

APRIL 2018

LPM

LEGAL PRACTICE MANAGEMENT

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Law, on how to recover from
a horrid hack*

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LPM ASKS

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WELCOME

The spring of LPM has arrived!

The spring of LPM has arrived – and with it new and familiar faces. If you read last month's letter you would have heard that dear Patrick, former editor of LPM, has left us for pastures new. It was a fantastic two years of puns and hard work, but the fun doesn't stop there.

To bring in the April issue, we've welcomed Richard Parnham on p26, a seasoned writer for the legal sector, to give us the lowdown on SME legal leaders' attitudes about the upcoming new rulebook from the Solicitors Regulation Authority (SRA). The deregulation will, perhaps, see solicitors practising in, say, your local Asda. Are firms preparing for the potential competition this may bring? Could your firm take advantage of the new and 'improved' SRA regulation? Perhaps.

And more on the regulation front, in case you haven't read enough around the GDPR – let's be honest, you can probably use all you can get – our HR guru Polly answers some questions about what GDPR means for the consent and privacy of your staff (p13).

Elsewhere, learn some hard lessons about what Manchester firm CFG Law did when their URL was redirected to an inappropriate website (p26). How does a firm handle its reputation in a situation like that? COO Richard Clark tells all – and gives some solid advice for what you should do if it happens to you.

Kayli Olson, acting editor
@LPMmag | kaylio@lpmmag.co.uk



“The deregulation will, perhaps, see solicitors practising in, say, your local Asda.”

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About us

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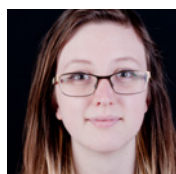
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IN PRACTICE

SNAPSHOT ALL AROUND REGULATION

We're going to keep pounding the regulation drum. Left, right and centre, whether it's changes in the SRA code of conduct set to hit firms at the end of the year or GDPR just around the corner, law firms have a whole lot of reading to catch up on and game plans to finalise. But don't get too engrossed, as we're sure there'll be plenty more in hot pursuit.

Wales could become the first part of the UK to have a distinct, codified legal system – in an aim to make the law in Wales more accessible. This more 'radical' approach by the National Assembly, would involve it producing US-style codes organised by the subject areas devolved to Wales to be found under one place – which already include housing and public health.

From the end of March 2018, the Welsh government's senior legal adviser, counsel general Jeremy Miles, opened a 12-week public consultation on the draft bill. He said: "A clear, certain and accessible statute book is an economic asset and gives those who wish to do business in Wales a more stable and settled legal framework."

On the other side of the UK, law chiefs in Scotland are looking to regulate multinational firms which operate across the UK and overseas. **The Law Society of Scotland may apply to the Legal Services Board to become an authorised regulator for cross-border practices.** Though more geared toward the larger end of the legal sector this could also provide an opportunity for SME market firms that are looking to merge or be acquired across the UK – no more dual regulation submissions (yay!). This is part of a wider review of legal services regulation in Scotland.

In legal aid news, progress is being made on the online courts project. **The system which allows litigants in person (LIPs) to file money claims online has advanced from the pilot stage, involving only invited claimants, to a**



public beta.

Since summer 2017 the pilot has allowed users, either represented by lawyers or as a litigant in person, with claims worth less than £10,000 to file their claims online.

This comes in spite of reports earlier in March 2018 that the judiciary threatened to pull out of the online court pilot over fears the public beta had been "oversold" to them and "wasn't closed to being finished," according to Justice Birss, chair of the Civil Procedure Rule Committee's online court subcommittee.

Sir Terence Etherton, master of the rolls, pointed out: "If we are to ensure that our civil justice system is as effective and as accessible as it can possibly be, reform must be, and will continue to be, a very high priority." [LPM](#)

✓ Have you got a story or report for us? Write to lpmmag@lpmmag.co.uk

"Will these really fit together," asks the law firm. "Shhhh," says the regulators, "it'll all work out."

IN NUMBERS

Portal gone public

At the Liverpool Law Society In March 2018, Sir Terence Etherton, master of the rolls, announced the results of pilot testing by litigants in person to file money claims online

Number of LIPs who filed online

1,828

issuing 1,035 claims

Time taken reduced by

40%

for claims to move from issue to first hearing

But, the default judgment rate dropped to

24%

for the online pilot versus 53% under the paper process

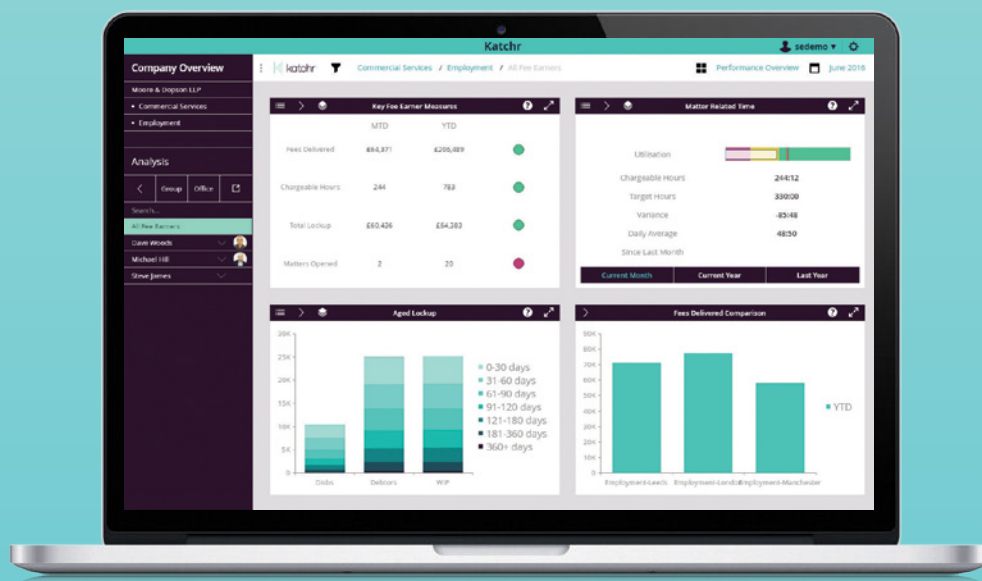
Source: Sir Terence Etherton, master of the rolls and head of civil justice

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CHRISTINE WOOLFENDEN
HR MANAGER,
TV EDWARDS

At TV Edwards we very recently had to put our disaster recovery plan to the test! In my view it's clear that the most important factor when considering business continuity are the people around you and how you communicate with them. A positive team spirit is essential, helping each other and all being on 'the same page'. Quick-thinking staff and a proactive positive approach saved the day. Remembering to say thank you to staff who are willing to muck in will always go a long way.



DEREK RODGERS
MANAGING PARTNER,
GARDNER LEADER

In any emergency situation, having a plan and a team of people who fully understand the business, can react quickly, know what the key risks and priorities are and can swiftly decide on the appropriate response is always going to be the most crucial factor. Backing them up with good systems and processes, coupled with robust technology, will obviously help a lot – but the people are essential.



MARK BRIEGAL
PARTNER, AARON
AND PARTNERS

I think the most important thing is to have a tested plan that trained people can put into action if the worst happens. The plan must include people, facilities, IT and PR, depending on the nature of the problem. Your disaster recovery plan must consider a whole range of issues from complete office destruction to cyber attacks and potential reputational disasters from bad publicity. Speak to people who have experienced problems and learn from them.

In times of disaster – whether that be cyberattack, office fire, storm or anything else under the sun – we ask LPM readers:

“What do you think is the single most important factor in business continuity (people, tech, process, etc)?”



GRACE-ANN PICKLES
HEAD OF FINANCE
AND OPERATIONS,
NEEDLE PARTNERS

Tech, tech, tech. Having been part of the Lean movement in my early career, I have always been a great believer in process; however, over the years, experience has taught me that tech is the backbone of business continuity. Where the human and procedural elements are key, crucial even, they are of no benefit when disaster strikes and employees simply cannot make it to the office. Though I cannot claim that we were entirely unaffected by the beast from the East, working for a tech-savvy law firm, whose systems are entirely online, meant that this time around employees were able to work from home, maintaining our client care and protecting our people (and, of course, our revenue). Thankfully, investing in secure technology paid off this year and we have been nowhere near as affected as others in service-led industries. People and process are essential, but the single most important factor? It has to be technology.



KAREN EDWARDS
PRACTICE MANAGER,
HEDGES LAW

A detailed and effective plan is crucial to business continuity to ensure productivity is maintained, data is protected and the service to clients can continue. It is important that any plan is reviewed, updated and tested at least annually (perhaps even more regularly) to reflect any changes to your systems, personnel, and so on. An out-of-date plan can be worse than no plan at all.



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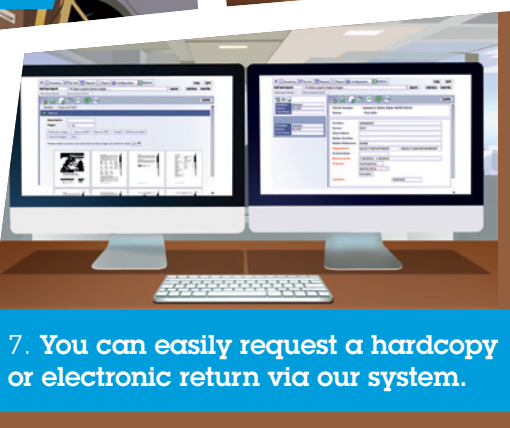


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ASK THE EXPERT



CHANGE YOUR STRIPES

Matt Meyer, CEO at London firm Taylor Vinters, tells Patrick Wingrove about the Zebra Project – his firm's platform for a cross-industry and future-focused discussion

Q What is the Zebra Project?

