

Internet Newsletter for Lawyers

By Delia Venables

March/April 2007

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The web version of this Newsletter is at
www.venables.co.uk/n0703vin.htm

ISSN 1467-3835
£40 plus £3.50 VAT
for a year (6 issues)

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Who Needs an IT Department?

by Steven Bradley

Whether you realise it or not, you are probably already outsourcing at least some of your IT via the Internet and it is likely that you will be outsourcing more and more in the future. In this short article I will show why it makes sense to give serious consideration to this form of outsourcing, as well as looking at a few of the pitfalls to avoid and (in the end) showing why you probably do still need your IT department.

The most obvious example of outsourcing via the Internet is the hosting of your web site. Almost all organisations do this since running a web server can be an expensive business, particularly if yours is a busy web site. Not only must you buy and maintain the hardware and run a faster than normal Internet connection but you also then need to keep the web server itself secure. This is particularly challenging as it involves keeping one step ahead of the cyber-vandals who seek to deface and hack into Web Sites. So, do you really want the headaches of keeping on top of the latest security scares or do you want to get on with your core business?

Think for a moment about what you actually did when you outsourced the hosting of your web site. You delegated all the responsibilities for service, maintenance and security to your hosting provider and in return you pay an agreed charge. Your provider gives you a service level agreement and usually offers compensation if there is a disruption to the service it provides. With outsourcing you know what you are getting and how much it costs.

Web hosting is just one of many IT services that are being delivered via the Internet and in fact most of your core IT services and requirements can now be outsourced in this way. For "in-house" IT departments, the writing would appear to be on the wall but as we shall see later on, this is not necessarily so.

Here are some examples of IT services that can be outsourced via the Internet:

- Backups & data storage
- Chambers/Practice Management
- E-mail hosting
- Faxing
- Intranet and web site hosting
- Marketing systems
- Productivity Applications (e.g. WP)
- Research
- Spam, virus & content filtering
- Technical Support and admin
- Telecoms provision
- Training
- Typing & dictation
- Web hosting

Outsourcing can fix or reduce costs whilst providing a defined level of service. It can also enable smaller organisations to gain access to technologies or services that were, until recently, realistically only available to the bigger firms. (*continued over*)

Note from Delia: I am delighted to tell you that Nick Holmes will be joining me as joint editor of this newsletter from the May/June issue onwards. Nick is already well known to readers for his interesting and well researched articles on the provision of legal information in the UK. He is joint author, with me, of the series of e-books with CPD we call *The Legal Web*. He set up the very first UK independent legal web portal www.infolaw.co.uk in 1995 (beating me by a few months) and he is Managing Director of the electronic publishing and consultancy firm Information for Lawyers (infolaw). He also writes the Binary Law Blog www.binarylaw.co.uk on legal information issues.

Telecoms

A good example of the new opportunities provided by outsourcing is in the area of telecoms. For years, telephone systems have been expensive to buy and maintain with little innovation but there is now a growing market in the provision of Internet based telephony systems and providers. Not only do such services offer reduced call rates and free internal calls, but they also provide small companies with the same sophisticated call routing, phone menu systems, voicemail and conferencing facilities enjoyed by their bigger competitors. With set up and configuration all done via the web, your firm can have its own state of the art telephony service in a few minutes – all you need is a reliable and fast Internet connection. Costs are very flexible and usually determined by the number of “extensions” you need along with the features you want to use. Some providers offer services starting from £10 per month.

Even large organisations can benefit from outsourced telecoms. In the event of some systems failure or business disaster, you can move over to the Internet based system in minutes and because it is managed through a web interface you can adjust it to suit your circumstances quite quickly. Whether your staff are sent to work from home or to a second location, your clients probably won't notice any difference and your business keeps running.

Downs and ups

Does outsourcing via the Internet really play out in the real world of solicitors firms and barristers' chambers? In fact, it does not always go smoothly.

We have recently been retained to look after a firm of solicitors and manage their various IT service providers. Shortly after starting, we were asked to urgently retrieve a large amount (over 10Gb) of information from their outsourced online backup system (which we have inherited). No problem, click a few buttons and sit back as the information is brought back from the providers' remote data store. Unfortunately that wasn't quite what happened. The first stage of restoring the files took various attempts over several days because the service kept dropping out and we had to restart the process each time. Next, whilst restores were in progress (during the day) the overall speed of the Internet connection dropped significantly – we were not popular. Finally because it was taking too long, we asked for a disk copy to be sent. When it arrived the next day it didn't have the files we needed. All of this wasn't quite the secure backup picture painted when the service was originally sold to the firm.

In another example of outsourced services, a chambers that uses SMS extensively to keep in touch with its barristers had a particularly important text message "lost" somewhere along the line. Because various different parties were involved, unravelling what had actually happened took a great deal of time and effort. This probably would not have been the case with an in-house IT department.

It isn't all outsourcing doom and gloom though. Another chambers that took up a managed service to host its various applications was recently forced to look at alternatives following the cancellation of this service. Undaunted, they took on the hosted service provided by Mountain Software, www.mountainsoftware.co.uk. A few months on and it is everything they hoped for when they originally signed up to the service.

Finally, at a more hands-on level we regularly use a hosted service to let us provide remote support and training to the people we look after when they are working from home or elsewhere. When they call with a problem, we can set up a remote control session to their PC and they can watch (or go and do something more useful) whilst we fix the problem. Instead of a 40 minute telephone call where we are asking them to click this and tell us what that says, the work is usually done in a few minutes.

