

Regulating the robots

Preparing for a conveyancing revolution



TAILORED REGULATION OF SPECIALIST LAWYERS

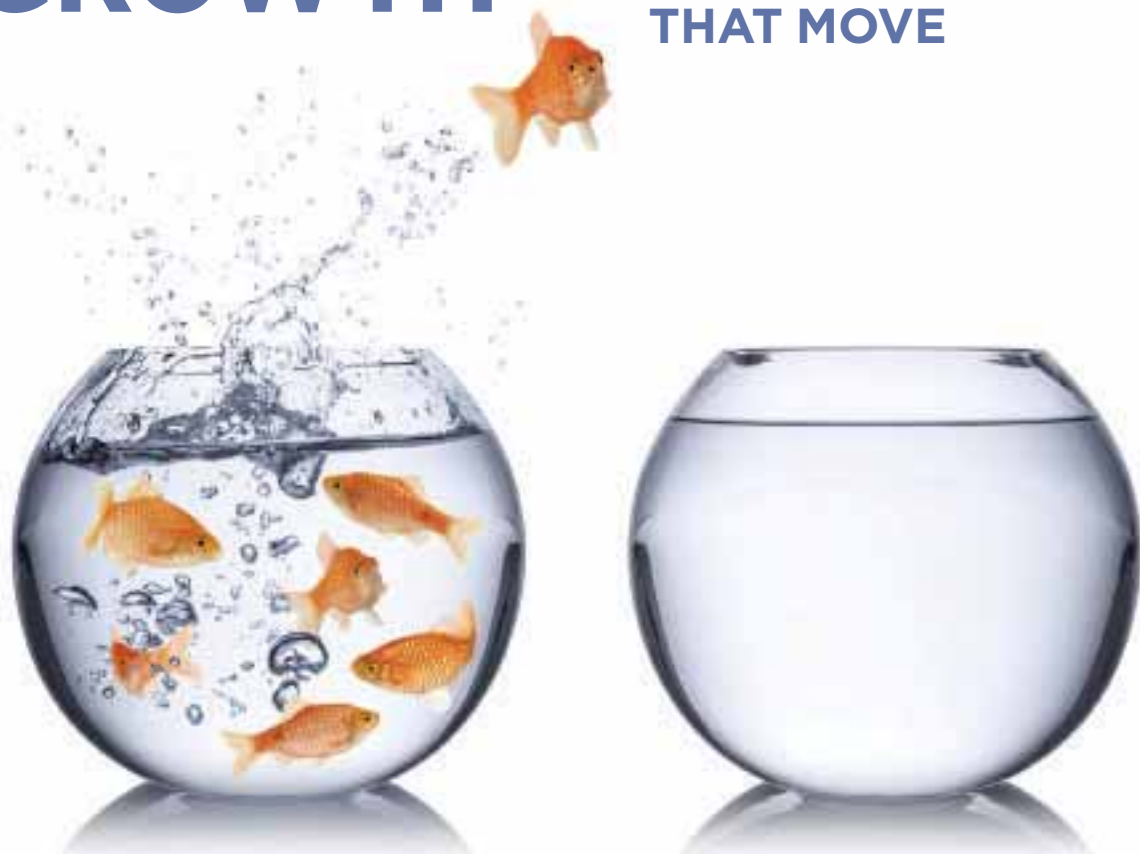
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The march of the digital conveyancer continues apace. A small but interesting element of the Conservative manifesto at the election was the pledge to use digital technology to release “massive value” from land that is currently unrealised, introducing greater specialisation in the property development industry and far greater transparency for buyers.

“To make this happen, we will combine the relevant parts of HM Land Registry, Ordnance Survey, the Valuation Office Agency, the Hydrographic Office and Geological Survey to create a comprehensive geospatial data body within government, the largest repository of open land data in the world.”

This was against the background of all parties promising to build millions of new homes and further committing to help first-time buyers.

And alongside all of this is the rapid adoption of sophisticated technology by conveyancers, from chatbots to artificial intelligence.

So, how does legal regulation keep up with this? It is to the Council for Licensed Conveyancers' considerable credit that it is thinking about these issues now – there is no sign of any other regulators doing the same. To that end, we convened a roundtable of industry experts to consider the current

state of the market, the changes that technology could bring, and how the regulator should adapt.

It was clear from the discussion that the greatest challenge will be to devise a regulatory framework sufficiently flexible that it does not require constant tinkering as the technology continues to develop – regulation has always had the problem of constantly trying to catch up with the market.

It has to balance protecting consumers with encouraging innovation for the benefit of those consumers. This is no easy task.

The roundtable was a valuable tour of the major questions facing conveyancing practice – and it should reassure licensed conveyancers, at least, that their regulator is not sitting back waiting for what might happen, but actively working towards making sure it is ready.

