the wider range of external information the modern lawyer needs. It also means that lawyers will be looking for a wider range of (management-related) information about the matters they are handling. Until now, these two subsets of information have developed largely independently but their integration could have significant advantage. Some of the management information might plug gaps in the traditional knowhow areas - for example, information about the use of foreign lawyers.

4.7 Developments such as those sketched in the last two paragraphs open the way for far **more radical changes in the delivery of client work**. IT has enabled us to standardise the way in which even complex tasks are handled. The use of precedents is the most obvious example but we have only just begun to explore the degree to which this can be done. Even in the most complex areas of practice:-

> 4.7.1 some components of the work can be standardised - the uniqueness lying in the way in which these components are put together; and

> 4.7.2 some of the advice given is standard and could be "packaged".

The latter will allow the experienced lawyers to concentrate on dealing only with those problems that require their level of experience and expertise. The packaged information (although designed by the expert) can be maintained by a less experienced lawyer who might also be able to handle basic enquiries from the clients. The technology can bring about changes in the product and this could radically change the roles of the lawyers. The result could be a series of specialists tasks requiring different levels of experience and expertise - and accordingly different levels of reward. The impact on training and recruitment could be significant.

5 What are the likely implications of these changes?

The changes outlined in the preceding section will do far more than simply automate the way practitioners work now. They are likely, in the longer run at least, to transform the way in which law firms operate:-

5.1 They will change the nature of the tasks being performed

Producing a document using a standard precedent (let alone a document assembly package) is a completely different task to drafting the same document using pen and paper for subsequent "typing" or wordprocessing. The former is a process while the latter is essentially a task. The table on the next page provides a rough comparison between the two activities.

Table 1 - Comparison between drafting and "producing" legal documents

You may say this table is true only of the largest of firms. I would not agree. Today even the smallest firms are IT users and make use of public precedents to produce documents. The only difference is that steps 1-5 in the process take place outside not within the firm. This has important differences for cost!

It is worth giving a little more thought to the differences reflected in the table:-

- the task has become a process;

- the process involves a larger number of people - the template team and programmers, in particular, who are not lawyers and are not familiar with the requirements of legal work;

- the task performed by the lawyers and technical support lawyers in developing the precedent is a novel task; and

- it requires to be managed in a way that the drafting did not.

There are two differences which the table does not bring out clearly. The first is that document production involves standardisation of the work product on a scale previously not possible. Encyclopaedias of precedents have, of course, existed for a long time. Even where they were used, each document was a unique product rather than the adaptation of a standard version.

The second difference, which flows from the first, is that the document production process requires the lawyers to work very differently even in the last three stages which in the table at least, appear to be identical. They have to produce standard documents without the "guidance" provided by the needs of the client. This is a novel, and for most, a very difficult task - more difficult than drafting a client specific document.

Even the production of the client specific document is very different. To draft a document from scratch, requires careful thought about its purpose, what is required to serve that purpose and ensuring that the parts form an harmonious whole. A significant part of the document has to be individually crafted. The skills required result from substantial drafting experience which, in turn, results in an intimate knowledge of the documents.

In contrast, much of this work has benn done by the time the document producer begins his or her task. That task is not to build but to adapt and refine a standard model. This may require relatively little drafting from scratch and it is much less likely to result in line by line/word by word familiarity with the documents.

The task and process are then wholly different. To make sure that the process is both efficient and effective, we need to approach it differently. Instinctive judgements based on attitudes and experience gained in drafting may be misleading. Ironically, we need to start from scratch and this will probably mean radical changes to the way we do things now.

5.2 They will force us to focus more on the distiction between "simple" and "complex" tasks

Automation makes standardisation easier. Standardisation makes it possible to complete complex work quickly, consistently and with greater confidence. It also makes it relatively easier to do because it simplifies the task - in a sense it deskills it. It increases the proportion of "simple" tasks in complex transactions and thus increases the range of tasks that do not require the skills of experienced lawyers. Should the latter now focus on those things that only they can do?

5.3 They will increase the need for information management

The process of document production involves a larger number of people with a wider variety of skills and experience, much more forethought and planning, a wider range of different tasks and more coordination and supervision. In drafting, the task is often completed by a single individual. The process requires to be managed in a way that the task does not.

5.4 They will change the roles of those performing the tasks

The process will change these roles in two ways. Some tasks in the process can now be performed by less experienced or less skilled lawyers or even by those without legal qualifications. It also makes it possible, and perhaps sensible, for lawyers to perform tasks previously performed by skilled support staff. Amendment of the standard document is an example. When evaluating these changes, we must remember the novelty of the process and put aside attitudes based on drafting from scratch. The lawyer amending the document is not becoming a secretary - the task is one s/he has always performed. The way of going about it has been so "deskilled" that even s/he can perform it.