A It's a conversation punctuated by a series of events, where a network of leaders from multiple industries can talk about and explore the drivers that will shape the future of their businesses. The launch event took place on 18 January, and we've initially scheduled it to run for a year. The idea is to encourage discussion but to let it gain some of its own momentum around the themes that the network finds most valuable. We've programmed around a number of hot topics, including technology, organisational culture and the future employment model through to ethics, corporate structures and business philosophy and how that impacts management. But it's got some flexibility, let's put it

that way.

Q Why have you set this up?

A There are different drivers. First, we're interested and motivated by innovation and change. Taylor Vinters is all about helping people to take risks and embrace innovation and change and we want to be part of that conversation and encourage it. We have a really valuable network and thought that we should leverage that for the benefit of other people who share our interest. It's also an opportunity to bring together people in an efficient way to talk about something that reinforces our brand as a law firm in the innovation space. Our clients range from very large multinational tech businesses and non-tech companies pushing the boundaries in their

own markets through to charities and educational institutions that you wouldn't think of as innovative businesses – but they are, and they're doing very creative things. The common thread is that we support people who are challenging the models in their sector and trying new things and trying to adapt to the different drivers in the world, so Project Zebra is a great value add for them.

Q Do you think this is something other law firms should be doing?

A Yes. We as a profession need to be looking more holistically at designing solutions to the challenges that our clients face – they don't always fit neatly into transactions or practice areas. Law firms should

be bringing together groups of people to talk about broad issues that affect business and life. And they could learn a few things if they did that. Most managing partners I talk to feel pressure from junior talent to be more authentic, have a greater purpose in their organisation and greater transparency. There are also questions around what the right business model for a law firm is. If the industry is going to innovate and create sustainable, competitive businesses for the future, can we afford to be stifled by the financial and governance restrictions that often come from the traditional approach? If we're ever going to be creative in legal services now is the time and the UK, as one of the most deregulated markets in the world, is the right place to try. **LPM**

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Q&A

You're hired!

Tricia Chatterton, BPP's training guru, discusses robots and how to prepare the workforce for the future

Q We're becoming ever more aware of the challenges technology presents to our business. Are we all going to be replaced by robots?

A Artificial intelligence and big data is already starting to make an impact on certain parts of the legal sector and that will only increase and spread to other parts over the next five to 10 years. While I don't think machines are set to replace lawyers entirely any time soon, estimates on tasks that could be automated range from 13% to 23%. To meet the challenges this will present to law firms, future lawyers will need to be tech-savvy and collaborative workers with creative problem-solving skills. They'll also need to be quick to adapt to a rapidly changing world, without compromising on any of the more 'traditional' skills of a lawyer.

Q Surely junior lawyers will be well equipped to handle these changes?

A Not necessarily. We're increasingly being asked for advice on how best to prepare new starters for the future but, at the moment, neither the traditional LPC nor the impending Solicitors Qualifying Examination (SQE) includes any real focus on the skills needed to thrive in an increasingly digital world. Indeed, under the current plans for the SQE, graduates could enter the workplace equipped with fewer of the skills currently demanded of future lawyers, let alone any of the additional skills needed. However, in response to law firm demand, the programmes we are currently designing at BPP University Law School will ensure that students are really well grounded in all the skills that they

are likely to need as lawyers of the future – so that they're competent in the workplace from day one.

Q So, how can we keep ahead of the game instead of being dragged along behind it?

A Growing your own pool of talent and, in so doing, ensuring that they have the training that you want them to have, is one obvious answer. While many firms are currently unable to recruit regularly and develop trainees because of the costs involved, that's all set to change with the arrival of graduate solicitor apprenticeships, where the apprenticeship levy can provide 90-100% government funding to employers, regardless of size. This will mean that training graduates is no longer the preserve of larger firms but is open to all – enabling smaller firms to compete for the best graduate talent at the earliest stage and shape their development to suit the needs of the firm.

Q What advice would you give to a firm starting to think about its future talent?

A Apprenticeships offer a real opportunity to law firms looking to grow their own talent, whether direct from school or after university, and the apprenticeship levy provides the means to achieve it. But, with many more firms aiming to recruit talent at apprenticeship level, early planning is essential to get the best people. It's never too soon to get the ball rolling. **LPM**

Tricia Chatterton is director of legal apprenticeship programmes at BPP University Law School.

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STAFF PROTECTION



Polly Jeanneret, LPM's HR guru, on consent and privacy when it comes to the personal data of your staff

Q At the moment, staff give consent for us to process their data when they sign our employment contracts. Will this still 'work' following GDPR?

A I think it must have been the GDPR, in all its voluminous confusingness, which inspired Einstein to utter those famous words: "out of clutter, find simplicity." The rules are actually almost unreadable (and this coming from a lawyer - we positively thrive on incomprehensibility). Check this out: "Processing shall be lawful only if and to the extent that it is necessary for the purposes of the

legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data." The only sensible response is: "come again?" To answer your question: no one really knows, but probably not. The word on the street is that we should not use data protection clauses in contracts anymore and instead draft what are called privacy notices, which you give to staff individually (and, possibly, on more than one occasion depending on

the circumstances). All crystal clear.

Q What needs to be in this "privacy notice", and why are we so obsessed with privacy?

A A privacy notice is not, as it might first appear, a sign you might put on the loo door. It is, in fact, a letter which (deep breaths as we come to confusing-terminology-squared) a 'data controller' (you, the employer) must give to the 'data subject' (staff) about 'personal data' (personal stuff about your staff) that they hold about them and the purposes for which they 'process that data' (what you do with that personal stuff). The notice also sets out the 'rights' of the data subjects in relation to that data (what staff might potentially be able to complain about). Of course, a

lot of this we are already familiar with from the data protection regime already in place since 1998 so it is not quite as scary as lawyers like me make it sound. But the bigger picture is that there has been a fundamental shift towards privacy rights in recent years (essentially in reaction to technology companies' ability to turn our data into their profit) and staff are going to be more and more articulate about those rights. So if you are umming and ahing about your next book club book, look no further. The GDPR has it all. [LPM](#)

Polly Jeanneret is an expert in HR and an employment lawyer at Halebury to boot - she's seen and heard it all.

Send her your HR questions:
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BOOK REVIEW

CONFRONT YOUR SUCCESS

Tim Nash, CEO at Edwin Coe, reads *Strategic Decision Making* and gives his view on what it takes to make important decisions

In a world that is uncertain, with political, economic and social disruption the norm, this book provides valuable insights for those trying to navigate their organisations forward. It is refreshing to read a book that presents a contemporary perspective and attempts to provide a holistic framework for the challenges of 21st century businesses. It's a complicated world, and given that an average human adult makes around 35,000 decisions a day, the impact of big decisions and the cumulative impact of the smaller ones can be huge.

For those tasked with the privilege and challenge of decision-making, there have been four key shifts in their terms of reference:

- The world has sped up
- Everything is underpinned and disrupted by digital technology
- Businesses are increasingly able to scale up quickly
- Shifting socioeconomic boundaries are broadening the success criteria for businesses, for example, making corporate social responsibility more important.

The book sets out an approach the authors feel is more suited to these challenges. They advocate discovery-led decision-making. In essence, this is achieved via three techniques:

- Frame – what is the right problem to solve?
- Experiment – how to learn what information we need to know, to make the decision
- Scale – how to do more of what works?

This slightly academic but well laid out book summarises what the authors are advocating at the start, before working through how the world is changing, the classical strategy models (a useful reminder!), explaining how these are relevant in a more linear world. They then run through organisational inertia and why they tend to continue down the path they are already travelling. Further chapters discuss the ways decisions can be made: 'top-down', 'middle-out' and 'discovery-led'. All have strengths and weaknesses: heuristics, groupthink and so on are all well documented. One interesting point that stood out was that harmonious teams are not as effective as teams that confront, and learn through, conflict.

The challenge laid down is that organisations are bound by their past and by their present when trying to make decisions about the future. Helpfully, the authors simplify



Strategic Decision Making:
A discovery-led approach to critical choices in turbulent times by Simon Haslam and Ben Shenoy

Publisher: Kogan Page
Publication: January 2018
Price: £29.99



Reviewer: Tim Nash, CEO,
Edwin Coe

One interesting point that stood out was that harmonious teams are not as effective as teams that confront, and learn through, conflict.

the levers that guide strategy, suggesting there are just four: resources, organisational rules, goals and measurements, and organisational culture and values. Their suggestion is that a tridextrous organisation – one that frames, experiments and scales – can influence the levers of strategy more effectively.

Not only is the book strongly backed up by academic research, it also provides copious quotable quotes to support each chapter. "Not making a decision means forgoing an opportunity," "An executive is someone who can make a quick decision and is sometimes right" and the warning "If you do what you always do, you'll get what you've always got."