Neil Rose

Editor, *Legal Futures*



Legal Futures – winner of the Legal Journalism Award at the 2014 Halsbury Legal Awards – is the leading news resource tracking the fast-evolving legal landscape. Written by professional journalists, it provides cutting-edge daily news coverage on alternative business structures, new market entrants, regulatory change and innovation in all its forms. Its unique blend of hard-hitting journalism, market intelligence and expert analysis makes it the first port of call for anyone interested in keeping pace with the transformation of the legal market.

Our sister site, *Litigation Futures* (www.litigationfutures.com) has meanwhile become the go-to source of information on the world of costs and funding in litigation, with daily news and opinions on the massive changes wrought by the Jackson report and government civil justice reforms.



The Council for Licensed Conveyancers is the regulator of specialist conveyancing and probate lawyers. Our mission is to protect consumers and the public interest, promoting innovation, competition and consumer choice in the delivery of legal services. We do so by setting entry standards and regulating providers to deliver high-quality, accessible legal services.

URL <http://www.clc-uk.org/>

Disruption brings opportunities

Sheila Kumar, chief executive of the Council for Licensed Conveyancers, explains how the CLC sees regulation in a world of advancing technology



Lawyers cannot view the machine as a substitute for their professional expertise. To be sure that they are acting in the best interests of their clients, lawyers using AI or less exotic legal software will need to understand the capabilities and limitations of each tool

We at the Council for Licensed Conveyancers (CLC) are committed to fostering innovation in the delivery of legal services. We work hard to get deep and comprehensive insight into what is happening in the market place now and how it is likely to change in the coming years.

Regulators need to be up to speed with market developments and new technology so that we can create a supportive environment for innovative firms. The CLC also takes a proactive approach to avoid problems of compliance arising in the first place and, where possible, to support firms through challenges when they do materialise.

Our round table with *Legal Futures* and key players from across the conveyancing sector shed a lot of light on how we can expect new IT developments to change the delivery of property law services.

Enduring standards

We hear increasingly that artificial intelligence (AI) will transform the legal sector. But what does that mean for client protection and the regulation of legal services? What might be the impact of other IT developments? The kinds of software services that are proliferating are exciting in terms of managing legal businesses, mitigating risks and transforming clients' experience, but they bring their own challenges. What might the implications be for different kinds and sizes of specialist conveyancing firms and for the risk profile that we are charged with managing?

The outcomes-focused approach that we take to regulation has a number of advantages over a more directive, rules-based approach. Most significantly, it gives lawyers great freedom in deciding how to run their businesses. It does not dictate how legal services must be delivered. It sets the standards that firms are expected to achieve, allowing them to find their own ways to those standards, responding to the needs of their particular clients.

So the standards that we set for client outcomes and regulatory compliance are agnostic in relation to the tools lawyers may use to deliver services to those standards. This is a more significant point than it might at first seem. Let's look at a highly topical example.

In discussion with conveyancers from across the legal sector, a common idea often emerges. People seem to be looking for a magic bullet – whether a software package, process checklist or policy framework – that will protect them from all risk of identity fraud by their own client or the client on the other side of a transaction.

Regardless of the merits of any particular IT package to deliver compliance or manage particular risks – and there are some excellent services out there – the CLC will not recommend its use. To do so could give rise to the impression that the package itself guarantees regulatory compliance for the user.

Similarly, we have not provided a template for ID checking. Instead we highlight a range of steps that conveyancers could consider taking in response to the circumstances of individual clients and transactions.

The buck always stops with the lawyer

Whether using an ID-checking package or following the firm's own checklist to guide

checks on a new client, the conveyancer must bring their experience and expertise to bear. First, to understand what checks it would be wise to undertake in a particular situation and, second, to assess and understand the results of those checks. Regardless of the tools used or processes followed, the buck stops with the conveyancer.

The group at our round table event came to a similar conclusion in relation to the use of AI. New systems that are being developed can learn from past cases and transactions. They can learn how to respond on the basis of what has been done in the past and they can identify potential issues in large volumes of material far more quickly than humans. As long as they are programmed correctly and as long as they are used wisely by the people who are ultimately responsible to the client – the lawyer.

Freeing up lawyers to do the most important stuff

AI holds the prospect of massively reducing the amount of time lawyers need to devote to low-value, repetitive tasks. This could free up conveyancers to focus on what really matters, such as advising their client on the potential impact of an onerous or unusual term in the lease on their enjoyment of a property and helping them to make an informed decision about that, for example.

But lawyers cannot view the machine as a substitute for their professional expertise. To be sure that they are acting in the best interests of their clients, lawyers using AI or less exotic legal software will need to understand the capabilities and limitations of each tool.

