



# The Trends and Challenges Shaping the Future Legal Landscape

In 2014/2015, LexisNexis Pacific commissioned a survey that looked at the workflow and productivity challenges facing law firms. This White Paper will explore the research findings and the challenges faced by law practices of the future.

## The Drive for Efficiency



In 2014/2015, LexisNexis Pacific commissioned a survey that looked at the workflow and productivity challenges facing law firms. The **2014/2015 LexisNexis Workflow & Productivity Survey** considered the key drivers for law firms and corporates that led to their investments in efficiency, the measures they had tried, tested and proven to be successful (or not), any barriers they had found to that investment, as well as their future expectations.

The Survey found that the most popular efficiency initiatives for law firms were the use of technology, knowledge management and staff training. Technology also featured strongly in the initiatives used by in-house lawyers, as well as outsourcing to external lawyers and the use of flexible work practices.

The Survey's results indicated that while law firms and in-house counsel had achieved changes within their organisations which made them more streamlined and transparent, the next stage in their drive to improve efficiency was to focus on the individuals within those organisations. Their goal: to make each lawyer in their organisation more productive, efficient, and mobile.

Following the Survey, in July 2014, LexisNexis Pacific held a **Workflow and Productivity Roundtable**, which brought together members

of the management teams of some of Australia's top law firms (Allens, Clayton Utz, and Norton Rose Fullbright Australia to name a few) and in-house teams (Suncorp Life and Advent Balance), as well as the Law Society of New South Wales, to discuss their practical experience and workplace efficiency initiatives. The ideas shared during the Roundtable, as well as the results of the Survey, informed the **LexisNexis Trends & Challenges in Law Roadshow**, which LexisNexis New Zealand toured throughout New Zealand last year.

At the Roadshow, LexisNexis met with lawyers in Auckland, Hamilton, Tauranga, Napier, Wellington, Christchurch and Dunedin to get a real understanding of the challenges facing the legal profession in New Zealand, as well as to understand how New Zealand's firms are adapting to the changing legal landscape.



## The 'Mega Trends'

At the Roadshow, LexisNexis introduced the top 6 “mega” trends that are currently taking place in the legal industry around the world.

<b>CONSOLIDATION</b>	<b>DIFFERENTIATION AND INCREASED SPECIALISATION</b>	<b>DISAGGREGATION</b>
<p>The development of a “global elite” comprising 10-20 mega-firms.</p>	<p>A 62% growth in more niche, specialised firms, as firms “zoom” in on industry and client types.</p>	<p>Law firms may only undertake one part of a legal matter, with the legal matter being split up into discrete parts between law firms and alternative law providers.</p>
<b>DIGITAL</b>	<b>LIBERALISATION</b>	<b>TALENT AND EMPLOYMENT</b>
<p>Increased use of mobile technology and legal work undertaken outside of the office.</p>	<p>New rules on law firm ownership, investment and alternative business structures.</p>	<p>Highly educated, diverse in culture, more connected, vocal and flexible.</p>

While some of these trends may not yet have reached New Zealand, we have witnessed these changes impacting Australia’s legal profession, and at least two – digital and talent and employment – are causing law firms and in-house lawyers in New Zealand to adjust their practices to recognise the need to adapt to the challenges these two trends are foreshadowing.

It would not be too much of a stretch to describe New Zealand’s legal profession as fairly traditional. What impact will a changing world have on the “talent” employed by law firms and in-house teams in the future? As New Zealand becomes more culturally diverse through immigration, are law firms able to

meet the needs of those different cultures through lawyers who are as culturally diverse as the firm’s clients? Will there be language and understanding barriers if firms do not embrace a multicultural legal talent base? And when it comes to technological advances, are law firms and in-house legal teams future-focused enough to attract young lawyers who will better utilise the new technologies that are designed to enable them to become more efficient?

This White Paper considers the drive for efficiency facing law firms and in-house lawyers, and looks at two strategies – technology and talent development – which can help law firms and in-house teams achieve the efficiencies they are seeking.