Is this approach suited to law firms? It is not obvious, mainly because the impact of digital has been lower in this industry so far. The rapid emergence of a Google or an Amazon in this industry seems unlikely, but in a way, that is the central message of the book: there are people out there looking for ways to disrupt many incumbent, comfortable industries. It's therefore a valuable read, if only as a reminder not to be complacent. [LPM](#)



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EDWARD O'ROUKE, CEO



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In the PwC 2017 law firms' survey it was reported that, in many respects, law firm performance has plateaued, if not declined. With profitability under pressure, and with a digital revolution inevitable for professional services firms, fundamental action is needed to future-proof the shape and operation of the firm.

One aspect of this shape and operation is the law firm structure. The report notes: "Law firms of the future will not be restricted to the partnership model, which we have already said does not necessarily facilitate future investment. Rather, they could be multi-disciplinary partnerships, public companies, financial investor-backed private companies, or blended hybrid structures. The transformation required to thrive in the new order will be costly and firms will look to alternative sources of funding to pay for it. Furthermore, 'non-lawyers' will play an increasingly important role in future law and different structures will better facilitate more equal reward."

The PwC report is clear in its message – it's time for change. This was indeed recognised in the results of a poll carried out at the recent LPM conference in London. Moreover, in the legal marketplace, limited companies now outnumber LLPs as entities delivering legal services. But the vast majority of these limited company models are the new entrants and not the established brands.

So, if the expert reports are extolling the virtues of changing operational structures – if the leaders of firms can see and agree with this and all the new entrants are shunning the partnership model – why are so many traditional law firms still shying away from making the change? On the face of it, various arguments often put forward for converting to limited company status seem attractive. These include, but are not limited, to:

- It provides the option of securing external investment to speed up investment.
- It removes a barrier in reaching the most senior positions in the business – the need to be a partner.
- It provides flexibility to give employees a stake in the business.
- It changes focus from increasing the wealth of partners to building value in the company.
- It provides a more tax-efficient way to build up cash.
- It presents a more attractive prospect for potential partners.

So why the resistance? I'd suggest there are a number of reasons, such as:

Change – it's uncomfortable, requires effort and shifts us from the familiar to the unfamiliar. John Kotter recognises this as the biggest barrier and suggests that the key to overcoming this fear is to create a sense of urgency. Unfortunately, many partners haven't heard the warnings of a need to change for some time and the sense of urgency has disappeared. Paradoxically, as more law firm partners seem to be relaxing, the experts are indicating that the need for change is more important now than ever before.

Secondly, you may feel you won't earn as much as you used to. Without a doubt the legal profession has had some wonderful heydays (in fact decades, not days). However, to hold on to these is a failure to recognise that the world is changing. Clients are, quite rightly, more demanding. Technology is becoming an increasing feature of our lives and is costly to deploy. Our workforces are looking for new ways of working – holding on to old ways of working is not a good strategy for protecting income rewards. It seems some believe that the antithesis of idiocy is to continue to do the same things in order to ensure achieving the same results.

It will be interesting in the coming years to see which firms adapt to survive and which don't. **LPM**



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IN THE CLEAR?

GLYN MORRIS, PARTNER – HEAD OF FINANCE (NON-LAWYER)

It's imperative for any law firm to be in receipt of cleared client funds before releasing any money to third parties. And we all know monies that are not cleared may delay completion or the payment of monies to a client (or on their behalf), because the cash office function will not authorise clearance unless the correct timescales have been observed. If individuals in the banking world and the legal market find understanding the types of payments and receipts options challenging, it's not difficult to conceive that many law firm clients also find it difficult to navigate this terrain, especially when deciding what are 'cleared funds'.

There are essentially five ways we can receive funds from, or perhaps make payments to, our clients: Chaps, Faster Payments, cheque, credit card, or Bacs. You may think that you know, but do you *really* know what these are?

• **Chaps** – This is a guaranteed same-day payment that can be used to make or settle urgent sterling payments to UK sort codes that can accept Chaps payments.

• **Faster Payments** – The Faster Payments system is operated by the Faster Payments Scheme Ltd (FPSL), providing 'near' real-time payments between 10 UK banks and building societies. Faster Payments are electronic payments that can be made online, over the phone, in branch or through self-service kiosks. Single immediate or future-dated payments can be sent 24 hours a day, seven days a week (subject to the service offering of each bank).

• **Cheques and drafts** – Banker's drafts and cheques are deposited in much the same way, but are issued differently. A banker's draft, also known as a banker's cheque, is like asking a bank to write a cheque for you which is prepaid and issued by them. A cheque, on the other hand, is not prepaid.

• **Receipts by credit card** – Money received electronically direct from a credit card provider, typically via Visa or Mastercard, via a merchant card services provider such as Worldpay.

• **Bacs: direct debit and direct credit** – Bacs is renowned around the world for the secure delivery of electronic payments, as only approved organisations are allowed to collect direct debit payments. Bacs is a type of bank-to-bank payment. There are two types: direct credit and direct debit. Bacs direct credit (also known as bank transfer) is a secure payment service directly into another bank or building society account. Almost 90% of the UK workforce is paid this way. A direct debit is an instruction from a customer to their bank authorising an organisation to collect payments from their account. Two-thirds of the UK population say they'd prefer to pay most of their bills using direct debit.

Are these funds cleared then? Even when funds have left a client's bank account and appear to have arrived in ours, they may not be deemed 'cleared funds' that a firm is comfortable to send onward. Chaps, same-day faster payments, future-dated faster payments, Bacs and cheques all have different clearance times. It's vital that transactions requiring funds to be transferred within short timescales, especially for completion or for property purchases, have funds sent via the most appropriate method.

Banks that support law firms must carefully advise them and their clients whether funds are cleared under each specific circumstance for that transaction. Simply saying the funds have left a bank account is not addressing the issues of receipt and clearance.

In the next article I'll look at the deeper issues and nuances affecting how the moving of money between parties can be smoother and alert you to some of the potential pitfalls. **LPM**



“Simply saying the funds have left a bank account is not addressing the issues of receipt and clearance.”

ABOUT

Glyn Morris
Partner, head of finance
(non-lawyer)
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www.higgsandsons.co.uk

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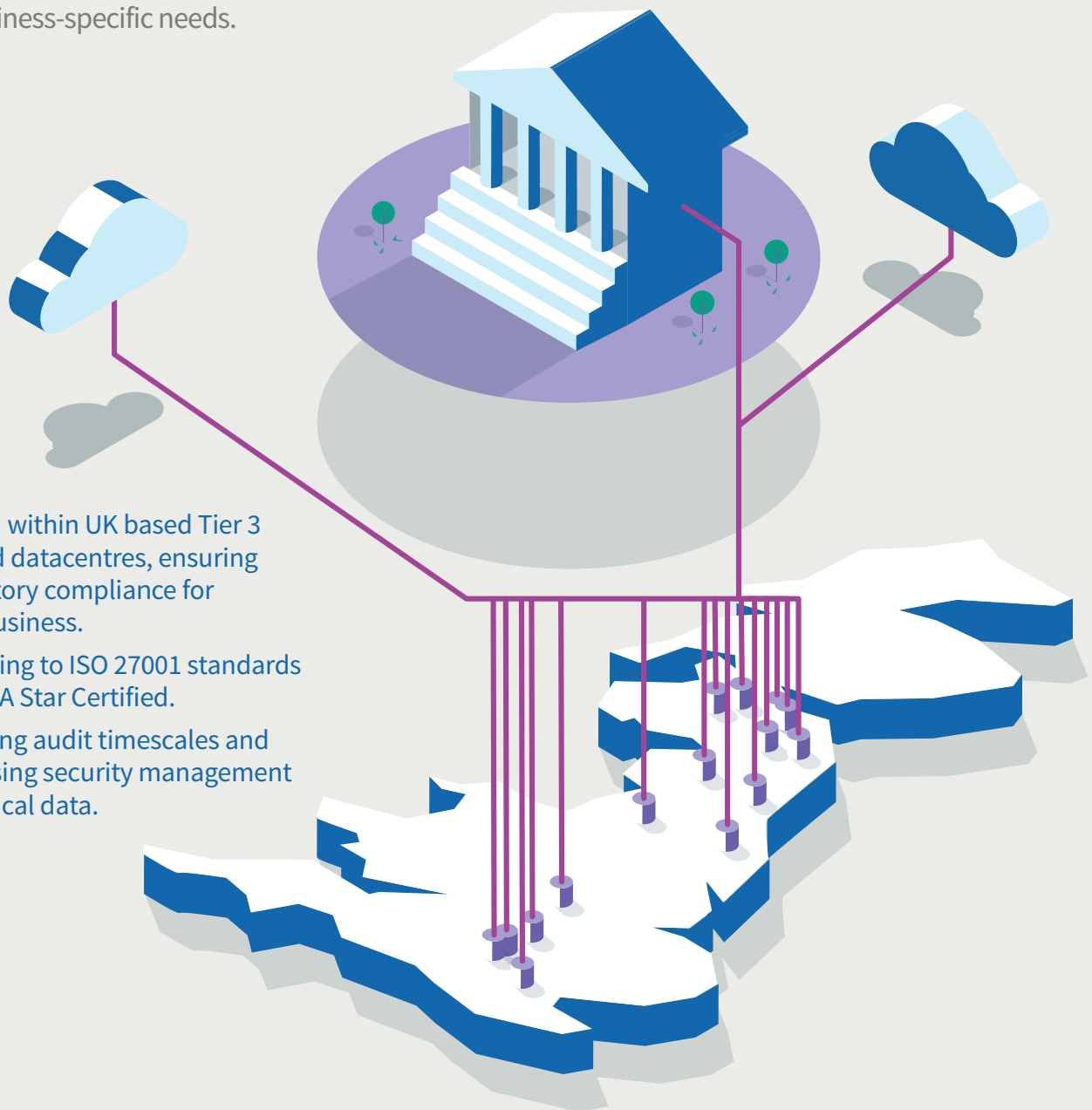
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partnership