Studies in other fields show that greatly improved results are obtained when humans make use of AI's capacity for the review and sorting of vast amounts of data to come to better-informed decisions. That is an exciting prospect in the legal sector, though it could clearly have huge impact on the structure of law firms as fewer lawyers, especially junior lawyers, are needed for the grunt work. That, in turn, could mean major changes to how careers develop and how senior lawyers develop their expertise.

Levelling the playing field?

Less exciting than AI perhaps, but with the potential for just as great a revolutionary impact, are other software services that are emerging for casework or providing an improved consumer experience.

Until recently, big advances in IT enablement of service provision tended to be capital intensive and so the preserve of large firms with deep pockets. Now, a range of useful and exciting tools are available as a service based on the cloud.

They can make the business of law more efficient or keep clients happier. The entry costs are often modest and generally related to usage. This puts them in reach even of firms with little spare cash and goes some way to levelling the playing field.

Conclusion

Firms will thrive if they find ways to take advantage of advances in all kinds of IT to deliver services in ways that meet the expectations of consumers today. Our role as a regulator is to help them do that in the context of our enduring standards.



Roundtable participants

Neil Rose

Editor, Legal Futures (Chair)

Eddie Goldsmith

Partner, Goldsmith Williams

Rob Hailstone

Founder, Bold Legal Group

Sheila Kumar

Chief Executive, Council for Licensed Conveyancers

Mark Montgomery

Customer Strategy and Marketing Director, My Home Move

Matthew Pennington

Director, Tonic Works

Teresa Perchard

Consumer affairs and regulation expert; Member, Council for Licensed Conveyancers

Mij Raja

Director, Conveyancy Agents

Beth Rudolf

Director of Delivery, Conveyancing Association

Paul Saunders

Managing Director, Legal Eye

Jimmy Vestbirk

Founder, Legal Geek

Stephen Ward

Director of External Relations, Council for Licensed Conveyancers

Regulating the robots

A group of industry leaders met in London to debate the role of regulation in the era of digital conveyancing

Stephen Ward: We wanted to hold this event today with *Legal Futures* because there is a lot of debate about the advances in digital technology, IT generally and particularly artificial intelligence (AI), and what difference it might make to the way that services are delivered in the near future. Nobody knows quite when that revolution is going to happen. It is important to us because we are charged with consumer protection: that is our primary focus as a regulator. We are also charged with promoting innovation, competition and growth in the legal sector. Some might say that sets us apart from some other legal sector regulators.

One thing that has not been talked about is what it means for consumer protection. What do these changes mean for the way that we need to regulate? Where might new risks arise that we need to address?

The thing that sparked this for me was looking at the problems that the Mayor of London is having dealing with disruptors like Uber and Airbnb, wondering how to regulate and asking what that regulation should look like.

There is a tendency, when novel ways of delivering a service emerge, to overregulate, or not to regulate at all and allow risk to run its course. We do not want to let that happen. We want to be ahead of the game and be prepared for this new world, so that we can protect the consumer and support businesses that want to innovate and deliver services in different and better ways.

State of the conveyancing market

Eddie Goldsmith: It's steady – I do not think it is startling and I do not think it is as low as it has been. The Chancellor keeps on trying to stifle the market in buy-to-let, and that stagnates the market. Then it starts building up again. If they let the market just continue as it is without bringing in these extra obstacles, then we would be okay.

Mark Montgomery: The other thing that we see is the transition from physical estate agents toward online agents. It is a real thing, and because we are quite strong in the online agents space, we are perhaps more insulated to the drop-off that has happened.

Rob Hailstone: I am getting no feedback that there is any drop-off. Everybody seems quite busy and quite happy at the moment. The bigger-volume firms are certainly making inroads. The high street in its own sweet way is trying to fight back, but it is not very likely. They need to embrace technology more, hence meetings like this, although most of them are worried about cybercrime and fraud.

Eddie Goldsmith: I do not think there has been consolidation in the conveyancing market. It is still the cottage industry that it was, other than the likes of Mark's firm, Countrywide, and a few other bigger firms.



Neil Rose: Eddie is right. There is nothing like what we are seeing in PI, but then there are not the drivers.

Mark Montgomery: The recent data was that there were more active firms in conveyancing last year than the year before.

Eddie Goldsmith: Even though the big firms are getting bigger, it is still a very small percentage of the overall percentage of the overall market. The biggest one is 3%.

Neil Rose: Is that an opportunity or is that just the way it is always going to be?

Eddie Goldsmith: You have to get the staff.

Mark Montgomery: It is an opportunity because things that we will come on to talk about, like AI, will change some of the dynamics in terms of the relationship of volume to staffing. The rate of growth, whether it is us or somebody else, could accelerate quite significantly.