Things to check

These examples of some of the ups and downs of outsourcing aspects of your IT show that you should be prepared to do your homework first. Apart from the usual checks you make when choosing any kind of supplier, here are a few other aspects that I suggest you consider:

- The quality of almost all Internet based outsourced services is largely dependent on the speed and quality of your own Internet connection. You cannot blame the provider if service is poor because of this. Although ADSL connections are fast at getting information from the Internet down to you, they are slower at transferring it back again - particularly important for telecoms and online backup services. Be prepared to invest in an SDSL (same speed both ways) or a leased line connection.
- When choosing a service provider make sure you speak to other customers that operate similar businesses to your own and be persistent in finding out what they are not telling you - a good provider should be honest and upfront.
- If the market providing the service you are interested in is immature and the technology or service involved is new, be prepared to pay the price for leading the way. Despite reassurances to the contrary, expect service to be variable and don't be surprised if providers fall by the wayside.
- Recognise that outsourcing is not always the right choice. Keeping a service “in-house” provides you with flexibility and the ability to join different internal services together, allowing information to be shared more easily.
- Be realistic about costs when making comparisons. In particular, ensure you factor in the hidden costs of time spent managing and maintaining “in-house” systems.
- Almost all providers offer free trials so make sure you put aside plenty of time to thoroughly understand and test a service. Also, remember that this is a cost too.

Outsourcing via the Internet offers something for everyone - just make sure your Internet connection is up to the job and you fully understand the pro's and con's of the services you are looking to outsource. And the IT department? They will remain a valuable asset of any organisation, becoming the glue that holds all these different services together - providing they embrace the changes and opportunities that are coming.

Steven Bradley is the Managing Director of Chambers Technology Support, www.ctsltd.net, a firm dedicated to the provision of technology services and support to the legal profession. Email steve.bradley@ctsltd.net.

Steve has prepared a selection of Internet IT Service Providers on his site, www.ctsltd.net/briefings/links.htm. See also a further note on outsourced IT by Delia Venables on page 6, relating to solicitors practice management systems and also case tracking online.

Networking LIIs: how free access to law fits together

by Graham Greenleaf, Andrew Mowbray and Philip Chung, Co-Directors, AustLII

The networking of free-access Legal Information Institutes (LIIs) has resulted in a network of 15 LIIs providing free access to over 700 databases from 95 countries. Through the largest portal to the network, the World Legal Information Institute (WorldLII), all 700+ databases can be searched simultaneously. The number of databases in the network is growing by about 100 per year at present. While the databases from many of the countries are quite small, they are very substantial from others. From Canada, Australia, Hong Kong, India, Papua New-Guinea, the Philippines, South Africa, Ireland, the UK, New Zealand and 20 Pacific Island countries, they are comparable to what is available from some commercial providers. Before 2001 there were some LIIs, but no network. This article attempts a brief account of what has happened to provide an alternative to commercial publishers' networks.

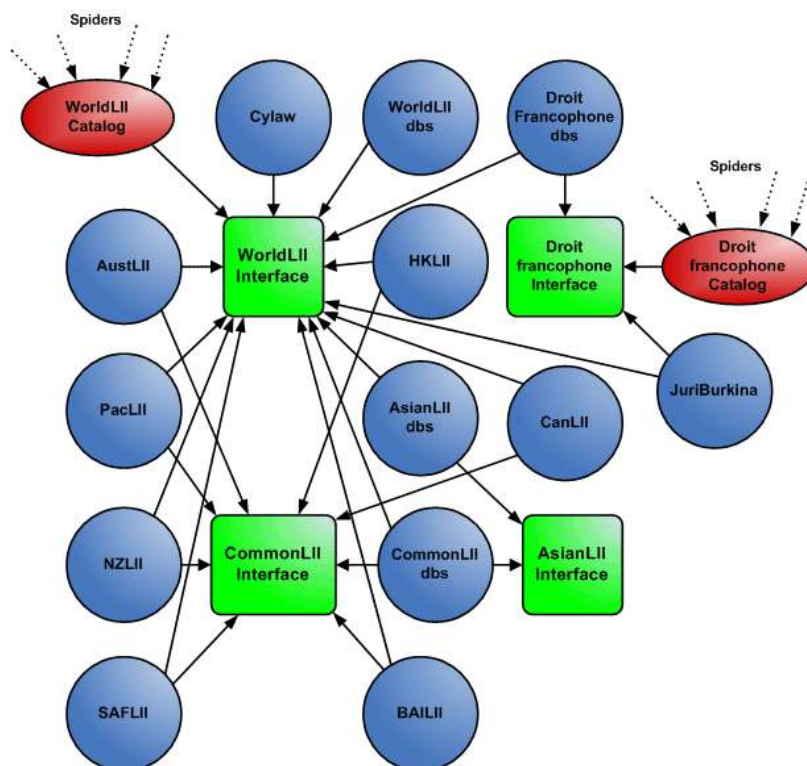
International networking of legal information – commercial publishers

When did legal information systems first contain significant content from multiple countries? By the early 1980s Lexis (now LexisNexis) had added UK and French content to its dial-up service. EURONET Diane also contained legal databases from a number of countries (Bing 1984).

By the mid-80s other content from Europe, New Zealand and Australia was available on LexisNexis. Today, this has expanded to cover content from 19 countries, under the LexisNexis 'Global Legal' section (previously less polite as 'Non-US'). Thirteen are Commonwealth countries, and 'Commonwealth' is the only multi-country search provided. Provision of caselaw and legislation varies. Caselaw and legislation cannot be searched together so it is impossible to simultaneously search the whole of LexisNexis.

Westlaw International has gradually expanded since 2000 to cover caselaw and legislation from six jurisdictions: the United States, United Kingdom, the European Union, Australia, Hong Kong, and Canada (Westlaw 2007). The maximum scope of a simultaneous search is 10 databases, and you need to be able to select 13 to search everything they have. Cases and legislation can be searched simultaneously, with other content. The third potential commercial network has not yet happened. The Wolters Kluwer/CCH companies have content scattered on sites around the world (US, UK, CCH Asia, Australia, New Zealand, Canada etc) but no network or mega-site.

The LexisNexis and Westlaw International models were based on the model of one centralized location of data



from multiple countries, and remain that way. In the mid-1980s there were attempts to establish another model: a dial-up network of collaborating commercial providers of legal information from multiple countries. For example, Australia's then-CLIRS system (later bought by LexisNexis) tried to set up a network with the UK's Eurolex and Canada's QL, but this was scuttled when LexisNexis bought Eurolex, despite litigation challenging this (see Greenleaf, Mowbray and Lewis, 1988, p37). Such networks were in any event gateways at best, not allowing for simultaneous searching. During the CD-ROM era of legal research, from about 1988-95, it seems the emphasis was on circulating plastic, not building networks.