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THE A-RATED TEAM

JANINE PARKER, THE BROKER

The issue of unrated insurers has long been debated in our market – and it's generally accepted that those insurers served a purpose for the profession at a time when there was limited choice for smaller law firms when purchasing their professional indemnity insurance (PII). However, while there was the attraction of extremely competitive quotes, their pricing models were often unsustainable. It's no coincidence that the majority of these insurers are now in liquidation or have disappeared completely. The main 'vetting' that seems to exist in today's market is whether an insurer is 'A' rated, but given the spread of insurers that can fit into this banding, should law firms look in greater detail at the financial stability of their insurance options?

A good case in point is CBL Insurance Europe that underwrote solicitors PII in both the UK and Ireland but has recently been placed into liquidation. Indeed, as recently as 9 June 2016, the Auckland-based parent company, which successfully listed on the New Zealand and Australian stock exchanges last year, saw its financial strength rating upgraded to A- (excellent) from B++ (good) and the issuer credit rating upgraded to A- from BBB.

But after recent an application to the high court by the Central Bank of Ireland, a provisional administrator from KPMG has been appointed. It's the view of the central bank that CBL Insurance Europe "is in breach of a number of regulatory requirements and is in a distressed financial position." The central bank stated that CBL Insurance Europe was given the opportunity to address the regulatory and financial issues but failed to do so. The decision to apply to the high court to put CBL Insurance Europe into administration was made by Ed Sibley, deputy governor (prudential regulation) of the central bank.

Policies currently remain in force, however, the central bank has suggested that policyholders contact the firm directly, or ask their brokers to arrange alternative cover. It's the view of the regulators that CBL Insurance Europe does not hold sufficient funds to meet direct claims. The insurer first fell into trouble after regulators found a NZ\$100m (£52.6m) reserves hole in the business.

This situation has left many firms in a position where it's likely that they will have to find a new insurer, perhaps only after recently changing. What also becomes apparent from the scenario above is that law firms should look beyond just the rating of an insurer to obtain a more accurate picture of its stability and financial security. This will be all the more essential if we're approaching more challenging market conditions over the coming years.

What can you as a practice do? All insurers that provide the capacity behind professional indemnity Insurance will have their accounts readily available. Obtain a copy and look at the balance sheets of these companies to see how capitalised they are. In addition, look at the source of this capital to allow your practice to make an as informed decision as possible. After all, these are the companies that will be responsible for paying your claims not only now, but in the future.

Finally, ask your broker for their opinion on the quality of the insurers behind the terms they are offering. There will be a difference from insurer to insurer and this can be reflected in pricing. What's most important is that you make a decision on the placement of your insurance with as much information as possible. **LPM**



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POINT IN THE RIGHT DIRECTION?

ADRIAN JONES, THE TECHNOLOGIST

“ Using point solutions which are not tightly integrated with a single database could cause firms huge issues in controlling and streamlining processes. **”**



ABOUT

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Leading practice and case
management provider
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Twenty years ago Google was formed – a research project that started the technology industry booming. Despite the bursting of the dot-com bubble from 2000-2002, the industry recovered and hasn't looked back since. Fast forward to today and the importance of technology is greater than ever, and the pace of change is not slowing.

However, as firms evolved their technology stack to meet expanding everyday business needs, a new obstacle surfaced. The rise of the single point solution. The point solution seemed to be fine for a time. But it failed to address other related issues, resulting in a mish-mash of systems designed to fix and address individual problems, but failing to address technology cohesion. It's not efficient, or even wise under today's data processing rules, to have to enter and store the same data in multiple systems.

Consider the advantages of the integrated technology stack. It doesn't just address individual problems, such as wasting time with double entry, but streamlines the entire user experience and lifetime value of the customer transaction.

The need for an integrated technology stack is also now expanding in other ways – consider the impact of the statement from the Land Registry's chief executive last year when he set out its priorities for a digital transformation of conveyancing, and wanted to explore how to make the process quicker within the profession.

It's likely you will be using a variety of systems and tools within your firm, as has been a long-standing practice. But the tsunami of applications flooding into the legal market means that using point solutions, which are not tightly integrated with a single database, could cause firms huge

issues in controlling and streamlining processes. In fact, it has the potential to create more work for a firm when everything is factored in, including risk management. One common problem for firms is the CRM system, specifically using the CRM system entirely separately to the practice and case management system. The result? New client data is not identical in both systems, resulting in poor or failed business development attempts down the line. This is just one of myriad potential problems that come from not using a tightly integrated ecosystem of products.

If you're looking at onboarding new technology in the future, my advice would be to make a quick three-point checklist:

- If you need to replace your central practice and case management system, make sure you take the time to understand which other best-of-breed products it tightly integrates with.
- On the other hand, if you're looking to replace or invest in systems to sit outside your PMS, take the time to understand where that data is stored. My recommendation: have a single data source within your PMS database.
- If you're not changing your PMS and need to onboard a specific piece of new technology that doesn't currently integrate, speak to your PMS vendor. A good PMS vendor will be able to advise on whether an integration is possible at all, whether it is cost effective, and what other firms are using.

The point solution has had its day. Keep up a constructive conversation with your PMS vendor and understand which integrated solutions are available to you now, and which are in the pipeline. It will keep you one step ahead on the innovation curve. **LPM**

GDP-ARGH!

NATASHA RAWLEY, THE FILE QUEEN

GDP is here! Oh yes, May is around the corner and the GDPR legislation is lurking. It's really not that scary, though, and you still have time to implement changes to help you become compliant.

Where are the tools you need to help you? Well, we've spent the last two years not only building up a great page on our website for you, but also creating a smart tool: a quick GDPR checklist centred around your record and information management processes. You can download it at www.archivestorage.net/news/gdpr.

Here are some extracts: Throughout the GDPR journey, the team at ADDS have been focusing on records and information and helping our clients prepare their processes to cover some of the elements we think will be required around GDPR.

- Information asset register – do you know what information you have? This includes both physical and electronic files. This is a great time to run a full audit of all the places your firm stores information – databases, hard-copy client files, client wills, deeds, laptops, practice management software, and so on. Use our toolkit to help: www.archivestorage.net/iar-tools.

- Now that you know what you have, how do you audit and keep track of this information? If you have company laptops, phones, USB sticks and hard-copy client files on your site, you should be barcoding all them and running audit checks. How will you know there's been a data breach if you haven't run an audit? The GDPR means not only knowing what you have, but also being responsible and protecting the information and data you hold. There's a lot of software out there that can help you do this – there's an overview of what you should be looking for on our site. Just click on the PDF link on this page: www.archivestorage.net/activeweb.

- So, you know what you have and audit it to check it's safe. Now you need to make sure you're destroying it when you need to. A large part of the GDPR is making sure your company isn't holding on to information for longer than necessary. If you don't currently have a record retention guide then you need to put one together, publish and share it and train your firm with buy-in from all levels. We know this can seem like a rather daunting task so we have put together a great page to help you. On this page is a template to download and populate, as well as some really useful links to pull together your firm's retention guide. If you already have a retention guide in place it may be worth reviewing. We recommend all our clients review their retention guides every six months: www.archivestorage.net/news/file-retention-tips.

Also ask yourself whether your clients are aware of how long you hold on to their information? Is this stated in the letter of engagement? If not, it should be. Some firms have placed a link to a record retention policy page from their website in their letter of engagement in case the retention guide ever needs to be changed. This way clients can have direct access to the information. It's also always a good idea to let the client know why you need to keep their data.