We talked about fraud risk. It is about what is reasonable. At the moment the test of some of these protections is, 'Am I acting reasonably as a lawyer?' If it is reasonable for all of the high street banks to have voice biometrics within the next couple of years, where do those sorts of technologies sit in our sector? How do we regulate for the fact that some firms will be able to invest in that kind of technology and others may not?

Protecting consumers in the tech age

Neil Rose: At the moment, Teresa, would you say that consumers are well protected?

Teresa Perchard: Yes. You cannot undertake conveyancing without proving that you know what you are doing, that you can continue to prove that you know what you are doing, and that you are running the enterprise in an effective way in terms of protecting consumers' funds. If you are failing, then you are at risk of immediate intervention, and the CLC has shown that it does not hesitate to intervene to protect consumers when it needs to.

What is interesting about this topic is how a system of regulating legal services, which is about establishing the knowledge and competence of individuals, should operate when it is not an individual that is providing a service, but the combination of the consumer together with an app. Do you take the same approach and say that all apps must suitably prove their competence to do the job? That is one way of looking at it, particularly if we go down the route of the market beginning to operate in a way that financial advice has in the US, where you end up with cyborg advice with a mixture of machines and people. The people are focused on the things where you really need a person, and everybody is helped by a machine that sifts the dots quickly, ensures



Mark Montgomery



Teresa Perchard

consistency and does compliance checks, record-keeping and things like that.

At the moment I would say consumers are well protected, but the approach of regulation is about regulating people at the moment. It is important that regulation keeps pace with how things are actually done and is not stuck in the 1850s, making people use quill pens forever more when that is not the way that consumers want to do business either.

Sheila Kumar: We see very little about conveyancing being done poorly. It is much more about the other risks, and that is one of the reasons why this idea of what the developments are going to be and the likely risks and benefits of those developments is really important. The regulatory response needs to be proactive; the regulatory framework needs to be there to facilitate those sorts of developments.

The transparency agenda

Neil Rose: It strikes me that there are two streams of how the market is going to be affected and changed in the next few years. There is the traditional stuff, like the government's home buying review, the Competition and Markets Authority (CMA) pushing for greater prices and service transparency, and, in the slightly longer term, the Legal Services Board's desire to reshape the entire legal regulatory framework.

On the other side there are all Jimmy's friends and some of the other people around here who are pushing ahead with technological change almost irrespective of regulation.

Sheila Kumar: There is an interesting point about transparency. The CMA has spoken about increasing transparency. It has also talked about clients potentially wanting to know much more about who is the person actually delivering the legal service.

What we are talking about here is that it might not be a person. There may be a person involved somewhere but actually a lot of the work is going to be done not by a paralegal and not by somebody who can be identified in that way, but through artificial intelligence. Will consumers be interested in that? Does it matter to them? How do we make that explicit in terms and conditions and key facts? Do people know? Is it relevant?

Neil Rose: Mark, do clients know that a lot of your work is done in India?

Mark Montgomery: No, it is not something we shout about. Our introducers are aware. They would see on eWay [MyHomeMove's online system] that work had been done by somebody other than their conveyancer.

Neil Rose: Is that a problem?

Beth Rudolf: I do not see why it would be. I think in your particular case you have very specific tasks that are done offshore, do you not?

Mark Montgomery: Yes, and it is very highly quality managed. The standards that we are holding our staff to in our India site team are beyond the standards of the majority.

Beth Rudolf: Would it not be fair to say that the things that you would employ AI for would probably be those things that are done offshore at the moment?

Mark Montgomery: That's true for some of the simpler activities but the opportunity is for us to move those same people up the value chain to do more complex work, where the knowledge and experience they have developed can add more value. Absolutely there are lots of aspects of routine conveyancing cases where it is about grabbing a piece of information and saying, 'Is it A or B? If it is A do this; if it is B do that'.

Beth Rudolf: The consumer is going to be doing a lot of that themselves. If you think about the information that you complete in a property information form, there are decision points within that around if you have altered or extended the property. If you have, then you need to upload the documents that you have obtained for it.

You are already getting to the point where the consumer is making the decision, 'Have I got this document? I am uploading it'. Then the system itself is then prompting them to do the next thing. That is already being used and has been used for at least seven years, to my knowledge.



Roundtable report

Mark Montgomery: Our next gen forms are taking some of those more complex scenarios and saying, 'Okay, we know that it is this now. What are the 15 other questions that we need to ask?' There are bits of information we need to gather, driving the customer through that process, so you can drive out some of the delay. You end up with exactly the same result and there is still a conversation to make sure that everything that needs to be there is there.

Beth Rudolf: The result is actually quite different, because there is less frustration and there is less of that backwards and forwards where a purchaser perceives that they have not been asked for the information up front.