Enter the LIIs – a third network emerges

The *Legal Information Institute* started at Cornell in 1992 with a number of databases primarily of US federal law, and was the first significant source of free access law on the Internet. The *Australasian Legal Information Institute* (AustLII) was started by UNSW and UTS Law Schools in 1995. It borrowed the 'LII' suffix from Cornell, as others have done since, but was the first LII to attempt to build a comprehensive free access national legal information system rivalling that of commercial publishers.

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From 1999 AustLII started to use its search engine (Sino) and other software to assist organisations in other countries to establish LIIs with similar functionality and usually with academic roots: in 2000, the *British & Irish Legal Information Institute* (BAILII), based at the Institute of Advanced Legal Studies, London and University of Cork; in 2001, the *Pacific Islands Legal Information Institute* (PacLII) at the University of the South Pacific Faculty of Law for fourteen island countries of the Pacific (now 20); in 2002 the *Hong Kong Legal Information Institute* (HKLII) at Hong Kong University; the *Southern African Legal Information Institute* (SAFLII) with Wits University Law school in 2003, now operated by the South African Constitutional Court Trust for sixteen countries in southern and eastern Africa; and the *New Zealand Legal Information Institute* (NZLII) established by Otago University Law School in 2004. For all these LIIs, AustLII established the initial system and ran it for a while, with the aim of assisting full local take-over as soon as possible. *CyLaw* in Cyprus developed independently from 2004, but using AustLII's search engine.

Meanwhile, the long-established LexUM team at the University of Montreal established the *Canadian Legal Information Institute* (CanLII) in 2000, initially by using the AustLII software but then developing their own. They also developed *Juri Burkina* (2003), *Droit Francophone* (2003), and are assisting developments in other countries.

BAILII and PacLII were multi-country regional systems from inception, but did not involve material from other LIIs. A linguistic rather than regional focus was taken by *Droit Francophone* (2003), with initial content concentrating on West and Central Africa, but some databases from across the francophonie. It is a single LII but now includes content derived from *Juri Burkina*. WorldLII at www.worldlii.org (2002) was the first multi-LII site, initially incorporating data from AustLII, BAILII, PacLII, HKLII and CanLII. Initially, the concordances for all the databases were located on the WorldLII server in Sydney, except that searches were sent to CanLII, and the returned results merged with the locally-produced results from the other LIIs. The latency of the CanLII results often meant that users had to presented results stating 'CanLII results not available'.

Two multi-LII sub-portals followed. In 2005 AustLII developed the *Commonwealth Legal Information Institute* (CommonLII, 2005) for Commonwealth and Common Law countries ('droit Anglophone' is its nickname), which added databases from 20 new countries, but also relied upon the content of existing LIIs: AustLII, BAILII, CanLII, PacLII, HKLII, SAFLII and *CyLaw*. The *Asian Legal Information Institute* (AsianLII, 2006), drew on CommonLII, PacLII (for PNG) and HKLII, but also databases from 12 additional Asian countries. All of this fed back into WorldLII.

An institutional network – Free Access to Law

The Free Access to Law Movement is the institutional equivalent of the LII network. It is a loose affiliation of all the LIIs mentioned above and a number of other organisations with similar goals. It meets annually if possible during the 'Law via Internet' Conference (see LVI Conferences), and by email between Conferences. It was formed in 2002 and adopted the Declaration on Free Access to Law, which has had some amendments since then (Declaration 2007). Its website is being constructed at www.freelii.org. Membership is by invitation, with members nominating new candidates, and consensus required. The membership criteria are not fixed but involve adherence to, and support of, the Declaration and activities similar to (but

not necessarily identical with) a LII. Recent members are the Institute of Theory of Techniques of Legal Information, Italy (ITTIG), and LawPhil, a University-based free access provider from the Philippines.

There are a lot more countries with databases in WorldLII than there are members of the Free Access to Law Movement. PacLII, *Droit Francophone*, CommonLII and AsianLII have incorporated into the LIIs the legal content of many organisations beyond their 'home' jurisdictions. How this is done varies a great deal. Sometimes the local involvement required is quite passive: a court or legislation website indicates that other are allowed to republish its content, or the copyright law of a jurisdiction states there is no copyright in legal documents (eg in Macau or India). In other cases obtaining republication rights requires requests and negotiation, but they are rarely refused if the data is already being published for free access. Otherwise, negotiating the supply of a steady stream of otherwise unobtainable data is sometimes very difficult particularly if a commercial provider is already obtaining it (eg Malaysian legislation). In other cases the institution concerned is pleased to obtain an opportunity to publish on the Internet (eg some Ugandan courts). PacLII and SAFLII have staff members who travel from country to country to obtain data not otherwise available. A discussion of the many complexities of data acquisition would be very lengthy. It is sufficient to say that the LII network has only scraped the surface of the valuable legal information which is potentially available.

The main constraining factor is of course funds. Every LII looks after the funding of its own system. The models on which LIIs are funded vary a great deal. AustLII has a 'multi-stakeholder' model, with more than 50 stakeholders in that case (see AustLII funding 2007). BAILII is similar. Most LIIs have had a considerable deal of academic funding and institutional support. CanLII is funded primarily by the Canadian legal profession. Aid agencies have made significant contributions to PacLII, SAFLII and AsianLII. Strategic alliances with some legal publishers have helped AustLII along. A small LII like *CyLaw* is a personal project. Yet others like NZLII live on 'the smell of an oily rag' and a little help from their friends, while they search for longer-term funds. There is no Daddy Warbucks (or even a George Soros) who would fund global free access to law long-term, but that doesn't mean it can't be done. It has been done with ever-widening scope for over a decade. There is not one formula, but as with many other aspects of open content, there are many non-business models by which numerous stakeholders can be engaged.

