

COMMERCIAL AWARENESS NEWSLETTER

Coventry University Law Society

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the digitalisation of justice

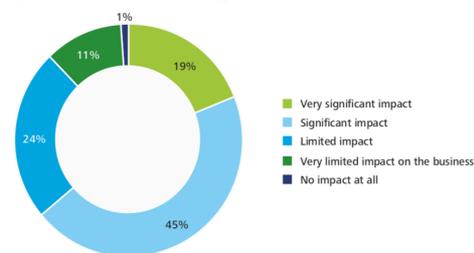
EVERYTHING AROUND US, FROM our mobile phones (prev. 'telephone') to the watches on our wrists, has developed significantly through technological advances over the past 20 years. Not to mention, the services industry has also faced drastic technological transformation in line with the many technological advancements. For example, in line with the rise of mobile device reliance, many companies leverage its potential to enhance customer service in the form of mobile friendly websites, chatbots and apps.

So, taking into consideration an era of steady technological growth, what impact has this had on our legal system? What has the Chancellor of the High Court got to say on the digitalisation of the courts? This week's article will be examining the digitalisation of justice and looking into the skills required of future lawyers.

technology, enabling the rapid spread of internet-based service models".

Furthermore, a report conducted by big four accounting giant **Deloitte** on the impact of technology, robotics and automation found that, despite the loss of approximately nearly 800,000 lower-skilled jobs there was equally as strong evidence suggesting it has helped create nearly 3.5 million new higher-skilled ones in their place.

Figure 10. Predicted impact of technology on business



Source: Deloitte survey of 100 businesses, 2014

In the future, businesses will need more skills, including: digital know-how, management capability, creativity, entrepreneurship and complex problem solving.

Impact on the Legal Employment

In 2017, **The Law Society** anticipated "automation (to) replace 67,000 legal services jobs within a generation – but an increasingly productive sector will continue to expand".

This is the long-term rate previously seen in the rest of the economy.

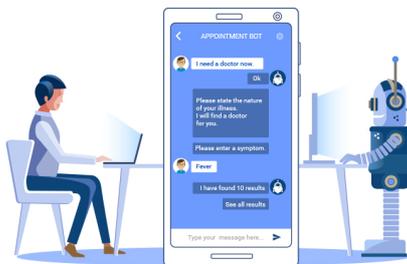
Technology has already accounted for a loss of around 31,000 jobs in the legal sector including low-skilled roles such as legal secretaries. However, there is likely to be more that the legal sector can do to use automation and technologies.

'The Future of the Professions' by Richard Susskins, IT adviser to the Lord Chief Justice, pointed out that "intelligent search systems can now **outperform** junior lawyers and paralegals in reviewing large sets of documents and selecting the most relevant".

Although it seems the rise of digitalisation poses hinderance upon lower-skilled roles, the enhancement of legal technology outweighs.

Legal tech developments present an opportunity for many established firms looking to make efficiency gains and adapt to an increasingly popular agile working culture. It is "providing better access to legal services for a substantial section of the public who would otherwise be priced out, with DIY law options more abundant than ever".

We are likely to see significant changes over the next few years in terms of legal technology and the business of law. Although it's hard to predict the future, firms that stay up to date will be most prepared to take advantage of new developments and innovation in law.



Digital Technicalities

In 2016, the World Economic Forum predicted that we would lose 5 million jobs to computers and robots over the next five years in 15 major developed economies, "compounded by the rise of mobile internet and cloud

These forecasts estimated that adoption of such technologies would double the growth of law firms' productivity (output per person employed) from the current 1.2% per year to 2.4% per year within a decade.

Sir Geoffrey Vos

Chancellor of the High Court

Digitilisation of the Courts: Preparing for the brave new digital legal world

This segment of the newsletter has been taken from Sir Vos' presentation delivered on 9th October 2019 at Coventry University Law School

“ Something that some lawyers and judges regrettably do not take seriously enough is the preparation for a digital legal future ”

At current, there is already an online dispute resolution for small claims under £10,000, for divorce, and for social security disputes. It will not stop there. Some lawyers discount these developments as being nothing to do with them, as they are directed at litigants in person rather than the heavy litigation. Again, they are wrong. These online courts will inevitably expand far beyond their present limited extent.