Mark Montgomery: The challenge is that there is a human part to this, namely 'Why are you asking me that question?' The forms are not forms anymore. The forms are customer journeys where you are providing the information about why you want that answered, why you need that document and how it is going to fit into a process.

Neil Rose: Matthew was showing us just before the quote bot. Presumably this kind of thing is where you are moving as well, in the long term?

Matthew Pennington: Yes, in terms of trying to capture information from clients and helping them out to answer those questions rather than providing quote forms.

Neil Rose: Ultimately, you could extend that to the whole process?

Matthew Pennington: Yes, definitely.

Setting common standards

Beth Rudolf: When you look at what is out there at the moment, the figures that View My Chain are producing, and the impact of transparency across a chain of transactions, are very interesting. For the ones using View My Chain, they are quoting 30 days faster. We are talking about 114-day transaction times now. It is about just knowing where the problem is so that you deliver that transparency. With that you will remove some of the frustration.

Mark Montgomery: That is one of the areas we have not talked about in terms of regulation: that whole piece around augmented data. View My Chain is using data that has the potential to not be in the client's best interests when shared, but the client has no control over it. There is a whole grey area in terms of what constitutes personal data that might impact on the client versus what is public data.

Jimmy Vestbirk: Do you have standards? If cyber is the big thing and AI is the big threat/opportunity, do you create standards for AI/cyber? Is there clarity on what people need to do?

Sheila Kumar: For AI we have not, and cyber is one of those areas where we have not created our own standard because the standards are constantly changing. We are linking to other people's. AI is the area where we think that we perhaps have to, because it is a core part of delivery.

Jimmy Vestbirk: Within our network, we look at everything through a start-up lens. For us, we would love to say, 'This is a conveyancing solution. Here are the standards from the regulator. We are compliant, selling into the industry.'

Paul Saunders: That is the thing that we have got to address. No matter however much work Mark does and however brilliant his systems are, he has somebody on the other side of the transaction that may not have the equal standard and status, or regulatory control, or whatever we want to call it.

Eddie Goldsmith: Is there a huge gulf between the 100 top firms and the high street? Has the high street still got its quill pen and no case management system, or has the high street upped its game considerably as well?

Paul Saunders: There is a huge gulf. That does not necessarily make the service that they are delivering bad, and in some instances it makes it a lot better. There are a lot of firms that still run without any form of case management system. There are firms existing still without using email or any other electronic forms of correspondence.



Mij Raja



Matthew Pennington



Rob Hailstone

Jimmy Vestbirk: It would be cool to create something like a lab and get some of those technology people in – be on the front foot proactively engaging with the people who are potentially disruptors. We do not see it as disrupting. We think that the industry is broken and needs fixing. I would not be interested in helping someone who is not on email.

Eddie Goldsmith: The market has to support and offer solutions to everybody, from young to old. We have been talking about the demise of the high street since I have been in practice. The high street is still part of this structure that we have and you still have high street banks on the corner. You still have the estate agent.

Jimmy Vestbirk: Is that the future? We talked about estate agents going virtual. Let us say that does happen; the high street law firm can definitely exist when the high street estate agent exists, but when that potentially disappears, would there be a disconnect going from virtual to high street?

Beth Rudolf: No, because that is what happens already. Most people get to the point where they book a viewing on Rightmove, and then it all goes to pieces of paper. Very few estate agent systems would support the majority of what we are talking about here. The majority do not have encrypted email for a start. Even where they were given tools, perhaps through some of the panel managers, they still do not use those to get their updates. They will still pick up the phone and ring the conveyancer, much to everybody's frustration.

Paul Saunders: You still have large parts of the industry that encourage personal contact. A lot of brokers are still working out of their cars. They are very much about personal visits and they are placing the loans that we then try to digitalise.

Jimmy Vestbirk: In the last few months there have been two firms, one backed by Zoopla and one backed by Rightmove, that are moving the mortgage space online through apps. The fact they are two backed by two big players is a big trigger.

Beth Rudolf: That is a really good point. The moment we start seeing apps going out there, the speed of change is going to be massive. At Atom Bank, you can do your mortgage application on there, albeit that they insist there is a broker involved for the advice element.

Teresa Perchard: The consumers of this activity will not all want to deal with the things in one way. It is like all public services, financial services and utility services. Instead of one size fitting all, service providers need to have more and more diversity on offer.

Mark Montgomery: In terms of regulation and risk, if you take the Atom Bank take on process, it has a facial recognition check, a voice diometric check, and the ID piece is very strong. A high street lawyer with a customer walking through the door with real documents that they can check is very strong. The stuff in the middle is actually more challenging from a regulatory perspective.

