



Streamlining the Law Firm:

A white paper to explore the impact of digital and other trends in Australian law firms

Introduction

The Australian legal sector generates nearly \$20bn of revenue, spread across more than 18,000 individual businesses, and over 80 percent of this revenue is generated outside of the “top-tier” firms¹.

It is often portrayed as an industry underpinned by tradition and history and less affected by technological changes than most others. However, globalisation and national consolidation has increased competitive pressures and squeezed margins. This, combined with a challenging economic environment, has resulted in a wave of efficiency and modernisation sweeping across the sector.

This whitepaper explores that wave of modernisation. The aim is to explore the most pressing issues facing the industry and to provide an objective assessment of how much progress has been made, and what challenges remain for small and medium legal businesses.

Objectives and Methodology

In many sectors, technological development has led to increasing automation. This is largely unrealistic in the legal sector, where every matter is different, and individual judgement plays a fundamental role. Technology-led efficiency is being delivered more by workflow systems, data-handling tools and business process management. A law firm is a classic knowledge-based entity — its work driven by the flow of information in, out and around the organisation.

Until recently, that flow of information has been overwhelmingly in the form of paper. The classic media backdrop for a legal interview remains packed shelves of law reports, while the most recognisable outputs of the legal process such as contracts have generally been in physical form. However, this paper intensive approach is changing rapidly and the industry as a whole is undergoing a period of unprecedented change. This study aims to provide a snapshot of that evolution, with a focus on law firms with 300 employees or less.

To achieve this, Fuji Xerox commissioned Colmar Brunton, an independent research agency to explore the current state of play and determine the key trends surrounding information flow and document management in the legal industry.

The study began with a series of in-depth interviews with legal professionals — providing detailed case-studies of firms at different stages of their technological development. The conversations explored the typical documents, processes and systems used in law firms as well as providing insight into the common frustrations experienced and observed trends.

This was followed by a much larger survey of firms across Australia to quantify the issues and trends from the first stage and to see how these varied by size of organisation.

Participants included legal practitioners, management, administration staff, IT/Procurement and also those who worked in other areas such as finance in order to ensure a holistic understanding. The figures in this paper focus on those for small and medium firms employing 300 staff or less with some commentary about the contrasts with larger firms.



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Findings

3.1 Law as a Business

The legal sector is increasingly under the same commercial pressures as any other. New business models and increasing competition are forcing many firms to concentrate on the business of law. One consequence is the rise of the non-practising Managing Director. Where firms have traditionally been run by Senior 'Partners', the survey found that two in five now employ a Managing Director.

Figure 1. Does your firm employ a Managing Director?



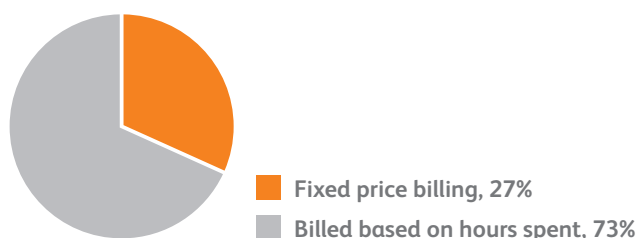
Survey Question: Does your firm employ a Managing Director or equivalent (i.e. commercial or business manager who is not a lawyer)?
SR Base = Total Organisations [n=127]

Amongst larger law firms, a Managing Director position was even more common. The result is a greater focus on commercial imperatives — efficient processes, effective cost-recovery and a tendency to track and analyse the activities of the firm to a far greater degree than previously. This is resulting in a demand for a more robust technological infrastructure.

3.2. The rise of fixed-price billing

Law firms have traditionally billed clients based on hours worked. While this is still the most common way of billing, now on average, over a quarter of billing is fixed price (see Figure 2).

Figure 2. Average percentage billed fixed price vs hourly rate



Survey Question: What percentage of your firm's billing is:
Base = Organisations where participant knew about their organisation's billing [n=108]

Law Practices are increasingly quoting a fixed fee for their services, particularly for simple 'transactional' matters where the process is defined and predictable. It is more difficult to give a fixed fee for unpredictable matters such as those which involve litigation. As it is typically the larger firms that deal in litigation, a smaller proportion of their billing tends to be fixed price. Some examples of services that tend to be a fixed fee are due diligence on a property, insurance claims and lease agreements.