Online Dispute Resolution (ODR) will provide the mainstay of our justice system within a few years. It will be a good thing, because it will increase access to justice for all, and allow a far greater percentage of our population to vindicate their legal rights. The main areas of digital engagement that the lawyers need to engage with are disputes arising from smart contracts, and the use of artificial intelligence in the litigation process.

However, there are 4 inter-connected strands of development: ODR, the growth of accessible Alternative Dispute Resolution, the growth of accessible Alternative Dispute Resolution, smart contracts and the need to reform our established business litigation processes. None of these things will develop in isolation. Judges and lawyers need to take a holistic view to ensure that citizens of 2050 have appropriate mechanisms available to allow them to resolve their civil disputes with the minimum of cost, delay and hassle.

Smart Contracts

The largest and most immediate changes

we are likely to see are the development and use of smart contracts, alongside disputes that will arise from them in the future. We're all somewhat in the dark about smart contracts because end-to-end smart legal contracts have not yet really existed. We're told there will be trillions of them every year in the global financial services industry alone, but things are developing slightly more slowly than expected.

The reason that smart contracts have not yet really taken off has been uncertainty amongst mainstream investors as to the legal status of such contracts themselves and, particularly, of cryptoassets. Most smart contracts are likely to use some kind of cryptoasset as a method of value transfer, but our international legal systems have not been able to agree upon whether or not cryptoassets are property. That is why the UK Lawtech Delivery Panel and the UK Jurisdiction Taskforce was established, providing definitive guidance as to the status of cryptoassets and smart contracts under English law.

Lawyers and judges need carefully to consider whether a streamlined ODR clause can be provided for the use of future parties to smart contracts. The important thing will be to devise an approach that will bring the community of coders and computer scientists on board. Lawyers and judges should be doing everything possible to win the confidence of those that are participating in this technological revolution, and to provide a workable and accessible legal infrastructure to support innovation.

Artificial Intelligence

One of the most important things will be the use of AI in the court process. Some

are fearful that this is a slippery slope at the end of which judges will be replaced by machines: I am not apprehensive. The starting point is ODR, where the processes being used will ultimately employ artificial intelligence to suggest mediated solutions and to prepare each case for final resolution if mediation fails. As the parties to online cases become comfortable with the process, the subject matters covered by ODR will expand. As I see it, there will be no limits and will also be possible for AI programmes to suggest outcomes to the judge.

Judicial decision-makers will survive as the final arbiters in most areas simply because, for any dispute resolution system to function effectively, it needs to command the confidence of the parties. At this stage in our digital journey, I would doubt whether parties to court cases would have adequate confidence in decisions made by machines. Outcome prediction programmes can be incredibly accurate, because they can make use of a volume of data that humans simply cannot process. Further, they can take account of past legal decisions and precedents in a way that human judges might find difficult. However, machines would not decide cases in the same way as humans, and it is the human decision-making process that even modern digitally aware individuals would probably now regard as the gold standard.

“ You, as law students in the current age, will need new skills to prepare you for the changes I have been considering. We need to think ahead about the services we are providing to both businesses and consumers to make sure that we can remain relevant and useful in a world with different norms and different technological capabilities ”

Future skills For law

The future of the legal workplace is facing great change pushed by technology, globalisation, demographics, social values and the personal expectations of workforce participants. Below outlines **The Law Society's** skills likely required of future lawyers as identified by the Institute for the Future (2011)

Attributes of the future law graduate



Based upon The Law Society's 'Future Skills for law' 2018 report

This diagram suggests the attributes that will be required of future law graduates in order to embrace and excel at the new skills and demands of future legal and professional service markets.

The impact of technology has meant workers have to be agile and adaptive to unpredictable consequences of disruption. It is crucial to be able to adapt and re-define one's strategy. Paul & Beach (1995) note how traditionally our education and work mindset has "been designed for routine and fixed procedure. We learned how to do something once and then we did it over and over".

Learning meant becoming habituated; now we may need to learn how to continually learn, bringing in a curiosity to expand knowledge and think in other ways. Wagner has found that even in corporate settings, business leaders are struggling to find employees who consistently seek out new opportunities, ideas and strategies for improvement.

If you'd like to learn more about the digitalisation of justice, here are some great resources:

More than 100,000 legal roles to become automated | Article, **Financial Times**

From brawn to brains | Article, **Deloitte**

Future of Globalisation: Cultural Heterogeneity | Article, **Global Network**

Technology Transactions and Intellectual Property | Podcast, **Thomson Reuters**