So, there you have it – some quick tips to help you prepare for the GDPR from a record and information management point of view. **LPM**



“ *If you don't currently have a record retention guide then you need to put one together, publish and share it and train your firm with buy-in from all levels.* **”**

ABOUT

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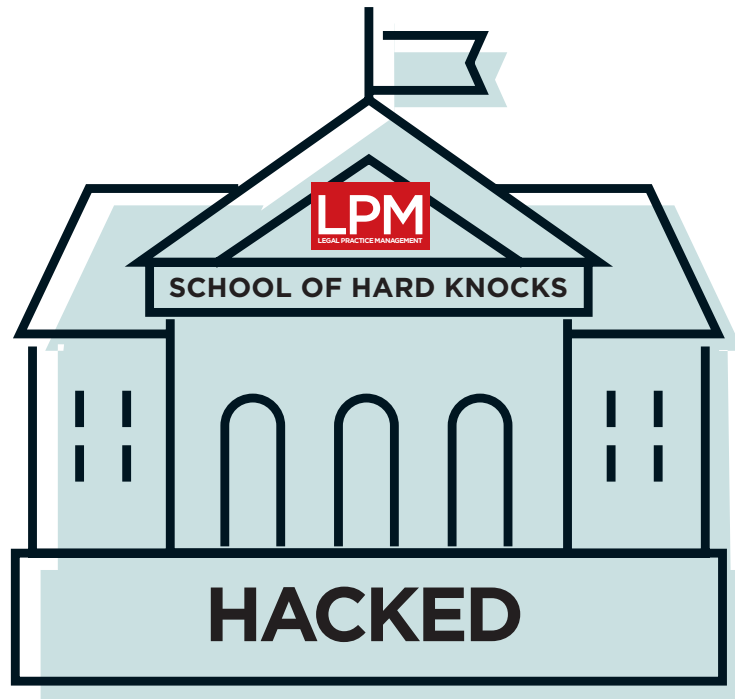
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LESSON: WHAT TO DO WHEN YOUR URL IS REDIRECTED TO AN INAPPROPRIATE WEBSITE



Richard Clark, COO at Manchester firm CFG Law, speaks to Patrick Wingrove about how his firm's site was hacked and the leadership responded

A firm's website is its virtual shop window. It displays products and services, helps market the business and assures potential clients of the firm's credibility. A website also has the advantage of giving the firm a wide reach and, while it takes time to build up traffic, it costs next to nothing to do so. It's indisputably an essential tool for any modern business.

But unlike a shop front, a website can be hacked and used as a platform for unpleasant material or to redirect consumers to other sites. If that happens, traffic flow can be hugely reduced and the firm's reputation put at stake. Manchester personal injury boutique CFG Law found this out after one such attack in February 2017.

COO Richard Clark says: "The hackers did two things to us. We have two websites – the CFG site and one for our sister practice Freeclaim – and both were redirected to inappropriate content. But the CFG site was also reprogrammed so that it would continually replicate itself. At one stage, we had a website that was the same size as Microsoft's – which was a big problem when it came to backing it up." He adds that from a business generation perspective, little damage was done because the Freeclaim site could be fixed quickly and the main site wasn't leveraged to drive in business. The reputational impact, however, was more difficult to gauge.

"In our industry, we deal with professionals in the NHS, who deal with rehabilitation and who work in charities. We don't know how

many of those people could have seen it. We put out some feelers to our regular contacts who said they hadn't seen it and we got a few messages from people, but we don't know how many people saw it and didn't comment."

BLIND SITED

In a situation like this, a firm needs to act quickly to mitigate potential damage. Clark says that first, and most obviously, a decision has to be made about what to do with the website.

"It's a question of whether you think you can fix the website quickly. The attack happened to us over the weekend, so we didn't have the onsite support available to deal with it. As such, we took the decision that the site had to be taken down because there was no point leaving it up just so that it could redirect people to inappropriate content."

But a far more difficult decision, he adds, was whether to inform colleagues of what had happened or keep the situation contained.

"In terms of risk mitigation, I took the view that we had to tell our colleagues right away rather than trying to handle it ourselves. It's not a great email to have to write, but if clients were going to be ringing up on Monday to tell us they'd seen unpleasant material when trying to access our website, staff needed to be in the know." He adds that firms in this situation must also decide whether to inform external people, such as clients, suppliers and other professionals.

"When it came to people we were trying to foster a relationship with, we took the view that we would get in contact with those who were most likely to have viewed the site. We decided to contact these sources as part of an ongoing conversation."

A TANGLED WEB

The next step, says Clark, was to find out how the website had been hacked and fix it so that it could never happen again. Both sites were built on WordPress by an external agency, and the firm spent a lot of time working with them to get to the bottom of the problem.

"Between the agency and the firm, we worked out that the hack was successful for one of two reasons. First, we had made the decision many moons ago to test WordPress software upgrades before accepting them, to minimise the risk of damage to the site. Unfortunately, one of those upgrades was a critical one, and not accepting it created a critical flaw that left the website vulnerable.

"The other reason was classic – the quality of our password. We thought we had a very good one in place but, when it came down to it, it was relatively hackable."

He adds that after the reasons for the hack became clear, the firm could recover an older version of the site and improve its security.

"We updated our site on a pretty regular basis, so we knew we could go back and then shut the backdoor and improve the password. What became clear, however, was that the hackers had hacked our site in the past, activating the malicious script at a later stage. This script, we then found, had been present in many of our backups. So, it was

"At one stage, we had a website that was the same size as Microsoft's – which was a big problem when it came to backing it up."

quite a challenge to determine which version of the site we could use."

BYTES FOR SORE EYES

Once the immediate problems were dealt with, and the website was back and in full working order, the firm then decided to look at whether security on its site was adequate.

Clark says: "The hack spurred our decision to create a new and improved website. We took the opportunity to move from the agency we had been using – not because they were in any way at fault for our hack, but because we wanted a different style and approach to the new platform."

He adds that the firm was keen to ensure it knew who was accountable for the site should it be hacked again.

"That was as important from a maintenance perspective as from a business continuity one. We wanted to know that patches and updates were being introduced regularly."

Websites are vital tools in the business world but they can be a liability if they're not secure enough. Richard Clark says that the lesson other firms should take from his experience is to keep calm if it happens to them but to make security a priority, with regular password changes, if they want to avoid it altogether. **LPM**



LPM FIRM FACTS

CFG Law

Revenue: £4.5m

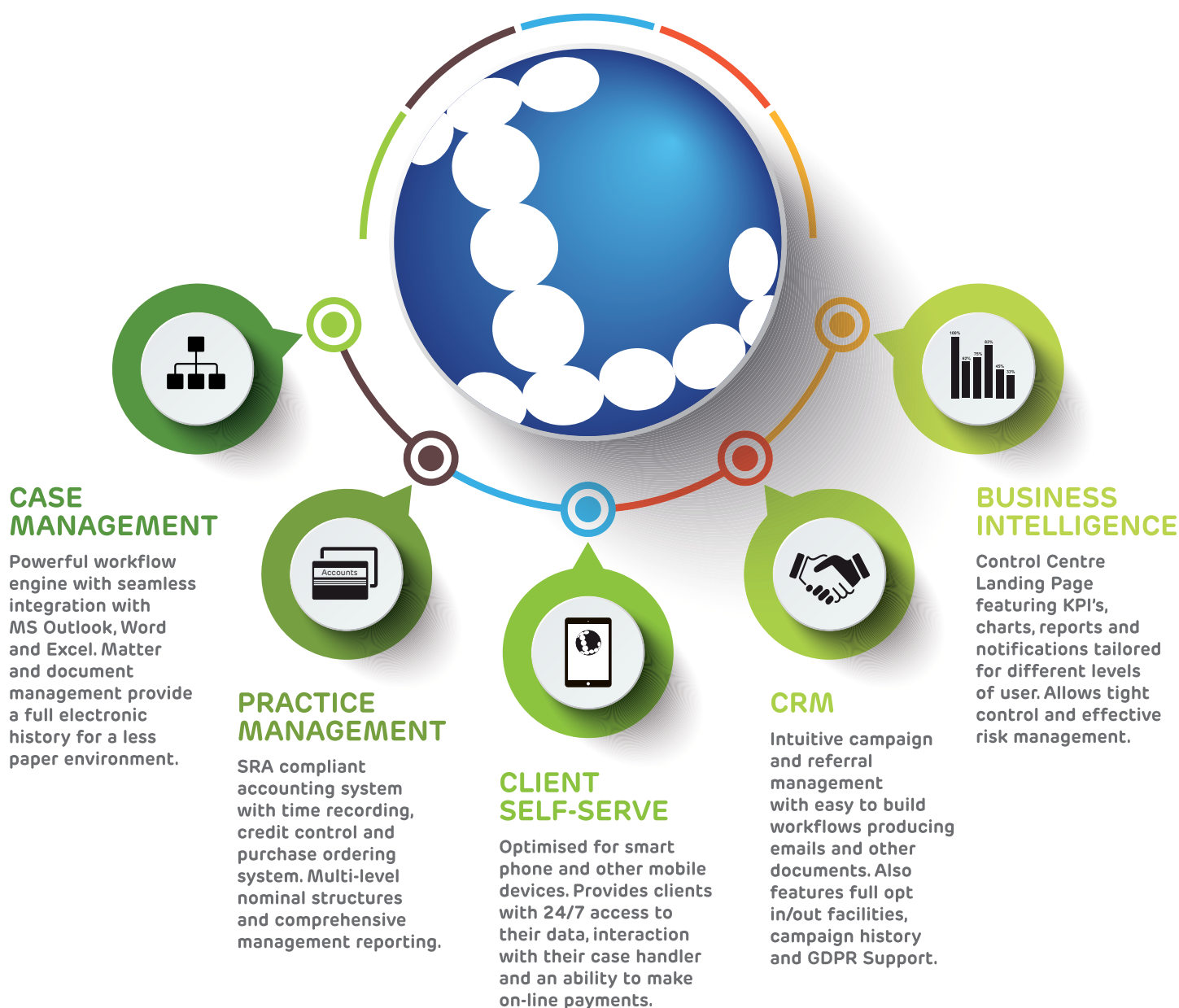
Corporate status:
Limited company

46 fee earners, 75 total staff

Offices: Stockport, Cheadle



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WE DON'T NEED NO REGULATION?