Judging service quality

Eddie Goldsmith: I do not think the conveyancing system is broken. Clearly it means everything can be improved, but actually the conveyancing itself is done pretty well. There are exceptions, clearly, but as always in these conversations, it is down to communication and managing expectations, which is nothing to do with the conveyancing process.

Rob Hailstone: When you say it is done well, though, Eddie, who says it is done well? Does the client say it has done well because the client does not know?

Eddie Goldsmith: The clients complain, but they do not complain generally about the title issue.

Rob Hailstone: They complain about the delays and the lack of information.



Roundtable report

Eddie Goldsmith: That is different, and that is the point. You separate the actual technical job of conveying this property from me to you. By and large, that is done well.

Rob Hailstone: There are still too many arguments about whether you should produce this planning permission or that building regulation, and it goes on and on. It becomes a ping pong.

Neil Rose: I know it is still early days, but when the Competition and Markets Authority talks about service transparency, what does that mean?

Sheila Kumar: It is a few things. One is increased understanding for the client and consumer about what they should expect of their service provider. The second thing is what it means to be involved in conveyancing transactions and what are the right questions to ask of your service provider. The third thing is who is doing the work, and how much is it going to cost you to get that piece of work done. You should not be getting charged partner level prices if it is not a partner doing the job.

Neil Rose: How will they do it?

Sheila Kumar: That is the other part of the equation. I am pretty sure that most firms get quite a lot of customer feedback, because if they did not they would not be able to survive. The big question is how much of that becomes information that they voluntarily publish, how much of it is information that the regulator sees because it becomes part of some register of information that sits alongside things like price and disciplinary information. The view of the CMA is that all of that should be held in one place, so if somebody really wants to do a comparison, they can see price, quality, complaints and discipline.

Teresa Perchard: Behind the CMA is the question of how can we get consumers to shop around more. What do consumers need, to be able to choose between people who may all be able to do the same thing, but will do it in different ways? Where is the quality, the delivery and the price?

Eddie Goldsmith: I would have thought that there are very few firms of conveyancers or solicitors that do not give terms of business with a price to start with. Surely people are not doing by the hour still?

Sheila Kumar: At the point where you have already made the decision that you are going to get your service done through X, you will get your terms and conditions, a proper quote and all the rest of it. This is saying that, in advance of me making that decision, you should be able to access that sort of information.

Stephen Ward: Given that there is massive price convergence in the conveyancing market, if you were going to choose on price you would not have much of a spectrum to choose from, unless you were going for a bespoke service for a very complicated transaction.

The difference that will drive consumer choice and behaviour is the different services that are on the table and the way they are offered through the 24-hour stuff and online for people who are digital natives, or it could be the way that different services are bundled together. What are some of the new services, which perhaps some of Jimmy's friends will develop, that will become a very compelling offer? I always say that I did not know I needed a smartphone until Apple made one, and suddenly I could not be without it. How is conveyancing going to change the world in that way?

Mij Raja: There is a real opportunity here for conveyancers, particularly solicitors, to offer an estate agency solution as part of the services that they offer. Why do they not do it? They already have the clients.

We are providing the UK's first outsourced estate agency solution just for the legal



Sheila Kumar



Stephen Ward

profession. You can offer the sale of the property as part of the conveyancing process. The client would benefit from all the services that are provided by the local high street estate agents. That would include valuations, accompanied viewings, sale agreed, negotiation – the whole lot. That whole market is changing, and because these models are now starting to emerge, this is another model that will benefit the end user. It is real opportunity, because of the changing world, for conveyancers. They have not changed over the years, so they have challenges, and this could really be a solution to help them diversify their business and offer a better solution for the consumer.

Beth Rudolf: What we want is a skin over the top that enables the customer journey to be seamless so that it does not matter if it is an online agency or an online conveyancer. It is joining up all of those points and having a secure portal through which all those transactions and communications can take place, and, yes, you could perhaps select your service provider as well.

Could technology encourage unbundling?

Sheila Kumar: With the development of AI and some of the things that Jimmy is talking about, and if we had the regulatory framework around some of those things, is it more likely that in time consumers will take more onto themselves? In that case, all the conveyancer gets left with is the end point of actual conveyancing. What are some of the challenges around unbundled conveyancing?

Beth Rudolf: If you think about consumer protection from unfair trading regulations, in that estate agents are all supposed to get the information from their customer before marketing, all of that surely could be delivered by the consumer verified by the estate agent. So long as it is all digital, you have then got most of the information you need from property information forms. You are stopping that duplication. As it is digitally available, you can then start using that data to collect your office copies from the Land Registry. You are then using that tool to automatically generate a contract. Then at what point does that become the reserved legal activity, and at what point is the consumer self-serving?