## A changing landscape – the need for efficiency

Delivering legal services more efficiently was seen as the most critical priority for today's law firms, with the Survey and Roundtable finding that 86% of law firms and 84% of in-house lawyers had reported that improved practice efficiency was crucial for their businesses.

### SO WHAT IS BEHIND THE NEED TO BECOME MORE EFFICIENT?

According to the Survey, for law firms it is increased competition, with clients pushing for a better deal from their law firms – especially where the services provided by the firms are ones well suited to commoditisation.

For in-house lawyers, the pressures are different: they face an increased workload, as their 'internal clients' push them towards doing more of the legal work in-house, thereby cutting external legal spend, and as they try to prove their value to the organisation. It's hard to assert yourself within an organisation if all you are doing is acting as a conduit to external lawyers advising from outside.

## So how can lawyers become more efficient?

During the Survey and the Roundtable, law firms and in-house lawyers shared with LexisNexis the strategies they had employed in their search for operational efficiency:

- Adoption of mobile technologies
- Alternative billing arrangements
- Flexible staff working practices
- Outsourcing legal work to external legal counsel
- Use of alternative staffing strategies
- Re-engineering work processes
- Use of technology tools to replace human activity
- Shift work to paralegals
- Skill development & training
- Knowledge management
- Use of technology tools to drive efficiency

Having identified the strategies, the participants then went on to discuss which of the above were more effective, as well as those that were not:

### What's working for law firms?

- Technology
- Knowledge management
- Skills training
- Flexible staff practices

### What's not working for law firms?

- Reduction in graduates
- Outsourcing to overseas law firms and non-legal providers
- Billable hours debate

### What's working for in-house lawyers?

- Flexible staff practices;
- Outsourcing;
- Knowledge management
- Skills training

### What's not working for in-house lawyers?

- Outsourcing;
- Alternative billing arrangements

## The paradox of outsourcing

For in-house lawyers, there is an interesting paradox occurring. One of the drivers pushing in-house lawyers to become more efficient is the pressure from the organisation to reduce external legal spend. However, LexisNexis's research indicates that over 50% of in-house lawyers outsourced their legal work to external legal counsel in an effort to improve their operational efficiency.

If such outsourcing has led to improved efficiencies, then it is surely a further indication that law firms themselves have addressed efficiency issues in their own organisations which means they are delivering their services to those in-house lawyers more cost effectively.



**50%**

50% of in-house lawyers outsourced their legal work to external legal counsel in an effort to improve their operational efficiency.

## The problem with billing

Not surprisingly, both law firms and in-house lawyers reported that one of things "not working" was the billable hour debate. The challenge of "billing" has been ongoing for years, with no real resolution in sight. If you Google "billable hour debate", you will find a plethora of articles from all legal jurisdictions going back years, many of which encourage law firms to adapt to the changing needs of client and move away from the billable hour.

There are the well-known critics of the billable hour, such as Professor Robert Susskind, who point out that the billable hour inherently creates

an unproductive and inefficient environment. Susskind, a fan of fixed cost billing, describes how quoting a fixed cost for legal services creates a drive to improve productivity and efficiencies as it forces firms to find ways to work quicker to produce the same results to maintain profitability.

However, one of the problems for law firms is that having quoted a fixed cost price for the work, the client often also wants an hourly breakdown, to check that they have, in fact, got a good deal.

## Conclusion

Of the strategies identified by LexisNexis following the Survey and the Roundtable, three stood out as being the most effective means of assisting an organisation in becoming more efficient:

- Optimising technology resources;
- Talent management; and
- Modifying staff roles and responsibilities.

In part two of this White Paper, LexisNexis will look at how these strategies can be utilised by law firms and in-house lawyers to create the efficiencies in their organisations they are seeking. Until then, if you are looking to adopt better technology to increase your efficiency and better provide for the needs of your clients, the following five tips may assist you to run a “lean law” practice:



### Focus on the practice of law – not on IT

The tools you choose should be as simple (and inexpensive) as the ones you use for your personal life. Or engage an IT specialist so you can focus on your core skills of the law.