Network of shared databases, multiple interfaces

The LIIs have agreed in principle to allow their content to be shared between members of the Free Access to Law Movement who wish to build different interfaces to its content ('portals' in one usage). So far, WorldLII is the only interface to all the LII content. Various LIIs draw on databases contained on other LIIs, as well as on their own content, for presentation in their search results: CommonLII (AustLII, CanLII, PacLII, HKLII, NZLII, *CyLaw*), AsianLII (CommonLII and PacLII). So, for example, the same databases from India appear in CommonLII, AsianLII and WorldLII, badged as CommonLII. The same databases from Papua New Guinea appear on PacLII, CommonLII, AsianLII and WorldLII, badged as PacLII. Other possibilities are for interfaces that draw on the databases on any LII in a particular language. A Portuguese portal could cover existing databases from Macau and Timor Leste, and some to come from Africa.

Droit Francophone could in theory include some French language databases on other LIIs. There are obviously many possibilities.

All of the LII's operated by AustLII (WorldLII, CommonLII, AsianLII) share the same file structure on AustLII's servers. For example, all Indian databases are located at [../in/](#), so [www.asianlii.org/in/](#), [www.commonlii.org/in/](#) and [www.worldlii.org/in/](#) all address the same files. The structure is therefore simple enough to accommodate databases from any country in the world, and any number of different interfaces, without changes.

Google?

Does networking matter in a post-Google world? Cannot search engines just spider everything? Well, no. Most LIIs use the Robot Exclusion Protocol (Robots Exclusion 2007) to exclude spiders from at least their case-law, on privacy grounds (you should not find an old friend's divorce or criminal case when arranging a school reunion). Networking LIIs can also add many forms of organisation of the data shared between LIIs that general search engines don't yet provide (Greenleaf 2005). The future may be different, but then it will be a question of who pays for the LII value-adding from which search engines profit.

Technical robustness of the network

The LII network now relies upon a replication/synchronisation model. A complete copy of all LII data is held in Sydney and is mirrored locally both at UTS and UNSW. WorldLII, CommonLII and AsianLII are built on that structure, with distributed searches no longer necessary to produce search results. Other interfaces to the network built by other LIIs could similarly utilise the local replication of LIIs. LexUM/CanLII and AustLII have both installed additional servers to facilitate their respective replication of the other's data, so LexUM now controls a server in Sydney and AustLII controls one in Montreal. Data and system setup is synchronised on both systems using rsync on a regular basis. The Montreal system also serves as a North American home for several other systems including PacLII, SAFLII, NZLII, CommonLII, AsianLII and WorldLII.

Other LIIs contribute less extensive replication facilities. The PacLII system is maintained in Vanuatu, but is mirrored in Sydney. Traffic originating from the Pacific (or more accurately, the USP network) is directed to the Vanuatu server, with the rest of the world defaulting to Sydney. Similarly, the SAFLII system is maintained in South Africa but is again mirrored in Sydney. At the moment, all traffic is directed to Sydney, but as larger servers are installed in Johannesburg, load balancing/failover similar to PacLII will be deployed. BAILII and HKLII are also exploring replication options.

A geographically distributed network of independent LIIs poses significant technical challenges if it is to be robust and to 'scale up' successfully. Desirable attributes include replication of data sets across a global network of machines, with synchronisation approaching real-time; flexible load balancing and allocation of requests across the network; and failover access to local machines with replicated copies where the host LII is unavailable. As part of a project to enhance the robustness of the LII network, AustLII has developed a replacement DNS server known as the *Load Balancing Daemon* ('LBD'). LBD is currently being deployed on an experimental basis, and is being gradually introduced across the free access to law network (Mowbray et al 2007).

Futures for the free access to law network

All LIIs have challenges in maintaining their own operations, the most common one being that free access cannot be provided at no cost. The main issue for the Free Access to Law Movement as a whole, and for LII networking, is to find the best ways to expand both to make them more inclusive of organisations with similar goals, and a more global range of quality legal information. So far, both are largely Anglophone plus Francophone.

The technical sophistication of the network, and corresponding collaboration between LIIs, has increased a lot recently, and augurs well for long-term robustness. A related challenge is to increase the interconnections between data on different LIIs, beyond common search results to direct links between data. CanLII's Reflex (CanLII 2007) and work underway at other LIIs recognises the importance of citations to adding value both locally and across the LII network.

An on-the-horizon problem is the relationship between the LIIs and those who wish to build law-oriented services which attract large advertising revenues partly by spidering LII content, but do not bear any of the ongoing costs of building the quality legal information that the LIIs provide. The attitude of LIIs to spidering is an ongoing question, not only on privacy grounds.

The future for the LII network, its interfaces, and the Free Access to Law Movement is to increasingly provide a global alternative to the expanding global reach of the current legal publishing duopoly. In doing so, it can help to provide better access to law in many countries, developed and developing, and can encourage them to join in a global project that supports economic progress, the rule of law and democracy.

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Fee-earner profiles on your website by Alison Hunt

What is the best way to get good fee-earners' profiles onto your firm's website? Most clients like learn something about their solicitor. Search engines will also lead a prospective client looking for a particular solicitor, to your website via the profile.

People usually enjoy talking about their work, so it is strange that if you ask fee-earners to write something about themselves many of them will find it very difficult. After considerable delays, you are likely to receive profiles of very different content, style and length.

There is an easier way, the basis of which is not to ask the fee-earners to write their own profiles. As they are more comfortable talking about themselves, the secret is to talk to each fee-earner and to build a profile out of notes taken during the conversation. The process is very quick, ten minutes being ample time to interview each fee-earner. It is not even necessary to arrange a meeting, or book a room, because fee-earners are more relaxed if the interview is conducted over the telephone.

The person writing the profiles must remember that it is essential to write down the answers to each question accurately, and to compose the profile entirely out of what the fee-earner has said. Some fee-earners will need coaxing on certain areas, such as the variety of work they do, in order to obtain enough material to work with.

In fact, it is best to have a standard list of questions including obvious ones such as the fee-earner's degree, name of their university, their current position, and how long they have been in the firm. It is also helpful to give the year of their admission because it helps the clients to assess their experience, and it is worth listing, at the end of the profile, the legal professional bodies to which the fee-earner belongs.