Jimmy Vestbirk: The AI piece is really interesting. When we look at cloud computing being adopted, it went through that hype cycle. I think we are going through that now with AI. You would never start a business now and not be in the cloud first, and it is really interesting to me that AI is so high on the agenda in the legal profession but cloud computing is still quite a long way away for a lot of people. AI is top of the hype cycle. Everyone is talking about AI where actually we are so far away technically.

There is just a big disconnect in the legal profession that you do not see in other industries, and there is a bit of catch up to do in getting the foundations right to then apply those technologies. One of the challenges with the AI is, if I go and do that for a hospital, I can see one million patients' data, learn from that and roll it out to another hospital very easily to learn those lessons. In the legal profession, the data is protected on standalone servers on premises, so I cannot take those lessons and apply them to the next one. There are some real challenges for us from a technology perspective in getting hold of clean data.

Teresa Perchard: I think we in the CLC need to be clear what we are talking about when using these different labels. To the extent that there is something AI ish that businesses are doing on conveyancing, do firms feel it would be helpful for the regulator to be indicating some expectations around what those systems need to be proven to be doing. Is the lack of regulatory policy holding back regulation in this area?

Mark Montgomery: Outcomes-focused regulation is a great environment where things like AI can operate. There is lots of stuff that would probably fall under the banner of AI which is just basic business logic and relatively smart. Yet the big transformational piece is the bit that Jimmy is taking about: learning systems that take everything that you have already done for the last 10 years and go, 'When you had these pieces of information you made this decision. What confidence level can we ascribe to that and how do we keep learning?' That is where it gets potentially much more complicated from a regulation perspective.

Beth Rudolf: When will you see what risks are actually going to arise? You do not know for 20 years and until their next move. Then they still do not come back to you and say, 'Where is the indemnity insurance policy that you sold me?'

Mark Montgomery: That is probably one of the other misconceptions. I do not think that AI is going to come in and be something that is applied to 100% of cases. If you can apply it to 40% of cases, then that is a massive shift in terms of efficiency, scalability and those sorts of elements. You are right that there are lots and lots of transactions where you would not go near it with that, but there are probably many where it would work very well, and at least as well as the human systems that exist at the moment.

The need for supervision

Eddie Goldsmith: Whilst we are talking about digitalisation and improving that, which is great, between us and our client we can do an awful lot more, but the actual system itself needs to be fit for purpose for the 21st century, and it is not.

Rob Hailstone: For all the smart systems, if you are still arguing over those little bits of paper that you do or do not need, it is going to slow things down.

Mark Montgomery: You are right. The technology take-up of dealing with grey is much more difficult than dealing with black and white. Therefore, if regulators were willing to be more prescriptive, the take-up of technology might be quicker, but there are lots of good reasons why actually as a business the practice would not want that to be the case.

Paul Saunders: The reason that you get a massive variety of responses on queries is because the individuals have such a wide discretion and nobody is actually sitting over them. When managers do their file reviews or however they manage their risk, they can say, 'Hang on a minute; why did you ask for that?'

Eddie Goldsmith: Mine do.

Paul Saunders: There are obviously really good firms out there that do it well, but there are still a huge amount of firms that do a tick-box process for risk assessment. They are not delving or training their staff appropriately, and then managing them and controlling them so that those sorts of questions do not come up constantly.

Sheila Kumar: That is one of the reasons why there has been such a focus on supervision. Supervision and head of legal practice is a critical part of entity-based regulation, for the very reason that there should be someone in charge and somebody who is setting some consistency of standards, looking at risk and taking that responsibility. Those roles are absolutely critical.

Clearly, where there is not that level of control and quality assessment etc., you can see problems occurring. The fact that you could go to one practice and get very different responses to a particular type of conveyancing query does not sound right. Those roles are there for a purpose and it is important that the full remit of those roles is carried out.

Paul Saunders: The training of those roles is also overlooked as well, because the people that



Mark Montgomery



Beth Rudolf

are running those positions, holding those positions and doing them within the organisations do not necessarily have the training, and there is no guidance for them to have a standard approach towards risk. That goes full circle back to Eddie and Mark's point of getting some consistency on responses to queries.

Sheila Kumar: Hopefully you have all responded to our consultation on CPD – this is one of the issues. Do we leave CPD open as generally people deciding what is appropriate for them, or is it something that needs to be more targeted?

Paul Saunders: People generally just want clear guidance on what they should do within their business and how they should approach the outside world, and I think that is lacking.

Eddie Goldsmith: The whole thrust of all regulation now is principles-based. We like being treated as grown ups. In our practice we know what training we should have for our teams. We do not have to go to courses just because we need to get the points or the hours.

Setting the limits of the robot conveyancer

Teresa Perchard: In a situation where fewer of the cases and less of each case is being attended to by a qualified professional or somebody supervised by a qualified professional, what would people be looking for from the regulator in terms of a steer as to what the machine that is doing a lot of the work ought to do or not do?