5.5 They will change the nature of the support required in law firms

Many of these changes are the result of automation of the simplest tasks in the process. What we often fail to recognise is that the process itself becomes more complex and requires a greater level of skill in its execution. Support in law firms is moving from the essentially "clerical" to the increasingly "professional". Staff of this calibre are unlikely to tolerate or work effectively in an environment where they are regarded as second rank. Automation is blurring the distinction and changing the balance between practice and support in law firms. It is gradually eroding the distinction between the two.

I have deliberately chosen the automation of a "simple" task because it shows how widespread its ramifications are. The issues raised by extending the use of IT in law firms are shifting from the technological to the psychological and organisational. Unless we appreciate this, we will not achieve the potential gains in efficiency and effectiveness that technology may be able to deliver.

6 Will the changes bring about increases in productivity and efficiency

Much of the use of IT has been justified by reference to gains in efficiency and effectiveness. Unlike the manufacturing process, where the gains are clearly demonstrable, the picture for the service industry is much less rosy. Much of what follows is taken from a book by Edward Tenner "Why Things Bite Back" (Fourth Estate: 1996). Tenner refers to studies in the US which show "the contribution of computers and peripherals as no more than 0.2 per cent of real growth in business output between 1987 and 1993" (188). I am less concerned with the accuracy of these figures as with the analysis which he gives the difficulties which stand in the way of such gains.

6.1 Continuing obsolescence

The constant improvement in IT means its life-span is short and its residual value is low. The result is that although acquisitions costs appear to be dropping, the cost of using IT is not.

6.2 It does not merely automate - it changes the nature of the task

Much of IT is used to automate existing processes. Its full potential remains unrealised.

6.3 The problems of systems failure

The causes of systems failure are numerous: the instability of increasingly complex software, viruses, power spikes, misuse by staff. The risks are high and the consequences serious. When the system is down, work all but ceases.

6.4 Staff savings?

The analysis of document production earlier in this paper illustrates the truth of Tenner's point that: "[c]omputers tend to replace one category of worker with another"(191) - the latter often being more expensive than the former. The result may be a reduction in numbers but not cost.

6.5 Simplicity and ease of use bought at the price of technological and organisational complexity

Simplicity of use requires complexity in the underlying technology. As a result, what appear to the user to be simple changes become increasingly technologically complex. The same is true of the organisational process required to do the job.

6.6 Lack of common standards

Working with IT requires constant learning not to do new jobs but the same job differently. Training and learning have become major (and expensive) activities in the work place with signs of overload and resistance.

6.7 Other hidden costs

Systems set high expectations - users with inadequate skills spend substantial time trying to attain them - I spent about half an hour in vain trying to figure out how to insert automatic numbering in the table in the preceding section of this paper. Had I been in the office, I would have asked those around me for help - one estimate suggests such informal support costs three times the direct support costs. This brings out a further hidden cost - gilding the lily: the use of technology to deliver an unnecessarily elaborate product. Audio visual presentations are a good example.

6.8 Resistance to change

As IT gets closer and closer to the core of the lawyers job resistance to its use grows. In part this is sheer conservatism and the "problem of priesthood" - reluctance to demystify and deskill a task which sets one apart but there are good reasons as well:-

- for the experienced using an inefficient method very efficiently is often more efficient than using an efficient method inefficiently;

- IT often requires a job to be done in a more complicated way or to a higher level of performance than is required in practice - the reason why lawyers rarely use the more sophosticated functionality of IT systems: the more basic are sufficient;

- learning to use IT is a diversion from the job particularly in an industry in which all you are selling is measured time.

7 What is the extent of the "techno-competitive" advantage?

We need to re-assess both the purpose and consequences of the use of IT. The thrust of this paper is to suggest both that using IT is more difficult and that gaining efficiency and effectiveness is more problematic than its proponents have

suggested. Major psychological and organisational change is required for the effective use of IT. That cost is hardly ever factored into decisions to extend its use although its consequences are obvious in difficulties encountered in implementation.

This suggests a more defensive posture in adopting IT. Rather than enthusiasts, we should be sceptics. This does not mean playing at being Canute but does mean:-

- exploiting existing technology to the full;

- concentrating on the basics - for example reliability; and

- extending systems only in response to fee-earner or client demand.

In short, a strategy of following the market rather than leading it.

There is another factor here. IT is beginning to show signs of the law of diminishing returns. The systems are becoming so sophisticated that the benefits of enhancement are marginal. They are also becoming more widely available. It is not surprising that the this years software prize awarded by the Society of Computers and Law was won by a small two person firm in Bristol. Does this mean, in turn that the competitive advantage to be gained from extending the use of IT is also falling? Is it not possible to gain more from more effective use of existing systems? Is competitive advantage once again coming to rest on the quality of the lawyers doing the job. Or has this always been the case?