Solicitors will soon be allowed to work for unregulated legal services firms while retaining their professional title. Will these reforms tempt law firms to ditch practice-wide regulation? Richard Parnham reports



late 2018, the Solicitors Regulation Authority (SRA) will unveil a drastically shortened rule book. Although technical in nature, the changes ushered in by these reforms could radically change how, and where, regulated solicitors work.

Under the planned SRA regime, solicitors will be allowed to retain their professional title while working for non-SRA regulated organisations, be that a supermarket, an insurance company, a trade union or any other unregulated entity. What's more, when working for these unregulated entities, solicitors will be allowed to advise the entities' external clients. In effect, the SRA is

attempting to usher in an era of 'Tesco Law mark two'.

The SRA reforms will provide an incentive for unregulated legal practices to become regulated. If they embrace the SRA reforms, non-SRA regulated legal practices will be able to benefit from the 'halo effect' of employing qualified solicitors, but without much of the SRA-driven bureaucracy that goes with it: no COLPs, no COFAs, no time-consuming and intrusive annual diversity reporting – and much more besides. On the flipside, regulated law firms will be given a financial incentive to deregulate by walking away from entity-based regulation. Taken to the

extreme, this shift could enable entity-regulated law firms to shave between 15% and 23% off their overheads, if research undertaken by the Legal Services Board (LSB) is to be believed.

It's important to understand that the SRA proposals do not amount to a complete deregulation of the solicitors' profession. This is because, under the SRA's planned regime, any solicitor who wants to retain their professional title while working for an unregulated entity will need to comply with SRA rules that apply to them in a personal capacity.

As part of its handbook reform process, the SRA intends to create two distinctive regulatory regimes: one aimed at individual solicitors and another at law firms as entities. When the reforms take effect, it'll therefore be obvious to practising solicitors which rules they'll be expected to adhere to, and the rules they can disregard – those that only apply to SRA-regulated law firm entities.

WHAT PLAN?

The planned SRA rulebook will also include an important limitation on solicitors who work for unregulated legal practices: they will not be allowed to advise on reserved matters. This will not be a significant burden for most solicitors – in England and Wales, only six areas of practice are reserved for regulated lawyers (See box one, Take the test – does your firm advise on any of these reserved activities?).

That said, the 'no reserved work' limitation means that, in order to take full advantage of the SRA's reforms, regulated legal practices will have to choose between at least three alternative organisational structures. Firms that exclusively advise on unreserved matters will have the option of walking away from SRA entity regulation entirely, while still complying with the SRA rules aimed at individual solicitors. But law firms that advise on both reserved and unreserved matters could opt to establish two sister law firms: one that's SRA regulated, and can advise on reserved matters, and another which is unregulated and only advises on unreserved matters. The third, and most extreme, measure is that regulated law firms could simply ditch their regulated status entirely.

Chris Handford, the SRA's director of regulatory policy, emphasises the importance of choice and flexibility in the way that lawyers and law firms deliver legal services. "We want to give solicitors a choice about how they can practice and where they can work. For firms, our reforms are intended to remove prescription and detail. As a regulator, we want to get out of firms' way and let them do business in a way that works for them and their clients."

Handford is confident that the Legal Services Board (LSB) will approve the SRA's proposals when they're submitted for approval in April.

Take the test – does your firm advise on any of these reserved activities?

| Reserved activity | Description |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rights of audience | The right to appear before, and address, a court – including the right to call and cross examine witnesses. |
| Conduct litigation | The right to prosecute or defend clients in court. |
| Reserved instrument activities | Includes the right to prepare any instrument of transfer under the Land Registration Act. |
| Probate activities | Preparing any probate papers and issuing proceedings relating to them. |
| Notarial activities | Work traditionally carried out by notaries under the Public Notaries Act 1801. |
| Administration of oaths | Exercising powers conferred on a commissioner for oaths under the Commissioners for Oaths Act 1889; the Commissioners for Oaths Act 1891; and section 24 of the Stamp Duties Management Act 1891 |

Source: Legal Services Act 2007, Schedule 2.

Politically, it would be difficult for the LSB to do otherwise – the Competition and Markets Authority essentially called for the type of reform that the SRA now intends to enact in its report on legal services in December 2016. All being well, the SRA's reforms will be enacted roughly six months after they're approved by the LSB.

"We're hoping to give firms a decent run-in time, so they have time to get used to the changes," he adds.

When the SRA's reforms come into effect, probably late autumn 2018, will we see a radical shift in the way that English and Welsh law firms operate? Will law firms rush to cut their regulator-imposed overheads, and either walk away from SRA regulation entirely, or split their practices into separate regulated and unregulated business? Perhaps.

Or perhaps not – London-based Fox Williams partner Daniel Sutherland, who advises professional service firms on their ownership structures, doubts whether the SRA reforms will be market-changing.

“We want to give solicitors a choice about how they can practice and where they can work. For firms, our reforms are intended to remove prescription and detail.”

Chris Handford, director of regulatory policy, Solicitors Regulation Authority



He says: "I'm not sensing a huge appetite for regulated law firms to spin out their unregulated business into a separate vehicle. If you have the fixed cost of compliance on the regulated side of your business, your savings on the unregulated bit don't really get you much further."

That said, Sutherland adds that startup law firms might find the SRA's new approach attractive. This is because the reforms will allow solicitors to trade via unregulated firms while waiting for SRA entity approval.

INTO THE LIGHT

Other market commenters are more upbeat about the likely impact of the SRA's plans. Cardiff-based Jonathon Bray, director of Jonathon Bray Legal Services, who specialises in advising law firms on their alternative business structure (ABS) conversions, believes the SRA reforms "could be a bigger deal than the introduction of ABSs."

Bray says: "The effect of suddenly being allowed to remove yourself from whole swathes of regulation could be huge. There are literally no barriers. You don't have to fill out an application form, you don't have to apply to come out of the SRA regulation regime – you just stop doing so."

Whether law firms ultimately take the cautious approach to reform, as Sutherland suggests, or a more enthusiastic approach, as Bray suggests, remains to be seen. In the consultation that followed the SRA's initial proposals, numerous firms made it quite clear that they had no intention of taking advantage of the SRA reforms.

But, perhaps surprisingly, anecdotal evidence suggests that these respondents should not be dismissed as 'the usual suspects'. Instead, they may well reflect a commonly held attitude among law firm leaders. Take Wirral-based Riverview

Law, for example – when asked for his views on the SRA's proposals and whether his firm planned to take advantage of them, director of legal services Steven Zdolny was emphatic: "As a general principle we support deregulation – but we feel this step isn't necessary and could have a negative impact on the profession as a whole."

The reform certainly comes with a mixed bag of reactions, and mainly lukewarm business plans, if any. Carole Jones, HR partner at Manchester-based Express Solicitors, says: "We're an ABS firm, which specialises in personal injury. As I understand the SRA's reforms, we'll still be doing reserved work – which requires SRA regulation. We would look at the SRA plans, but we're not planning to change ourselves immediately."

Gavin Tyler, managing partner at the Tunbridge Wells-based Cripps, also indicates his firm has no plans to change the way it structures itself. "There's a sufficient market out there from clients who want us as we are," he says.

Of course, just because many law firms will fail to take advantage of the SRA's reforms, this does not mean that the reforms should be dismissed out of hand. It is possible that wholly or partly

“The effect of suddenly being allowed to remove yourself from whole swathes of regulation could be huge. There are literally no barriers. You don't have to fill out an application form, you don't have to apply to come out of the SRA regulation regime – you just stop doing so.”

Jonathon Bray, director, Jonathon Bray Legal Services

Opening up the English and Welsh legal market

| Year | Reform |
|------------------------|-----------------------------------------------------------------------------------------------|
| 2007 | Solicitors Regulatory Authority created |
| 2008 | Legal Services Act 2007 comes into force |
| 2008 | Legal Services Board created |
| 2011 | Alternative business structures permitted |
| 2014 | Multidisciplinary partnerships allowed |
| 2015 | Separate business rules liberalised |
| 2016 | Competition and Markets Authority report into legal services published |
| Late 2017 / early 2018 | Regulated solicitors allowed to retain professional title working for non-SRA regulated firms |

unregulated legal businesses may decide to hire qualified solicitors and signpost their commitment to high standards and expertise.

And, to a very limited degree, there's evidence that a market shift may happen once the SRA rule changes come into force. One of the few respondents to the SRA consultation that was in favour of the reforms was Peninsula, the Manchester-based employment law and health and safety service company. In its SRA submission, the firm suggested that it would take advantage of the SRA's new rulebook change by allowing some of its qualified solicitors to regain their professional title – and also extend the range of unreserved legal work the company undertook.

Meanwhile, Rocket Lawyer UK, the Google-backed online tech company that provides legal documents, has also signalled its intention to embrace the reforms, by ultimately employing regulated solicitors. Mark Edwards, the company's vice president and general manager, linked the SRA ownership reforms to separate SRA reforms regarding solicitors' training. "There's a great opportunity for paralegals to become solicitors through Rocket Lawyer."