### Maximise mobility

Investing in tools like a tablet will pay dividends by reducing the mass of papers that take up room in your briefcase and elsewhere. An efficient document filing system on a secured cloud service means no more worrying about having everything you need on hand.

### Use tools that streamline collaboration

If you're still relying on paper, you're doing something wrong. Evaluate technologies that make things simpler and eliminate or reduce needless work.

### Take the time to eliminate waste

It's important to pause and ask why certain systems are in place, or why you have been doing things a particular way.

### Don't sweat the lack of staff – how lean is lean?

One solo practitioner told me he relies on technology to compensate for his lack of staff. To keep your focus on clients, outsourcing business functions like accounting, call-answering, and marketing services is an option too.

# Meeting the Efficiency Challenge



## How legal professionals are responding to the changing legal landscape

In part one, the drive for efficiency, LexisNexis outlined the strategies identified in the **2014/2015 LexisNexis Workflow & Productivity Survey**, and the **2014/2015 Workflow and Productivity Roundtable**, of which three stood out as being the most effective means of assisting an organisation in becoming more efficient:

- Optimising technology resources;
- Talent management; and
- Modifying staff roles and responsibilities.

The Survey's results indicated that while law firms and in-house counsel had achieved changes within their organisations which made them more streamlined and transparent, the next stage in their drive to improve efficiency

was to focus on the individuals within those organisations. Their goal: to make each lawyer in their organisation more productive, efficient, and mobile.

Here LexisNexis will look at how these strategies can be utilised by law firms and in-house lawyers to create the efficiencies in their organisations they are seeking.

## Efficiency through better use of technology

Recent research undertaken by LexisNexis Pacific has indicated that both law firms and in-house counsel were using technology tools to better drive efficiency in their organisations, with 86% of law firms and 91% of in-house counsel reporting that the use of technology was their number one solution in their drive to efficiency.

However, the research also discovered that there appeared to be a lack of funding available which law firms and in-house counsel reported as being one of the main barriers to their achieving the efficiency gains they were seeking. Of the in-house lawyers surveyed in the **2014/2015 LexisNexis Workflow and Productivity Survey (Survey)**, 43% reported that 5% or less of their annual budget had been allocated to efficiency initiatives. Law firm budgets fared only marginally better, with 26% of law firms surveyed reporting a budgeted investment of 5% or less of annual revenue, and another 26% reporting between 5-10% of revenue.

# 26%

26% of law firms surveyed reporting a budgeted investment of 5% or less of annual revenue.



# 91%

91% of in-house counsel reporting that the use of technology was their number one solution in their drive to efficiency.

Also surprising was that a third of those surveyed had no awareness of their organisation's funding commitments towards technology – 34% of law firms and 37% of in-house lawyers. This was somewhat surprising considering that most of the participants in the Survey and in the **2014/2015 Workflow and Productivity Roundtable** were part of their organisation's management teams.

So, the question for partners, law firm management, and in-house counsel is this: if you have a commitment to improving efficiency through technology, what is your organisation's budget for those improvements? Do you know? Will it be sufficient to fund the technology advances you need to effect change in your organisation to make it more efficient?



## “Free the law”

As technology advances, so too does access to information. In the not too dim past, researching a legal matter involved a trip to either the firm’s library or the local law society library, where you were surrounded by shelves full of dusty old tomes sandwiched between newly published treatises on the law, which were already outdated by the time of publication, following either a change in legislation or a higher court reviewing and dismissing the decision of a lower court. Some may remember the filing cabinets crammed full of unreported judgments, which you sifted through, in the hope that you would find the one decision that supported your argument, an argument so obscure no one had thought it worthy of reporting. For most firms, if not all, those days are now long gone.