This has been driven by client demand. Clients want to know how much it will cost up front and are often using this information to shop around for a lawyer. Law firms are also now competing with the Internet which makes it easy for some tasks to be done cheaply and without a lawyer, such as drawing up a will online.

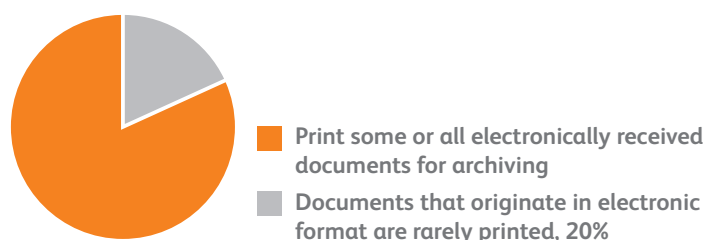
One of the implications of this is that efficiency is essential for profitability. Even if billing by hours spent, an estimate still needs to be provided of costs beforehand and they will be competing against other law firms when providing this estimate.

3.3. The rise of electronic documents and the impact on filing and archiving

The biggest change in the legal sector (as in many others) has been the rise of electronic communication in general, and email in particular.

It is typical for each matter a law firm deals with to have an electronic file as well as a hard copy or paper file associated with it. However this is not necessarily leading to a decrease in the number of documents kept in a hard-copy format. As shown in Table 3, four in five legal sector personnel say they print some or all electronically received documents for archiving.

Figure 3. Proportion of legal personnel who print electronically received documents for archiving



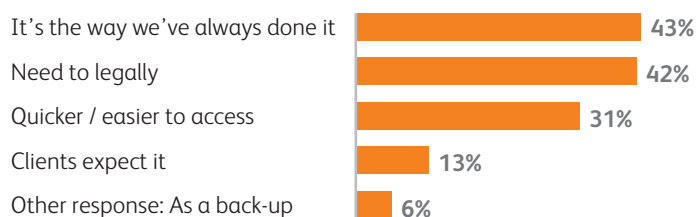
Survey Question: Which of these best describes the records or files you archive for each matter? Base = Total Participants [n=135]

The use of the electronic versus the paper file and the duplication between them varies greatly between law practices. It also varies between lawyers within a practice according to the preferences of the individual lawyer.

Some law firms have gone to great lengths to be as paperless as possible, with only originals such as signed contracts and deeds being kept in hard copy as required by the Legal Professions Act. Faxes are received electronically and letters are scanned and discarded. However these firms are the minority.

When asked the reasons electronically received documents are printed for storage, one of the most common reasons were that they legally needed to keep hard-copies, with 42 percent giving this as a reason for printing electronically received documents. However, for most documents, storage in electronic format only is legally acceptable, with hard copies only required to be kept when specified by statute.

Figure 4. Reasons for printing electronically received documents



Survey Question: For what reasons do you print out electronically received documents for storage? Any other reasons? Base = Participants who print electronic documents for archiving [n=108]

The real reason is likely to be more one of inertia — as exemplified by the most common reason given: 'it's just the way it's always been done'. Individuals and companies as a whole are clearly comfortable handling hard-copy material — familiarity means that they know how to store and retrieve it. Hence convenience of access was cited as a reason by 31 percent of those surveyed.

The vision of a paperless office is a difficult one to reconcile with the reality of the average legal firm. But the inexorable rise in the sheer volume of email correspondence to be dealt with means that printing each and every communication is impractical. As a result there is not a one-to-one relationship between the physical and electronic files, and bringing challenges of knowing where best to search for a specific piece of information.

Electronic filing is more efficient, but brings its own problems. Given incomplete tagging and resulting difficulties in search, most firms rely upon the right document being stored in the right place. The firm's document management system will assist with this, but still requires users to take a number of judgements as to where each document best 'fits'. Users also then need to negotiate many layers of folders and sub-folders to find the correct place to save something.

The most sophisticated systems have the capacity to automatically code documents based upon available data - the user, the matter currently being worked on, the stage in the process, the correspondent — and hence make storage a far more intuitive and efficient activity. However, many companies are not using these systems to their full potential, whether this is due to problems at implementation, or failing procedural consistency due to staff attrition, and so storage remains a source of pain.

It should be noted that even within the most technologically sophisticated offices (indeed — particularly in those offices) the limitations in capacity of the storage systems plus the bandwidth and reliability of the network infrastructure are also cited as source of frustration. One respondent commented 'we're still waiting for storage and networking technology to catch up with our processes'.