JUST SHAKE IT UP

What is currently unknowable is whether any new market entrants are poised to enter the English and Welsh legal market once the SRA reforms kick in – competitors who can shake up the profession in a way that Co-op Legal Services, QualitySolicitors, and Slater and Gordon did not. But, even if they did, the English and Welsh legal market could almost certainly absorb this escalation of competition without too much trouble.

And even if unregulated legal practices enjoy spectacular growth over the next few years, they'll be doing so from a very low base –

“We’re an ABS firm, which specialises in personal injury. As I understand the SRA’s reforms, we’ll still be doing reserved work – which requires SRA regulation. We would look at the SRA plans, but we’re not planning to change ourselves immediately.”

Carole Jones, HR partner, Express Solicitors

research conducted by the LSB estimates that between 5% and 13% of all legal work is currently undertaken by unregulated legal services providers. Just as importantly, and assuming that new entrants focus mainly on the consumer legal market, it is likely that they will serve a client base that currently cannot afford to buy legal services. As a result, new market entrants may grow the overall size of the legal services market, rather than take market share away from SRA-regulated law firms.

Ultimately, the SRA's plans are facilitative: they enable, but do not compel, regulated law firms to lower their cost base. And, given the lukewarm reaction by many law firms to the reforms to date, it is highly likely that the take-up of the SRA changes will follow a pattern that has been seen many times before, including in relation to the adoption of LLPs and ABSs: there will be an initial flurry of early adopters, followed by a long lag where nothing much happens, then a gradual increase in usage and, finally, the alternative way of structuring law firms becomes mainstream. Not so much a big bang revolution – more of a slow burn. **LPM**

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PEST CONTROL

Paul Smith, senior risk management consultant at Travelers, says it might not be a part of your official job description, but everyone needs to make time for risk management

With risk coming at law firms from every corner, failure to embed a risk aware and ready culture could only mean more trouble for business.

Paul Smith, senior risk management consultant at Travelers, says there are two main areas of risk that firms should identify and plan around – operational and strategic risk.

Risk is scary, yes, but firms don't have to go it alone, he says. "There are some simple steps firms can take to understand better what those risks are, how different risk factors affect the business and what they can do about them."

REDUCING UNCERTAINTY

When managing strategic risks, the starting point is a question for the firm's leadership – 'what are your objectives?' says Smith.

"Risk is about the impact of uncertainty on objectives or outcomes – so you need clarity

around the aims of the business before you can start to look for risks."

Next, to identify and assess the most relevant threats to those objectives, firms need information. One way to get this, he says, is by horizon scanning. "Firms should constantly monitor the action and reaction of the market – systematically gathering information around sectors. You're on the lookout for developments that may affect your business's objectives, either as risks or opportunities.

"This is something we do at Travelers – reading news reports, articles, books, blogs and websites. We ask ourselves what the issues we identify could mean for lawyers and for us as an insurer."

Once information is gathered it needs to be organised – one way is to group findings as political, economic, social or technological (Pest). "These elements drive the external business environment – and they cannot be controlled, only

responded to," says Smith.

Building an accurate risk profile in such a way will be vital to a firm's long-term strategy and daily operations – a Pest analysis is a good way to figure out how to control those risks, he adds.

And there's plenty going on for law firms under each of the headings – political issues such as legislation and regulation are hot on the heels of the legal sector. Regulation isn't going away, he says. The SRA might be pruning the code of conduct – which will bring its own challenges about interpretation and compliance – but the enforcement regime under GDPR takes effect from 25 May.

Regulation and compliance may be seen as a burden, Smith says, but these are messages from society about expected behaviours and following them can be framed in a positive way.

"Complying with the GDPR, for example, gets you thinking about how you manage data – what data do you hold, why do you hold it and for how long? By identifying and keeping only what is seen as relevant data, firms could reduce their exposure to a data breach and also save time and money."

On the economic front, there's uncertainty about the outcome of Brexit and where we are in the business cycle, he says.

"There's a downturn roughly every decade, and the last crash was in 2008. Changes in the relationship with the EU and a contracting economy will have consequences. And the threats and opportunities they generate for a firm will depend on its exposure to those shifts."

As for social issues, this means looking at demographics and changes in social attitudes – and these are already creating challenges. Millennials present a number of challenges for law firms, says Smith.

"Compared with previous generations, they have different attitudes to career development, long-term relationships with one firm and work-life balance. So we're seeing initiatives around flexible working and new career paths, to keep people engaged, reduce turn-over and, in turn, reduce risk."

He says the 'T' in the Pest analysis is certainly one of the most challenging of the four risk areas. "There's obvious potential for technology to aid work – for example, by enabling remote working. But it comes with security issues – in particular, the need for people to be disciplined about cybersecurity when working away from base."

To back up the Pest analysis, firms can perform a Swot analysis – looking at the firm's strengths, weaknesses, opportunities and threats for further insight into factors that could affect the firm's objectives.

A good final step in managing strategic

risk, Smith adds, is to scenario plan. Scenario planning will encourage firms to take an optimistic, realistic and pessimistic view into the future of the firm.

"You imagine three versions of the future and then construct timelines, explaining how each of the scenarios develops, and then look for evidence of one timeline or another playing out in real life. It's a way of getting ahead of the risk curve – to be prepared for change, rather than reacting to it."

OPERATION REPUTATION

While managing strategic risk is largely a matter for senior management, operational risk is different – ensuring the safe delivery of legal services is everyone's responsibility, Smith says.

Firms should have clear messages from the top about the importance of risk management, backed up by risk management processes – everyone should know that they have a role to play in managing risk.

"It means risk training, good communications and accountability for risk decisions – not a blame culture but a just culture, one of 'own up', not 'cover up'. And all of these elements help create and sustain a risk-aware culture."

As part of that, Smith is keen for firms to prevent mistakes by fostering 'discipline' through "operating prudent procedures and working with others," as defined by Atul Gawande, the American surgeon and writer on professional error.

Smith says: "We still see a large proportion of system and process errors leading to claims – missed time limits, instructions not being followed, drafting errors, problems flowing from poor due diligence and know-your-client procedure."

These human errors can create big consequences for a firm – dead time and loss of profit sorting a matter out, payments of deductibles and additional premiums. And ultimately, firms are at risk of a reputational hit if they take their eye off the ball, he says.

Smith and his colleagues work with insurers to pass on their experience and raise risk awareness. "We often find that we are validating what firms are already discussing internally, to alleviate concern where appropriate, but also to flag up where the main pitfalls are."

"Perhaps it's also easier to get people to think about risk when the warning comes from outside the business. So, we help people get a different risk perspective on the way they work."

Uncertainty can be mitigated – it takes careful analysis, planning and training of staff to be as fully prepared as possible. And in this market, it's do or die. **LPM**

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TRAVELERS 

PUSH FOR CONNECTION

Simon Elven, commercial and marketing director at Tikit, discusses relationship building and how having an integrated CRM and single point of entry means better business development

Effective data entry and good client relationship management have never been as important as they are to businesses today. Why? Well, you can't have a data-based discussion these days, it seems, without bringing up the relevance of the EU's General Data Protection Regulation (GDPR), which is now less than two months away.

Compliance with new regulation like this will be a key player in how law firms will continue to interact with clients and win new ones – and firms need to have systems and procedures in place to prepare themselves for whatever lies ahead.

"If you exist in a world where you are spreadsheet and MailChimp-bound, GDPR will only slow your business when it comes to efficiency and communication," says Simon Elven, commercial and marketing director at Tikit.

The ability to capture and learn from information gained during conversations with clients will become ever more difficult if firms don't have suitably connected systems and a single point of entry, he adds.

The Tikit Connect system, for example, provides firms with an overview of client information, not just from a marketing and business development perspective, but also with case, matter and financial points of view. And, as it exists entirely in Outlook – familiar and something used every day – crucially, it means that firms don't have to look outside of their normal systems to enter data for the first time.

"But you can only get a fully rounded picture if you successfully integrate your systems," Elven says.

MAKE IT PERSONAL

Business relationships go through the same steps as our most treasured personal relationships. You want to develop your relationship to the point where you can seal the deal – but there are many stages in getting to that point, Elven says.

These days it most likely starts with having an online profile. For firms, it's their website and marketing presence. "Then there's reputation

(reviews and news) – questions such as where you met, if you met in person, whether you send emails or talk over the phone, whether you really engage with what I send you. And the big question – are we really just friends or can this develop into a closer client relationship?" It sounds cheesy, he says, but it's all 'business'.

"All these areas need to be pursued, but without a system to support them, it'll be relatively difficult to do. In business this means monitoring how a relationship changes over time. And we implement systems in law firms that enable them to develop relationships just as in those personal relationships."

Of course, it's harder to stay close friends when you've left for pastures new. Similarly, maintaining client relationships can be particularly tricky for businesses when a partner retires, or leaves for another firm. As it's the individual who cements a relationship, when they leave, so may the clients.

Elven says: "If you don't have a central system for gathering all of that information together, it becomes very difficult to defend against. But there's a lot of risk associated with the movement of partners, therefore firms need to be especially resilient in relationship management at times like this.

"You could imagine the world of pain you'd experience if you inherited a load of clients from an outgoing partner, but they forgot to write down key information in the handover notes."