However, in order to get at the essence of the individual, it is essential to ask what is the fee-earner's approach to his or her work and clients. This question usually causes the fee-earner to pause, sometimes for quite a long time, because they have to identify and describe their personal qualities in relation to their work. The answer will usually provide the most interesting part of their profile because it will be something special about the individual - perhaps a caring person, or very commercially-orientated, or a keen representative of children, or a conveyancer who takes great pride in keeping clients constantly informed of progress.

There are some things that are probably best left out of profiles - for example, the subject of personal hobbies. Some fee-earners are under the impression that stating they are a keen golf player will endear them to potential clients who also play golf. This has the danger of giving the impression that work is secondary to hobbies. The client is looking for the best lawyer to undertake his or her work. All the information provided should add to the business profile of the fee-earner.

Another example is the names of cases in which the fee-earner has been involved. Case names are very seldom familiar to non-lawyers, although they would be useful in a profile aimed at other lawyers, or certain limited professions such as chartered surveyors where familiarity with cases is more likely.

Finally, profiles should be brief - 3 or 4 short paragraphs are ideal. It is sufficient space to provide a good overview of the fee-earner's current practice, and the essence of the individual's approach and motivation. Additionally, it can be read without having to scroll down the website page.

Show the draft profile to the fee-earner for approval before it is seen by anyone else; the description of each individual is a sensitive matter to that particular person.

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Further note from Delia relating to Outsourcing IT

On Steven Bradley's own web site, mentioned at the end of his article (see end of page 2), he notes in particular a number of Hosted Chambers Management Systems, Hosted Email Services, Telephony Service Providers, and Online Backup Service Providers. This short note covers some other services used specifically by solicitors.

Solicitors can outsource their accounts and practice management systems thus avoiding the need to buy or maintain the hardware and software normally required for in-house operation. This type of service is particularly attractive for new firms and indeed virtual firms. Here are three of the best and longest established legal software companies now offering hosted services:

Quill, www.quill.co.uk, offers Pinpoint Office which enables a firm not only to have the accounts software owned, managed and located at Quill, but also to use Quill's cashiers. Quill have nearly 200 practices using the service and they employ 45 legal cashiers. Other Pinpoint services include payroll, digital dictation and word processing.

Pracctice, which now operates mainly under the name of their key software, Osprey.TM, www.osprey.tm, offers their practice management (which includes accounts and case management) online i.e. the software and data is held by Pracctice and the system accessed online as required.

SOS offers a new outsourced cashiering service called VirtualPractices, www.virtualpractices.co.uk. This provides full management of the accounts with free .NET software for online access and other services, including time recording, fee earner software and matter management.

Another area of interest is case tracking, particularly for conveyancing, where the matter software and data information is held on a third party's system; the firm provides updates to this as milestones are reached. Although some of the existing software companies are able to provide hosted services of this kind, the key players in this market are newer companies:

ConveyanceLink, www.conveyancelink.com, provides the software for online case tracking on its own site, as a service, and charges on a pay-as-you-go basis. Their software also links in with estate agents' software and provides HIPS modules as well.

Easyconvey.com, www.easyconvey.com, provides a range of conveyancing software most of which is run on the firm's own systems but also provides a module called Track-a-Matter, which is run on their own secure servers.

Wiki at Work by Paul Robertson

In the last issue of this newsletter, Steve Butler explained his disillusionment with Wikis - 'Why Wikis Won't Work (For The Law)'. I agree that a website that can be edited by members of the public may not be the best way of compiling "... a multi media encyclopaedia of English law". However, a Wiki remains an excellent tool for collating and presenting a law firm's collective wisdom.

In an earlier article ('What is a Wiki', Internet Newsletter For Lawyers January/February 2004) I explained that our firm had been looking for a way to bring together our in-house "know how", particularly as it relates to our specialist area, the liability of local authorities. The solution was to customise an open source Wiki programme (originally OpenWiki, see now OpenwikiNG.com. The NG stands for Next Generation).

Over four years our Wiki has grown to a 250 page, encyclopaedic resource which has greatly improved our practice. It includes such things as;

- (a) Relevant cases, mostly unreported with a summary, the correct citation and a hyperlink to a high quality scanned copy of the case;
- (b) Themed "pages" summarising principles of law such as limitation of actions, contribution and so on with particular relevance to our practice areas;
- (c) Links to scanned copies of technical documents;
- (d) Examples of pleadings and affirmative defences;
- (e) Procedural points;
- (f) Summaries of in-house procedures such as how we resolve claims and interact with our clients.

Prospects for public law wikis

Richard Susskind was impressed with the success of Wikipedia, and suggested that a Wiki focussed on English law could and should be attempted. His enthusiasm overlooked the fact that a Wiki is no more than a piece of software. It is initially blank, and relies upon the input of one or many contributors for its content. The original Wiki was written by Ward Cunningham to enable programmers working collaboratively on large software projects to document the projects. A Wiki works well where you have a group of dedicated people collaborating on a project. Such contributors will be knowledgeable, will respect each other's views and will be motivated to contribute.

There is no guarantee of such comity when you open a Wiki to public access. The contributors may not be knowledgeable and may even be malevolent. The operators of a public Wiki need to consider whether everyone should be allowed to make entries, the extent to which contributors should be entitled to change or delete the contributions of others, and how to protect the Wiki against vandalism.

Wikipedia succeeds because of the enthusiasm of a core of contributors and, more recently, because of limitations placed upon the ability of members of the public to add content or remove or amend it. As identified by Steve Butler, members of the public will rely upon the accuracy of a legal Wiki and such accuracy can only be ensured where the contributors are knowledgeable and the content is up to date. He is probably right in saying that the task is too big for a voluntary exercise. A Wiki where the core content is written by professionals would have a better prospect of success. What can be done to encourage professionals to donate their time? As with Wikipedia, a core of dedicated people is needed, committed to the ideal of a freely available digest of the law. If it becomes necessary to pay for contributions, who will pay?

Back in the Office

An in-house Wiki has its own problems. It can be difficult to encourage solicitors to devote valuable chargeable time to making a contribution. Budgetary allowances may be necessary to encourage such selfless behaviour. There is also a natural reluctance to present ones own opinions to peers. Care is needed to prevent content being added that duplicates other resources within the firm, e.g. there are already extensive electronic databases covering civil procedure and the rules of evidence. It is also important to warn authors not to rely upon propositions or information on a Wiki without thinking it through themselves.