Electronic files must be destroyed at the same time as the hard copy documents, including back-ups. One law firm was holding off destroying any documents for now while they revise their processes to ensure all electronic files could be destroyed at the same time as the hard copy.

3.4. Digital and the Courts

The evolution from physical to electronic documentation is most dramatically seen in the law firms' interactions with the courts.

Discovery Process

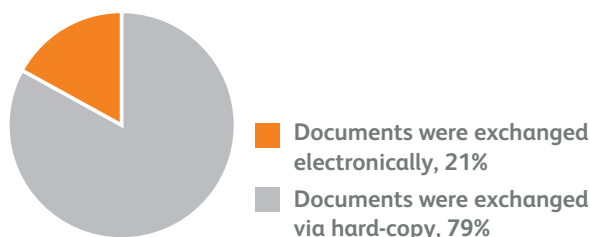
Court documents have been traditionally printed and delivered or mailed to the court, with a fee incurred for filing.

The same is true for the discovery process which still commonly involves filing multiple copies of relevant documents with the court. Firms still talk of taking trolley loads of documents to the court. Lodging these is a time consuming process, especially for the Supreme Court and firms can choose to outsource this task.

More recently, with the onset of electronic filing systems, many courts have been able to accept electronic copies of required documents for matters. Similarly, firms can exchange documents for discovery via online portals (uploaded and saved virtually for all to access).

Survey participants estimated that, on average in the last 12 months, documents were exchanged electronically on nearly a quarter of discovery occasions (see Figure 5). This figure is even greater in the larger firms, which suggests a trend towards electronic sharing of information and evidence as technology and processes catch up.

Figure 5. Average percentage of discovery occasions where documents were exchanged electronically in the last 12 months



Survey Question: We have found that judges are increasingly permitting electronic exchange of documents/evidence during the discovery process. Thinking about when you or your firm have been involved in discovery in the past 12 months, what percentage of the time did you exchange documents or evidence electronically as opposed to hardcopy? Base = Total Organisations where participant was aware of the Discovery process at their firm [n=99]

Often clients/law firms need to sign these copies and therefore they still must be printed, however electronic signatures are gradually becoming more common place.

Digital in the Courtroom

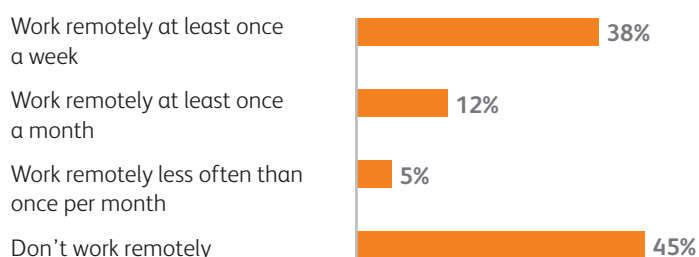
It is increasingly common for lawyers to have laptops in front of them during a trial, or even PC's for longer matters so they have the convenience of a full sized keyboard and screen. It is generally up to the judge to decide if the matter will be conducted in this manner.

Although there are still very traditional guidelines around documents and acceptable formats within this industry, the impact of judge's discretion and preference is increasingly coming into play within court rooms. Some legal professionals believe that over time, due to increasing technological acceptance from judges and courtrooms, that the prevalence of electronic copies of documents and use of electronic devices in the industry will become the standard practice.

3.5. Mobility — the way of the future

The ability to access information and be contactable "anywhere and anytime" has become a reality due to the development of cloud computing, smart phones, social media, mobile devices and tablet computing. More than half of legal personnel now work remotely some of the time, and two in five do so at least once per week (refer to Figure 6 below).

Figure 6. Frequency of working remotely



Survey Question: Do you ever work remotely? This could be from home, out at client sites, in court — anywhere other than your office or another office within your firm. Base = Total participants [n=107]



At some law firms, it is increasingly common for lawyers to use their tablet device for work purposes, for example:

- Reading and responding to email and document attachments;
- Editing; and
- Accessing legislation. Lawyers can download all the documents they need for court onto their tablet for quick access and retrieval, rather than carrying lever arch folders, or look up the legislation online.

The ability to work remotely is the fastest growing area of technological innovation within the profession. But it raises a number of challenges.