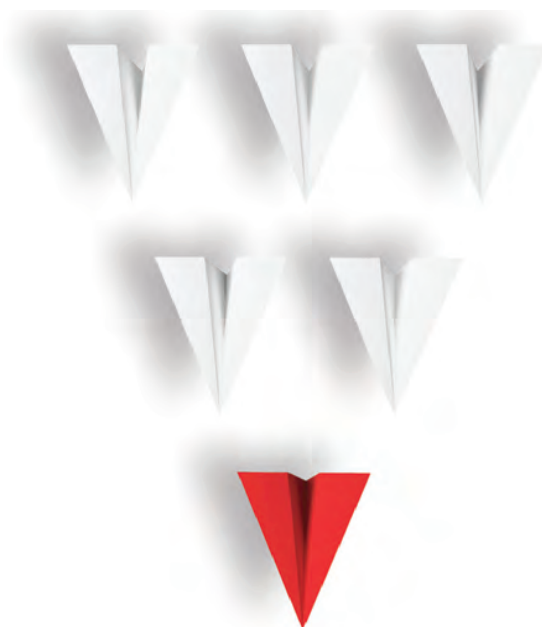
Now, any decision of any court can be found anywhere online – and most of these are now free. In October 2015, Harvard Law School announced that it was embarking on a project that would digitalise its entire collection of US case law – which goes back 200 years! – and provide free access online to anyone with a smartphone or Internet connection<sup>1</sup>. According to Harvard Law School Dean Martha Minow, this initiative is being driven by a shared belief that the law should be free and open to all. “Using technology to create broad access to legal information will help create a more transparent and more just legal system.”

Already, in New Zealand, we have access to free case law from across the Commonwealth, with AustLII (which covers both Australia and New Zealand case law and legislation), BaiLII (British and Irish judgments and legislation), and CanLII (Canadian case law and legislation). This makes it a lot easier to search for decisions across jurisdictions, and may result in an odd surprise or two – like, for instance, a South African judgment on point.

As access to case law and legislation opens up even more, what impact will this have on the practice of law in the future? Will the ease of access to the law hinder or help lawyers? Will lawyers find themselves facing even more lay litigants with a penchant for litigation, who now have ready access to law online that may (or most likely will not) be on point, and which could seriously impact the cost of the legal services they provide to their own clients?

While there are a myriad of ways that technology can improve efficiency, LexisNexis focused on two areas in particular in its Roadshow:

- Becoming more mobile; and
- Drafting.



<sup>1</sup>“Harvard Law School launches ‘Free the Law’ project with Ravel Law to digitise US case law, provide free access”, Harvard Law Today, 29 October 2015.



## Becoming more mobile

Anyone looking to upgrade premises in 2016 is well aware that the days of the large corner office are now over. While some may still foster dreams of those halcyon days, most law firms have accepted that an open plan office, with partners and staff sharing spaces that are increasingly reducing in size, is now their reality.

### RECENT RESEARCH HAS ILLUSTRATED JUST HOW DRAMATICALLY SPATIAL CONSTRAINTS HAVE IMPACTED LAW FIRM FIT-OUTS.

In 2002, the standard space allocated for each lawyer was about 24m<sup>2</sup> per person. By 2013, this had reduced to 18m<sup>2</sup> per person. Now, as 2017 approaches, most lawyers are working in spaces that have reduced even further, with the norm now likely to be 12m<sup>2</sup> per person.

But that reducing office space is also indicative of the changes in legal practice. As the corner office disappears, so too does the idea of the lawyer ensconced behind his or her desk hidden behind a quaking tower of paper. Nowadays, lawyers who are looking to develop a trusted adviser/advocate relationship with their key clients need to really understand those clients' businesses, and that means stepping outside of the office and actually visiting their clients in their premises, thereby giving them a better and deeper understanding of their client's actual needs. For some lawyers, this even means travelling constantly, up and down the country, and even offshore, to ensure that their client's needs are met.