In terms of the software, OpenWiki has been very reliable. Solicitors have found it easy to use. However some computer knowledge is necessary to set up and customise the software. For an 'off the shelf' product, Microsoft has added Wiki features to the latest version of Sharepoint.

Paul Robertson is a litigator at Heaney & Co, a niche insurance law practice in Auckland, New Zealand. Paul enjoys using IT to make the practice of law more rewarding. He is a contributor to [OpenWikiNG](http://OpenWikiNG.com). Email par@heaneyco.com

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The influence of the internet on law firm graduate recruitment

by Matthew Broadbent

A candidate aiming to win a training contract in the modern era will have a great deal of information. Alerted by the careers service to the need to begin research early, he or she will investigate timetables, events and employer options on specialist firm graduate sites, dedicated careers resources and online versions of the legal press and client directories. Information available online might include interactive directories, brochures, videos and even podcast careers events. Applications to summer vacation schemes are then made via an online application system where candidates are screened, booked for interview, discussed, scored and notified of their fate all via computer screens. Once on a summer scheme, candidates may even be subjected to online psychometrics and other testing before eventually receiving news that they have been accepted for a training contract...by letter!

All this would have been fanciful only five years ago and unthinkable back in the mid-1990s but an avalanche of technology has fundamentally changed the way all parties behave. Firms are able to identify the best candidates efficiently and cost-effectively, while candidates are better informed and better prepared than ever before.

The way law firms and barrister sets recruit has long been ripe for some level of automation. People joining these professions have to jump through a series of hoops: a law degree or a graduate law conversion course, the legal practice course or bar vocational course, and finally a training contract or pupillage. Professional bodies (eg, the Law Society and Inns of Court) regulate who can train new entrants. There are a large number of players that need to be matched up; over 1,000 firms and 200 sets recruit annually, while more than 10,000 students complete law degrees and over 7,000 take the LPC each year. Both parties have a lot of research to conduct and choices to make before the approximately 7,000 annual graduate additions to the ranks of the profession are berthed.

Law firms, a traditionally conservative profession, were permitted to advertise only in the mid-1980s and were very slow to embrace the Internet. A glance through the 1998 edition of *The Training Contract & Pupillage Handbook* reveals that only a handful of firms listed an email address, let alone a website. Most websites of this era were first generation 'tombstone style' presences offering very little to clients and with barely a crumb designed for candidates' consumption. Firms generally felt that an online presence was a chore rather than an opportunity.

Around the same time, universities would offer a few computer terminals in the careers centre and maybe some sort of departmental resource. One careers advisor remembers students beginning to use private email addresses, but the institution did not issue university addresses until 1999 – for fear of crashing their system! Provision by universities soon took off – one major watershed saw Warwick University in the early 2000s insist that all students possessed a laptop while, nationwide, newly built halls of residence were routinely networked. Students embraced the new technology far more quickly than many firms and found themselves conversing online while still completing handwritten forms for applications.

The original idea of LawCareers.Net, the website I publish, was a simple one – to harness all the myriad information on who is recruiting into one place and allow candidates to search on multiple criteria (size, practice area, location, name and year recruiting). With so much information in one place, other resources would become superfluous and employers could focus their marketing efforts on this dedicated tool. It has actually taken nearly 10 years for online resources to fully challenge the printed guides.

Most importantly, using online resources, candidates have access to core information on how to shine in the eyes of recruiters. Not to possess a basic knowledge about what is expected of candidates, what firms and lawyers do and how they differ, has simply become unacceptable.

The same universal and compulsory lifting of standards is true of the way firms present themselves to candidates as time has gone by. Initially, to have a site, especially one containing some trainee specific information, put a firm ahead of the crowd. Printed firm brochures were made available online. By 2002, a race among large employers had developed with ever more elaborate public faces emerging online (see Allen & Overy's latest recruitment site at www.aograduate.com). Specialist mini-sites abound and in some cases graduate recruitment has led the look of the rest of a firm's online presence.

With candidates having better access to information and a perception that more and more fulfilled basic academic criteria, many firms had already switched from CVs to an application form in order to more convincingly differentiate between applicants. Some firms even outsourced some or all of the screening and selection process. Application forms became available to download via firms' websites and collecting this information as data was the next logical step. Online application and candidate management systems allowed firms to bring together the various assessment, communication and record keeping functions. With very few exceptions, firm designed solutions proved unsatisfactory and a number of suppliers of applications systems emerged. Some were retooled from other business sectors or even countries, while others, such as www.Apply4Law.co.uk, were designed explicitly for the job of law graduate recruitment. Among the first to grasp the nettle were Ashurst (2001 to 2002) and Lovells (2002 to 2003), while at the Bar the central clearing system, OLPAS, was established in 2001. Around 150 firms now operate a system to receive and process applications. In turn, this means recruitment is more consistent, transparent and fair across the industry.

We are by no means in the endgame of these developments. Recruiters continue to embrace the latest technologies in their marketing. Some rather half-hearted blogging, stymied by a desire to maintain control over content, has already taken pace. The upcoming LawCareers.Net events for first-year candidates will be podcast. Whether and how firms get involved in community networking sites like MySpace remains to be seen. On the applications front, psychometric testing is more common and can be integrated into candidate management systems. Many firms are looking at how the benefits derived from automating their graduate system can be exported into how they recruit other staff.

Matthew Broadbent is the publisher of LawCareers.Net and The Training Contract and Pupillage Handbook and he led the team that developed Apply4Law. Email mb@gbp.co.uk

Web 2.0 and Privacy: risks and solutions

by Eduardo Ustaran

It is sometimes difficult to comprehend how, in the not too distant past, anyone could book a hotel without looking at TripAdvisor or could invite someone out for lunch without checking a user review published in Toptable or london-eating. Today, we rely on the collective wisdom of total strangers (although not necessarily to the operator of the website) to make important decisions like where to stay during a holiday abroad or where to take a key client for lunch. This is the spirit of Web 2.0 – the latest reincarnation of e-business and one that is proving very rewarding for a new breed of hugely popular websites.