Most legal practices have concerns about the security of confidential documents when they are taken (physical documents) or accessed away from the office (electronic documents). Because of this, some discourage taking files and office computers out of the office; for example, one law firm purposely supplies only desktop computers to staff. Other firms have protocols in place to prevent confidential documents being lost with a misplaced mobile device.

Related to this mobility trend is the “bring your own device” trend which is also being seen across many other industries, with lawyers using personal devices for work or choosing their preferred device, rather than company supplying the same laptop for all employees. The main difference in the personal device context arises in the case that the devices may need to be investigated, as they are owned and possessed by the employees. This can make prompt access to devices and data difficult.

It also raises potential privacy issues. For example, it is typical for a forensic investigator to take an image of the entire device. It may be difficult (or impossible) to distinguish between data relevant to the investigation and personal employee information — it all gets swept up in the image and it is often necessary to broadly investigate a personal device in the course of discovery.

Example

When using a personal device for work, one firm is considering making it compulsory for work related documents/email/apps to be stored in a sandbox (rather than resident on the machine). The sandbox on the machine pulls information through a ‘cloud service’. This means it can be remotely wiped if necessary, without affecting personal information on the device (i.e. information outside the sandbox).



Conclusion

This whitepaper paints a picture of an industry in the midst of dramatic change — both commercial and technological. The exchange of reams of carefully collated paper is gradually being superseded by digital transfer of countless electronic files. The most successful companies will be those that most effectively embrace the technologies that aid efficiency, and integrate them into their core business.

The research done to inform this paper clearly demonstrates that the moves to modernise are being driven by the largest companies in the sector. Smaller and medium firms need to ensure they are not left behind. There will be setbacks along the way, and resistance to change to be overcome. But the rewards are a more profitable business, happier and more productive staff and delighted clients. It's worth the effort...

Eight key recommendations for law firms

- 1. Articulate a clear **strategic vision**** for your firm, and let this inform your technology pathway. In particular, a determined focus on efficiency and effectiveness, alongside traditional core values of professionalism and customer service, will naturally suggest technology solutions to invest in.
- 2. Trial new technologies** in small, controlled environments. Rolling out major changes in working processes without a clear understanding of the potential pitfalls is a clear risk. A high profile failure of implementation can lead to new technologies being dismissed before the benefits can be demonstrated.
- 3. Track your costs.** It's tempting to accept the costs of printing, copying and storage as purely 'part of doing business' and hence treat them as utility costs, to be considered alongside the lighting and heating of the office. But as many firms we spoke to have demonstrated, these variable costs can be controlled and minimised — with a significant impact on the bottom line. The first step to controlling these costs is tracking them. Remember the old maxim 'if you can't measure it, you can't manage it'
- 4. Print sensibly.** Once you have an accurate measure of the costs associated with scanning, printing and paper transfer, the next step is to encourage staff to minimise the amount of information they commit to hard copy. A gentle series of behaviour 'nudges' may be more effective than draconian edicts from above. Employing pull print technology allows everyone to reflect on whether they really need to print a particular document. Moreover a simple report showing who generated how much printed material can provide people with comparison benchmarks — and hence incentives to change their habits.
- 5. Update your infrastructure.** There is no point in asking people to work in a largely paperless environment if their hardware is not conducive to doing so. Fixed desktop computers, small screens, slow scanning and processing tools, limited storage and slow networks all contribute to making on-screen working a frustrating and unpleasant experience — hence the preponderance of people simply printing out whatever they need to review. Super-fast, multi-function devices, laptop computers, tablets and fast connections make it easy and enjoyable to work on a screen.
- 6. Integrate your systems.** The other major incentive for working with soft-copies as a default should be the ability to seamlessly manage projects and flow effortlessly between client-facing activity, administrative tasks and reporting. Making sure that all your systems work together with each other, and with the common office applications (Outlook, Word, etc.) will vastly increase the accuracy and reduce the time taken to carry out the core activities of the business.
- 7. Get mobile.** Allow your most important staff members to work anywhere at any time. Whether they're in court, at home or on the road, they need the ability to access any aspect of the firms work — reliably, simply and securely. The current generation of lawyers has grown up taking ubiquitous access and constant connection for granted. They will act as champions for new, innovative and powerful ways of working — *if* you give them the tools, and the opportunity.
- 8. Policy in partnership with process.** The advent of new technologies and trends such as BYOD and the drive to digital archiving presents a slew of new challenges for the legal fraternity. Before adopting any new processes, legal firms should be aware of their rights and obligations under the relevant statutes and ensure they institute policies that uphold these. For example, having a disposal schedule and procedure for electronic records as well as hard-copy files, and helping your staff with a policy outlining which electronic records need to be kept, how and where.