By contrast, if firms have a central system, where staff can see progress on different relationships, and the gaps, right across the firm, they can start to do more efficient business development activity than would be the case if they tried to go it alone.

"If a prospect becomes a client, their details might start out in the Tikit Connect part of the system. And to move that contact to the CRM all that needs to change is the status of that profile – and because Tikit Connect is linked to the CRM/PMS it means that all of the past information is already there."

This way, Elven explains, information around likes and dislikes, events they've attended and



other points of engagement, will enable the firm to work with the client without misreading the signals.

ROBUST RELATION

But an extra complexity is that building these robust relationships means you'll inevitably come away with personal information in different forms and across multiple systems. This is where GDPR compliance enters the challenging picture.

Elven says it will be an even bigger issue to deal with if firms also have a lot of disconnected systems. Personal data will get into systems in certain places, and firms need to be ready to extract and destroy that data if necessary.

"Firms obviously need a mechanism to surface and control personal data. If I have a new business card and I email that person, effectively I've now entered data into the firm's database. Realistically, what I should now do is immediately ask for consent to hold that data."

This isn't just a duty for the data protection officer or person responsible for data at the firm – but in fact, technology can be the one to step in and save the firm from

a personal information problem.

Elven explains: "There needs to be an easy process by which contact information from Outlook moves into a system with more control like a CRM. With Tikit Connect, when that data is synced across the exchange into a CRM or PMS, then it can be exposed immediately to the compliance process built into our products."

"We also put automatic stops in place so the firm doesn't need to worry about mitigating the risk of emailing people without consent. Together with Tikit eMarketing, because of the way the systems are tied together, marketing preferences are translated so that the right information is going to the people who ask for it."

Tikit also provides firms with an electronic form for clients, Elven says, so that if a client has issued a data request then the 'GDPR block field' is ticked and an automatic process begins – the data controller is alerted so that the person's information can be sourced and destroyed.

Integrated systems and a single point of entry mean better control over personal data, and ultimately the course of some of law firms' most important relationships. **LPM**

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NEVER-ENDING COMPLIANCE



Javid Khan, chief technology officer of Layer V, a Pulsant brand, discusses the challenges that firms face when it comes to achieving and maintaining compliance using people, process and technology

Many companies see compliance as a journey. The problem with that is a journey typically has a beginning, middle and end. Compliance is not strictly a tick-box exercise, as many firms now realise with the rapid approach of the GDPR compliance deadline. Nor is it a static endeavour. Businesses change, the industry changes and so too does the regulatory landscape – all of which mean that achieving compliance is just the first step. And of course, this means that achieving compliance becomes a challenge. Compliance is an organisational mission – it covers your people, your processes and, importantly, your technology. Getting it right in one area won't matter if the other areas are lacking.

In this journey then, there are additional steps, beyond achieving compliance, that many of us fail to recognise. Regardless of regulation, Payment Card Industry Security Standards Council (PCI), ISO27001 or GDPR, compliance is about putting the procedures and controls in place to meet those regulatory requirements, ensuring your staff are onboard with

what needs to be done and how compliance affects them, and then continuing to monitor and track your status with a view to maintaining that compliance. In effect, it's continuous compliance.

And here's the challenge. From a risk, cost, resourcing and time perspective, maintaining compliance isn't easy. Specifically from a technology point of view, the more regulations you need to meet and the more data sources you have, the more difficult it is to maintain that overall view of compliance and where your firm actually stands.

JUST DO IT

Taking a step back, what happens when you don't meet compliance? Broken customer, investor and stakeholder trust, loss of business, loss of revenue, and often fines. Looking at GDPR, one of the main drivers for compliance has been the much larger fines imposed for non-compliance or for experiencing a breach as a result – respectively, up to 4% of global annual turnover or £20m, whichever is greater, and up to 2% of global

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annual turnover or £10m, whichever is greater.

And it's not just global corporates that suffer. Regardless of industry or size, compliance (or lack thereof) affects you. Of course compliance ties to larger issues as well, such as cybersecurity. Getting the processes and best practices in place as part of a compliance programme often overlaps with basic cybersecurity principles, such as patching. While one doesn't replace the other (compliance isn't cybersecurity), there is a correlation. To put things into perspective, in its annual PCI compliance report, Verizon stated that not one of the organisations that suffered a data breach was fully compliant at the time.

So while no one disputes the importance of continuous compliance, are there any firms getting it right? Again, looking at the technology side, continuous compliance isn't a new term and it's something that many businesses are already doing in one form or another. Typically, what this means is that organisations manually bring together data from multiple compliance tools because there's no real method of making these disparate systems work together. You may have a large, capable team, but are they helping your organisation comply in the most efficient way?

SUCCESSFUL FRAMEWORK

As mentioned, the main challenges of continuous compliance are cost, time and resources. Also, size of regulatory frameworks, growth of your business and understanding within it, are significant barriers that need to be addressed.

Risk management and compliance frameworks are themselves difficult to manage. If you consider just how many requirements within each regulation need to be met (the US NIST Cybersecurity

Framework features more than 400 requirements, for example) then you see the scale of the problem. Now, if your organisation has more than one framework to comply with, the problem is even greater. How do you ensure that your firm remains within compliance and meets each and every single one of those requirements?

Your business is also affected by internal and external changes, which means each change has the potential to impact compliance. Looking specifically at IT compliance, staff turnover and the onboarding and offboarding of team members can have a significant impact on compliance in terms of software licensing and hardware used. In the same vein, the market around your business changes too, especially when it comes to technology. All of this needs to be taken into account.

Importantly, your staff, particularly your senior team and board members, need to fully understand what compliance actually means, what it applies to and who is responsible for it. This includes the all-important questions of what should be monitored, when this should happen, how it's reported on and, perhaps most crucially, how you can prove compliance. In addition, IT teams may not have the right skillset to translate compliance and controls in the physical world to the virtual world.

For continuous compliance to be successful, there needs to be some element of technology consolidation, normalisation and automation in bringing all those data sources together in a seamless way. And you need a method of gaining an overarching view of your IT infrastructure. From there it is all about what you do with the data, what reports you can dynamically generate and what information you have on hand to effectively manage and monitor all aspects of compliance. **LPM**

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Six of the best

BRAIN-SCIENCE MANAGEMENT MOVES

Hilary Scarlett, author of Neuroscience for Organisational Change, gives her top tips for using what we know of neuroscience in the interests of smarter business management

1 “If you have a brain, you’re biased, and we have to accept this,” says Scarlett – not only that, but people’s biases intensify in certain circumstances. Studies have determined that people (including judges) make different decisions depending on factors such as how recently they’ve eaten. “People need to be open to being challenged, and you need someone to do the challenging – a devil’s advocate,” she explains. Perhaps try proactively reminding people of bias before meetings, for example, so it’s top of mind.

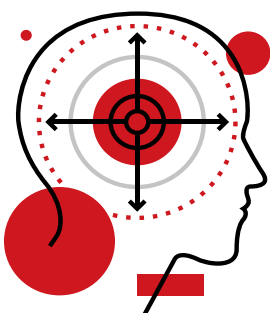
2 As an example, we’re “much more forgiving of people we like,” says Scarlett. And that tends to mean people we know better. Think about the implications for large businesses with multiple offices and dramatically changing operating models. Do you treat people in your part of the business at all differently from those in others, whom you rarely see? Do you harbour unfair perceptions of people in a different department? “People fall into tribes, and ‘the other’ becomes the enemy. And that happens quite quickly.”

3 So, the social stuff isn’t ‘soft stuff’. “Paracetamol has actually been found to alleviate social pain, as well as physical pain,” says Scarlett. “People have an inherent need to feel cared about throughout life, not just in childhood.” And it works as a strategy. When a number of strangers were brought together for a study and asked to take an IQ test, some were asked who they’d prefer to partner. People who believed others didn’t like them (eg, want to work with them) saw their IQ scores drop by up to 25%.

4 Brains crave information and certainty. There has even been talk of suffering ‘Brexit brain’ in recent years, says Scarlett. “Brains like predictability. Predictability equals survival.”

5 Use that insight in your change-management initiatives. “No news is often worse than bad news for brains,” says Scarlett. “It’s being in limbo that’s most difficult.” That’s why small certainties help in times of general change and uncertainty. If you can’t give definite answers, communicate – for example – when future communications can be expected. Or, give people “a choice or a short-term goal” to offset the lack of control, she says. In a restructuring exercise, people who had the certainty of knowledge they’d be leaving at a fixed point in future were even found to perform better than people who didn’t yet know either way. “Once people have news, even bad news, they can take back some control and start to plan.”

6 Brains are all still dealing with life “on the savannah,” explains Scarlett – responding to workplace threats as they might to life-threatening dangers. Think about the perceived threats that might exist in the modern workplace: “the overfull inbox, lack of control, believing others are more in favour with the boss, performance appraisal.” And employees already in a ‘threat state’ are more likely to filter other information through it. “People start to see threats (where they exist) as bigger than they are, and where they don’t even exist. They will also hold on to the negative thing – the bad comment, for example, rather than the good.” ▲



“That’s why small certainties help in times of general change and uncertainty. If you can’t give definite answers, communicate – for example – when future communications can be expected.”