As in the old days of e-commerce, the operators of these Web 2.0 sites only want to use the opportunities presented by the web to foster their creativity and entrepreneurial skills. In the meantime – as was also the case with the first generation of e-commerce websites – the law struggles to catch up and creates uncomfortable situations for those managing the Web 2.0 businesses. The law dealing with privacy and data protection presents a number of challenges which are not exactly new, but which take on a different dimension in a Web 2.0 environment.

A dangerously wide interpretation of personal data

What is “personal data” is something that law makers and regulators should have figured out by now. However, as technology evolves there are some grey areas in terms of what type of information should be regarded as personal data and what type should not. Reviewers of hotels, restaurants or films on Web 2.0 web sites will often be registered users with a real name and real contact details. Sometimes, the name may just be a nickname and the only contact details will be an e-mail address. However, this information plus the expressions of opinions of those users will be regarded as personal data under data protection law.

Even in the UK, where the courts in recent years have adopted a very narrow interpretation of the concept of personal data, that type of information will be sufficient to be caught by data protection law. The situation becomes less clear where the only information available to the operator of a Web 2.0 website or the users of that site is just a name (real or fake) and no other information about

the identity of the individual. By and large, where the information is unlikely to reveal the identity of an individual who cannot be approached or targeted in any way by someone else (including the operator of the site), that will not be personal data in the UK.

However, a number of EU countries are unrepentant about the fact that the “identifiable” element in the definition of personal data should apply irrespectively of who can identify the individual. This means that the operator of a website may not be able to identify an individual from the data it holds alone, but the fact that another party does will turn the data held by the website into personal data. The implications of this approach for Web 2.0 businesses are devastating and could eliminate the privacy friendly side of anonymous data processing. This is particularly worrying since the Article 29 Working Party – which comprises all EU data protection authorities – is currently looking to adopt a uniform interpretation of the concept of personal data which looks likely to be very wide when compared to the UK approach.

Fair processing – old rules in a new environment

Getting back to basics for a moment, under the fair processing obligations of the UK Data Protection Act organisations must make available to the individuals whose personal data is collected the following information:

- the identity of the organisation;
- contact details for the organisation’s data protection representative (if any);
- the purposes for which data is intended to be processed;
- any other relevant information (including information as to the potential recipients of the data and the likely uses of the data to be made by such recipients).

This is called the *information provision* obligation and the most practical and user-friendly way of providing this information to Web 2.0 users is by means of a Privacy Policy that explains all relevant data uses. However, the Privacy Policy is unlikely to be seen by third parties mentioned by the users of the site and this has led websites like YouTube to impose a requirement on its users to obtain the written consent, release or permission of each and every identifiable individual appearing in all materials submitted. Although this approach seems sensible, it is completely unrealistic to expect that users who submit materials to a website are going to seek the written consent of those appearing in such materials.

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Technically speaking, there is an exemption to the information provision obligation that applies where personal data is acquired other than from the individual himself or herself and the provision of the specified information would involve a disproportionate effort. The scope of this exemption in respect of individuals appearing in materials submitted to Web 2.0 websites has not been tested but it is reasonable to assume that it will apply since users will not generally be alerting the operator of the site to the fact that they are providing personal information about third parties.

A real test for data protection rights

Ultimately, the Web 2.0 environment is a perfect testing ground for privacy and data protection rights. The individuals who contribute content and any third parties named by them have a number of rights that do not simply disappear when the information is voluntarily provided. The collaborative and open nature of Web 2.0 websites means that these should be properly geared to honour the individual's rights recognised by data protection law in a very effective way. The right of access in particular can pose a problem due to the sheer number of contributors that may be involved in providing personal information. However, Web 2.0 business should be well prepared to address the right of access to someone's own data (including where such data is provided by third parties) by adopting a well thought out subject access policy.

The right to object to the processing of personal data that causes substantial damage or distress is another right that is likely to be used in this environment. Being able to identify the individual seeking to exercise this right and quickly deciding whether it applies in each case will be very important. Needless to say, to minimise any possible arguments as to whether the operator is entitled to suppress information about third parties submitted by a user, including an unfettered right to remove content without notice to the user and at the discretion of the operator will be essential.

No doubt, the scope of data protection rights and obligations will continue to evolve as technology develops and Web 2.0 matures. As ever, the evolving legal framework will be tested by those pioneers who are prepared to try new business models and explore the edges of the law.

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The best web sites from individual barristers offering free (and useful) information - and who got most votes! by Delia Venables

In the e-book with CPD "Changing Practice for Barristers" by Nick Holmes and me, I asked which two of the sites provided by individual barristers the people taking the course (themselves largely barristers) found most useful. Nearly 100 people have now taken this course. Here are the sites I asked them to look at, together (in light hearted mode) with the number of "Votes" received by each:

Neil Addison's Harassment Law at www.harassment-law.co.uk: 19 votes

Also from Neil Addison - Religion Law UK at www.religionlaw.co.uk: 9 votes

Jamal Demachkie's site at www.housinglawupdates.co.uk: 11 votes

Daniel Barnett's employment law site at www.danielbarnett.co.uk: 22 votes

Tim Kevan's site on personal injury, sports, consumer and internet law at www.timkevan.com: 25 votes

Gary Webber's www.propertylawuk.net: 14 votes

Francis Bennion site on law, professional ethics, human rights, sexual ethics, the Interpretation of Statutes and many other legal and political topics for over 40 years: www.francisbennion.com. 24 votes

Roger Horne's Miscellany covering copyright issues, topics relating to House of Lords Judgments, and particularly the Civil Procedures Rules at www.hrothgar.co.uk: 7 votes

Jonathan Mitchell on a variety of Scottish legal topics, at www.jonathanmitchell.info: 6 votes

Laurie West-Knights' site LawOnLine covering CPR and also the origin of BAILII, at www.lawonline.cc: 11 votes

James Kessler, on trusts at www.kessler.co.uk: 4 votes

Some of the comments received:

Francis Bennion's site for a fine mixture of legal analysis and polemic... and... because he challenges my assumptions in the area of human rights and civil liberties.