Principle-based outcomes are good. Then we can go off and buy whatever IT systems we want, or divide up the work between people and machines in whatever way we want. It is not for Sheila to decide how you do the day job. Should we be concerned about what the machines are capable of doing?

Beth Rudolf: We have to demonstrate that we are giving good advice, but that is the same whether I am handing you a file where my secretary has typed everything from scratch or whether the computer has identified it. I need to have trained my secretary or my computer to give the right answers to the questions.

For developers, it is about understanding the framework that sits around that. What information can you share? Can you provide confidential information online? Can you provide the status of the transaction? Is it okay to say that the transaction fell through today because I have a real-time update going on? Is that where you would struggle?

Jimmy Vestbirk: Yes, I think so. It is having those people around the table and having a greater connection between the two. It is very easy for us to say, 'You guys are in an ivory tower. This is going to change; we are going to change it and not discuss it with you.' Actually, it is an opportunity. There should be more forums where the technologists are getting together with you guys.

One of the things that we try and do is shift it from a picture of a robot. It is a really important distinction to not go to the industry and say, 'This is the robot that is going to replace you.' Instead it should be, 'This is technology that is going to allow you to do your job better for the consumer, and it is about you learning new skills and new ways of working.' It is not about saying, 'Here is a human. Here is what a human looks like as a robot, and that is what is going to happen.'

The industry has failed in that. Fear is a big driver in the legal profession. Fear is being used in this robot piece, and actually it is rubbish.

Mark Montgomery: The key, though, is that it should be able to eliminate certain types of risk. There are certain things at the moment where, if you take the corporate scenario, there are thousands of contracts in a transaction and traditionally people would have to sample a few of those contracts and take a view of whether that was okay. Actually, there, you could run it in a completely different way so they all have the right tools and systems.



Roundtable report

Neil Rose: Is it almost as simple as this: so long as you set the standards, whether it is for a human or a computer, and you are regulating the firm and not the people or the computer, nothing much needs to change from your current model?

Eddie Goldsmith: I would go along with that. If a machine does a bit of the work, the firm is still responsible for its quality.

Mark Montgomery: The burden of understanding is on the firm. If you take the insurance example, at a point where firms take on board software, when that software has a bug and it results in massive claims, it is making sure that you have the right contract with that software supplier to ensure that that liability goes down the chain.

What it all means for regulation

Sheila Kumar: Being a part of the conversation up front is really helpful. It may be, from what we have discussed, that there probably is not that much risk involved. Some of the risk is the same risk that we are already dealing with, albeit that it might manifest itself through a slightly different delivery model. It is important that we know and understand that.

Neil Rose: Even if you had a DIY proposition in the future that took you all the way to the point of completing, you still need, at the moment, a regulated person to do that.

Sheila Kumar: That is right but, perhaps not in the next five years, I can anticipate a scenario where the sorts of developments we are talking about will happen within firms and then become something that is accessible to the client. The client will want to do much more up to that final point. Then there is a really interesting discussion about transference of risk and who wants to take on that responsibility.

Eddie Goldsmith: I do not think that anywhere in the world conveyancing happens without lawyers of some sort, even if it is tax officials on behalf of the government tax department.

Neil Rose: The technology is moving more and more quickly, and while maybe for the moment it would seem perhaps that you are okay, maybe 10 to 15 years down the line you are not. Can regulation move quickly enough?

Teresa Perchard: The sorts of developments that have been referred to today could make regulation easier to target and do risk-based. If we can plug in to somebody's system, we can see what is going on, rather than sending someone out to go and look in the office, or sending them a letter handwritten in ink saying, 'Could I please come and inspect your premises?' It could make that regulation task much easier and fast moving, but the challenge is increasing diversity of ways of doing things, which we will need to keep abreast of.

Eddie Goldsmith: We are still going to get huge volumes of customer complaints until we update the conveyancing process itself.

Teresa Perchard: The number of complaints about CLC-regulated firms to the Legal Ombudsman was 35 last year.

Stephen Ward: Clearly, there are ways that we can make improvements to the process, and I am hoping that those are the sorts of things that people in the Legal Geek community are thinking about. They are not just making the way we do things now better or more digitised and faster, but actually thinking about the new customer journey and where lawyers can add value most usefully and most satisfyingly for the customer.

It is easy for us to say all the principles are there so they will transfer, but I am very acutely aware of what Jimmy said regarding your developers and the entrepreneurs out there who want to understand that framework. If we can help them understand what it might mean for the services they are developing or for the approach they are taking, I think that is a huge service that we can offer.



Jimmy Vestbirk



Eddie Goldsmith



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