Appendix: Sample profile and technical notes

Table 7: Quantitative Survey: Sample Profile

	Total SME Sample n=135
Type of Law Practiced	
Commercial	79%
Property (including conveyancing)	76%
Personal or Family	64%
Industrial and Workplace relations	59%
Intellectual Property	47%
Criminal Law	37%
Administrative (including Constitutional)	35%
Other	10%
Role	
Legal Practitioner	8%
Management (and not a legal practitioner)	41%
Office Admin or Paralegal	24%
Other	26%

5.1. Research Approach

The research was split into two key stages:

1. Qualitative research with a selection of the target population; and
2. Quantitative study through Computer Aided Telephone Interviews (CATI).

Qualitative research in the form of one hour in-depth interviews was conducted with 20 personnel who worked in the legal sector. These were conducted between 19 January 2012 and 3 February 2012 (inclusive). This research included:

- Mix of law firm sizes (small, medium and large firms)
- Mix of industries (commercial law, family law, etc.) ; and
- Mix of locations (though there was a focus on Eastern states)

This research allowed CBSR to gain an understanding of:

- The typical structure of law firms and the systems in place
- Terminology used
- The life cycle of various documents, including common pain points
- Evaluation of current systems / solutions in place
- Day-to-day frustrations and observed trends

The qualitative research and consultations with key stakeholders were used to design a draft questionnaire. The qualitative research with members of the target population ensured that the survey covered the key frustrations and trends that were currently being experienced in the legal sector.

A Computer Assisted Telephone Interviewing (CATI) approach was used to administer the quantitative survey of legal sector personnel.

The following sections discuss the quantitative survey methodology.

5.1.1. Scope of the survey

It is important to note the following about the scope of the survey:

- Personnel working at law firms with less than ten employees were deliberately under-represented in the survey
- When contacting the firm, the interviewer asked to speak with a solicitor, barrister, legal officer or someone in the IT team as first preference; however anyone working at the law firm could participate
- Multiple people from a law firm could participate in the research in order to gather data from multiple perspectives. Where data in this paper refers to 'organisations', only responses from one person from each organisation have been considered (i.e. the 'primary' participant).

Each survey was approximately 15 minutes in duration. The sample for the survey was a random selection from Australia on Disc and Reach DM database. The overall sample size of SME's in the survey was 135 persons.

5.1.2. Fieldwork

Fieldwork for the survey was conducted by an experienced fieldwork team, who are fully accredited with Interviewer Quality Control Accreditation and have undergone training set out by these standards. A briefing, including a practice interview, was held with all interviewers and the field supervisor prior to the commencement of interviewing. This was followed by a pilot consisting of 5 interviews, after which some amendments to the survey were made.

Fieldwork for the survey was conducted between 21st March 2012 and 24th April 2012 inclusive.

5.2. Interpreting This Report

5.2.1. Percentages and averages

Respondents who completed a survey but did not answer a particular question are excluded from the tabulation of results and calculation of statistics for that question.

Percentages are generally rounded to whole numbers. Some percentages may not add to 100 per cent due to rounding.

Sorting of results

In all tables, rows are sorted from most frequent response to least.

Weighting

The results of this survey have not been weighted.

Reliability

Results with a sample size of less than n=30 should be interpreted as indicative only.

About Fuji Xerox Australia

Fuji Xerox Australia is part of a world leading enterprise for business process and document management services. Through the implementation of efficient business processes and effective communication, we deliver the right information to the right people in the right format. A continuous source of innovation helps us optimise IT and print infrastructures to deploy document strategies that are efficient, productive and waste-free. This enables our customers to meet their business challenges in new ways with measurable results.



Protecting the environment is fundamental to our commitment to corporate citizenship. Fuji Xerox Australia provides products that have been designed with both our customers and the environment in mind. We are known for our end-of-life product resource recovery and remanufacturing programs. Our products regularly lead the industry in energy performance and all our sites maintain ISO 14001:2004 Environmental Management System Certification. Fuji Xerox Australia has been recognised for its achievements in environmental sustainability by the United Nations and the Banksia Environmental Foundation in Australia.

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