Neil Addison as he offers two sites - one covers all aspects of harassment and the other religion and law today. The latter has a comprehensive set of links to religious bodies of different persuasions.

Daniel Barnett on employment law - the article section is great. I could find what I was looking for and it was very easy to navigate. The mailing list to keep me informed.

Tim Kevan's site is really unique as it is visually stunning and very thorough. His blog and the TV and Radio sections as well as the screen shot photos made it particularly unique and interesting.

Gary Webber's property law site: superb monthly updates, lists of mediators, details of forthcoming courses.

Jamal Demachkie covering UK housing law for landlords and tenants with update cases and changes in legislation.

Roger Horne - one of the very few barristers' sites that is actually interesting and entertaining to read.

Laurie West-Knights - one of the first web sites by a barrister that I visited, and still one of the more interesting.

Jonathan Mitchell for useful resource on Scottish legal practice for occasional cases starting there.

James Kessler - depth of resources.

The Law Wiki Dream

Nick Holmes, *infolaw*

In the last issue of the Newsletter, solicitor Steve Butler, who produces the UKLawyers weekly legal newswire, changed his former opinion that a grand centralised law wiki could be an enormously valuable resource. Having previously been impressed by Richard Susskind's comments along these lines Steve now believes that unpaid volunteers cannot be expected to compete with the commercial publishing efforts. There being no contractual obligation to provide the information, there is no guarantee that it is right, and the lack of resources means that they will never be good enough for the greater public good.

But should we write off the law wiki dream? I think not.

Enough contributors?

I agree with Steve that "maintaining a law wiki is hard". Indeed, at the time of his original piece, I argued in my blog that a wiki of the type envisaged would be an ambitious project requiring a huge amount of time from a driving organisation and a team of editors, promoting the concept, establishing the guidelines, moderating the contributions and generally keeping it in shape and pointed in the right direction.

Steve reports that Andrew Keogh, who maintains WikiCrimeLine, "is now seven months into his wiki and he is not as excited as he had expected to be. There are only a very few regular contributors and even he finds little time to make additions to the site."

Welcome to WikiCrimeLine

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Major new additions:
[Fraud Act 2006](#) | [Police and Justice Act 2006](#) | [Road Safety Act 2006](#) | [Cases - road traffic](#) |

Some facts:
 There have been over 390,000 pages viewed on this site since it was launched. There are over 1940 pages on the site, which have been edited over 700 times.

A Plea!
 WikiCrimeLine needs YOU to contribute. Start a page on a criminal law topic, ANY TOPIC, do not worry about style or editing, we will take care of that. Alternatively email me your words of wisdom. Or perhaps take a look at some existing pages and see if there is anything that you could contribute. Every little helps in WikiWorld.

But what if the potential contributors were not limited to those responding to Andrew's promotional efforts? What if the world were Andrew's oyster?

In recent forays on Wikipedia I have been amazed to find how many UK law-related articles have acceded and how much obvious effort many of these unpaid volunteers, some from the most unlikely of quarters, are prepared to put in. Wikipedia has, even at this stage, achieved a sufficient number of contributors in the field of UK law for it to start to become a useful resource.

Good enough?

Again, I agree with Steve that a law wiki could not compete with the commercial publishers because it could not be relied on to be accurate. But in answering his own question "at whom are the wikis aimed?" he dismisses the entire market by assuming that use implies reliance. Consider Wikipedia. It does not pretend to compete with the commercial Britannica on Britannica's terms. Certainly it is relied on by many who don't or should know better

than to rely on it, but it is also used very effectively by many others in full knowledge that it should not be relied on. It is a fantastic resource, not because it is unquestionably accurate, but because it is very accessible and because it is eminently good enough to expedite whatever further research is necessary.

In some spheres Wikipedia is arguably more comprehensive than and almost as accurate as any commercial offering, as Susskind reported in his article.

Editorial quality review and article improvement procedures are in place on Wikipedia that a specialist wiki with limited resources would be hard-pressed to emulate. In addition, specific fields have their own specialized and comprehensive supervisory projects. Specifically, the WikiProject:Law is aimed at creating a greater consistency among the law related articles.

And we now have the Citizendium project, started by Jimmy Wales, founder of Wikipedia, which aims to improve on that model by adding "gentle expert oversight" and requiring contributors to use their real names.

Viable?

Can a specialist law wiki be viable? Someone like Andrew Keogh would hope to cover his costs. But his direct overhead costs and also most of his indirect costs (his time) relate to the fact that his wiki is hosted on his server, configured by him, managed by him, moderated by him and promoted by him. In contrast Wikipedia is a hosted "service", configured, managed, moderated and popularised by others. Its specialist editors are free to devote all their wiki time to editorial issues. There are advantages to using a "full" Wikipedia approach.

The answer?

I do not suggest that the answer is simply for everything to be authored on Wikipedia (or Citizendium for that matter). I do not either suggest that the answer will necessarily be a wiki as we now know it. But consider the resources we already have:

- we have "open access" primary resources such as the Statute Law Database
- we have other freely accessible primary law databases such as BAILII
- we have specialists such as Andrew Keogh already authoring expert wiki articles
- we have enthusiasts contributing law articles to Wikipedia
- we have a growing number of law bloggers, some of whom provide succinct, expert commentary
- we have many others who publish articles, updaters and guidance for free (and sometimes open) access on their websites
- and finally we have technologies that enable (potentially) all these sources to be interrogated, aggregated, "mashed up" and repurposed – and we have many who are willing to apply these technologies for no commercial gain.

We have the resources and technologies now to achieve something that is *good enough* to be getting on with; in time this could evolve into "a corpus of English law like no other". The dream is ambitious, but it is not pie in the sky.

Nick Holmes is a publishing consultant specialising in the legal sector and is Managing Director of Information for Lawyers Limited. Nick blogs on legal information issues at www.binarylaw.co.uk and manages the infolaw UK legal web portal at www.infolaw.co.uk. Email nickholmes@infolaw.co.uk.

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