But while you may no longer be based in an office where your clients can find you – you cannot afford to simply go “off grid”. LexisNexis's research showed clearly that working as lawyers in today's legal market requires you to be readily accessible at all times for all your clients; and it's not enough for your clients simply to be able to call you. They need

you to be able to review contracts, provide advice, and be “on” whenever they need you, wherever you may be. The LexisNexis research shows that most lawyers have already made this commitment, with 81% of lawyers surveyed reporting that they use mobile devices to do their job.

In May 2015, Google reported that more search requests were being made on mobile devices than on personal computers in the US and many other parts of the world.<sup>2</sup> This will come as no surprise to anyone with a smartphone. Who hasn't resorted to “Googling” the High Court Rules, while sitting in the High Court, in order to provide a quick response to a Judge as to which rule applies in a particular instance? The only issue is when you run out of data, and then you discover just how much you truly do rely on your mobile to find out everything you want and need to know, when you are away from the office. Even at work, you may find it easier to Google something on your mobile rather than use the office computer, infected as it seems to be with popups and those excruciatingly slow loading video adverts. That may be a result of “Mobilegeddon”, which Google undertook in April 2015, when it overhauled its search recommendation systems to favour those websites that are easier to read and load on smartphones.

As an aside, when thinking about going ‘mobile’, it might not be a bad time to rethink how well your website works in the mobile world. Because if it's not mobile friendly, then Mobilegeddon may have resulted in you becoming “demoted” by Google in its search results. Have you ever Googled your own firm's website? Is it the first option? Does it read well in the mobile environment?

<sup>2</sup> “Google gets more search requests on mobile devices than PCs”, Michael Liedtke, The Associated Press, 15 May 2015.

## Drafting – an underappreciated legal skill

Another area of legal practice that has benefited greatly from developments in technology is legal drafting.

The Survey and Roundtable discovered that 90% of lawyers spend their days drafting documents, with 62% spending at least two hours per day drafting something. This is probably an underestimation of a person's actual drafting time. It's easy to forget just how much drafting one does each day: letters, contracts, agreements, proceedings, affidavits, briefs of evidence. Even emails need to be carefully thought out and constructed – especially as recent case law has proven that an email thread could be the key to whether or not a contract has or has not been concluded.

The Survey and Roundtable identified three top drafting needs:

- Confidence in breadth and completeness of legal information considered;
- Accuracy of legal references and citations; and
- Currency of precedents and references used during drafting.

The Survey and Roundtable also uncovered a rather alarming statistic (at least for lawyers' insurers): 46% of lawyers admitted that they skipped proof-reading tasks due to time and workload pressures. When you consider the importance of legal drafting, and how easily errors can occur (especially now that authors are more likely to be drafting things themselves, rather than dictating and relying on secretarial staff to correctly decipher their mumbling), it is disconcerting to think letters, emails, contracts etc are going out to clients without the author having read through carefully and made sure that everything contained in a particular document is correct.

# 46%

46% of lawyers admitted that they skipped proof-reading tasks due to time and workload pressures.

Is this something of which you are guilty? How often have you spent a significant amount of time crafting an email, but didn't print it out first before hitting the send button? Has that ever come back to haunt you later?



## Efficiency through better management of legal talent

A significant number of the strategies being adopted by the participants in the Survey and the Roundtable to increase law firm efficiencies related to how law firms and in-house legal teams managed their legal staff:

# 50%

Just under 50% reported the use of skill development and training;

# 40%

Nearly 40% had shifted work to paralegals; and

# 30%

Just over 30% reported using alternative staffing strategies.

As the shifting of work to paralegals illustrates, there is increasing recognition from the participants in the Survey and the Roundtable that some of the work being done by lawyers could be commoditised and could be done more efficiently by those whose charge-out rates were commensurate with their experience and training.

However, despite the push towards the commoditisation of legal services, it was interesting to note from the research that less than 30% of law firms were using technology tools to actually replace human activity. So while some industries may benefit from increased automation, there is recognition within law firms that when it comes to advising clients, the provision of legal services is about far more than simple mindless task repetition (something more suited to automated commoditisation.)

Also interesting to note in relation to law firms was the fact that a previously identified trend towards increased operational efficiency – the outsourcing of legal work to overseas law firms – had lost its favour with the profession. LexisNexis's research also showed a growing realisation amongst the participants of the need for talent development, as well as an increasing commitment to graduate recruitment.

Previously, some law firms have considered training graduates to be a liability borne by them as an investment in the future, with the training costs incurred eventually paying off when those young lawyers gain the experience and knowledge they need to become full fee-earning authors. A few firms, during the recent Global Financial Crisis, even went as far as refusing to hire graduates, leaving other firms to incur those training costs, while they then sought to recruit lawyers once they were "trained" and therefore financially viable.

However, this view has now been seen by many law firms as counterproductive, especially for those trying to recruit lawyers at the three to four-year level. Rather than seeing the reduction of graduate intake as a way to increase operational efficiency, the participants in the Roundtable saw it as a detrimental strategy.

Furthermore, as those firms who have adjusted to the changing legal landscape and invested in technology reported in the Survey and Roundtable, technology has dramatically improved the productivity of law graduates. Instead of being seen as a liability the firm has to accept, graduate lawyers are now seen as assets that can make efficient use of technology and provide value to clients. Some participants even reported that for 80% of matters, a graduate with two years of experience can be more productive than a lawyer with 10 years' experience!



## Conclusion

The openness and frankness of the participants in the Survey and the Roundtable helped identify that the critical concern for law firms and in-house legal teams in the Pacific region was the need to become more efficient. That drive for efficiency is itself driven by a need to provide a better service for their clients – whether they be external or internal.

Most of those surveyed recognised that the best way to become more operationally efficient was to invest further in their organisations. But any such investment needs to be targeted to the initiatives that will actually help their organisations become more efficient. For the majority of the participants, the initiatives that were most likely to result in effective efficiency changes were ones that focused on technology and legal talent management.

As LexisNexis discovered when reviewing the results of the Survey and the Roundtable, it was the firms and the in-house teams who had focused their investment on these initiatives who were able to report the most improvement in their operational efficiency.

The challenge for law firms moving forward is how to take that operational efficiency and develop it into “individual efficiency” – how can they make each of the lawyers in their organisation more productive, more efficient, and more mobile?

A further challenge for law firms is whether this increased efficiency is paying off when it comes to the services they are providing to their clients. Are clients benefiting from this drive for efficiency?

**In the upcoming LexisNexis Insights Roadshow taking place in June and July, LexisNexis NZ will be presenting the recent research findings on “What Are Your Customers Really Saying” it will explore what both current and prospective customers of New Zealand law firms are saying. This will certainly shed some light on whether firms are meeting their customer’s needs. Register now at [www.lexisnexis.co.nz/roadshow2016](http://www.lexisnexis.co.nz/roadshow2016)**





**LexisNexis SmartOffice** is an ever growing suite of workflow and productivity solutions. Leading technology, accurate information and exceptional research is all available within LexisNexis SmartOffice. Each suite has a range of individual solutions designed to streamline your workflow – driving profitability, helping you work smarter, faster and **giving you back more time to do what matters most.**

**To learn more about LexisNexis and our products please visit [www.lexisnexis.co.nz](http://www.lexisnexis.co.nz)**  
For more information or to register for a demonstration, call **0800 800 986.**

LexisNexis Group delivers comprehensive and authoritative legal, business, government and tax information worldwide as an industry leader. We unite proprietary brands, advanced Web technologies, and premium information sources for customers in the legal, corporate, government and academic markets in 100 countries on six continents. With a leading position in the U.S., LexisNexis Group also serves as the market leader in the United Kingdom and the British Commonwealth and as a major publisher in Continental Europe, Asia Pacific and Latin America.

**beEXCEPTIONAL**  
content • solutions • productivity

