



THE LEARNED SOCIETY OF WALES
CYMDEITHAS DDYSGEDIG CYMRU
CELEBRATING SCHOLARSHIP AND SERVING THE NATION



Swansea University
Prifysgol Abertawe

A Collaborative Initiative

The future for legal education and practice in Wales

A challenge to Welsh Law Schools

Professor Iwan Davies FLSW

1. Introduction

This paper highlights the need for the Welsh legal sector to respond to the opportunities and threats arising from the changing nature of legal service delivery. If Wales is to have a prosperous legal sector, it needs to address the commodification of legal services. Legal Wales needs to embrace the opportunities that the changing profession offers. As part of this challenge, Welsh Law Schools must work to equip their students for roles that may not exist, at the same time as reassuring prospective students of the continuing value of a legal education. The proposal for this collaborative project, initially between the Learned Society of Wales and Swansea University, is to provide all Welsh Law Schools and interested Fellows with the opportunity to be involved in a collaborative initiative aimed at characterising the challenges faced by the legal profession, and on facilitating greater awareness and preparedness for the impact of technology on legal education, training and practice in Wales. A two-strand, mixed speed collaborative initiative has been initially identified : First, defining the imminent and future challenges that technological disruption has for the legal profession from an international and UK perspective; Second, facilitating greater awareness, discussion and ultimately collective sector preparedness for the impact on legal training in Wales.

2. Context

The legal profession faces unprecedented change, largely as a result of technologies such as artificial intelligence and Blockchain that are already reshaping legal practice, while digital platforms that support access to justice are gradually filling the gaps created by changes to Legal Aid. The profession is, typically, slow to respond; few UK legal practices, other than a handful of “LegalTech” pioneers, have embraced the opportunity to adapt. Equally, legal education across the UK continues to produce 20th century lawyers ill-equipped to meet the technological demands of the changing, 21st century, legal environment.

“You have five years to reinvent the legal profession.”

Professor Richard Susskind
Law Gazette, 27 April 2016

The legal profession is being disrupted by the application of artificial intelligence, natural language processing and machine learning. Routine processes, such as document production and discovery, can be automated with increasing ease, delivering faster, more efficient and more cost-effective services for client. The application of machine learning technologies is also informing predictive analytics, which may be deployed to predict the outcome of financial claims, and potentially the outcome of trials.

McGinnis and Pearce (2014) note that “the disruptive effect of machine intelligence will trigger the end of lawyers’ monopoly and provide a benefit to society and clients as legal services become more transparent and affordable to consumers, and access to justice thereby becomes more widely available”.¹ For example:

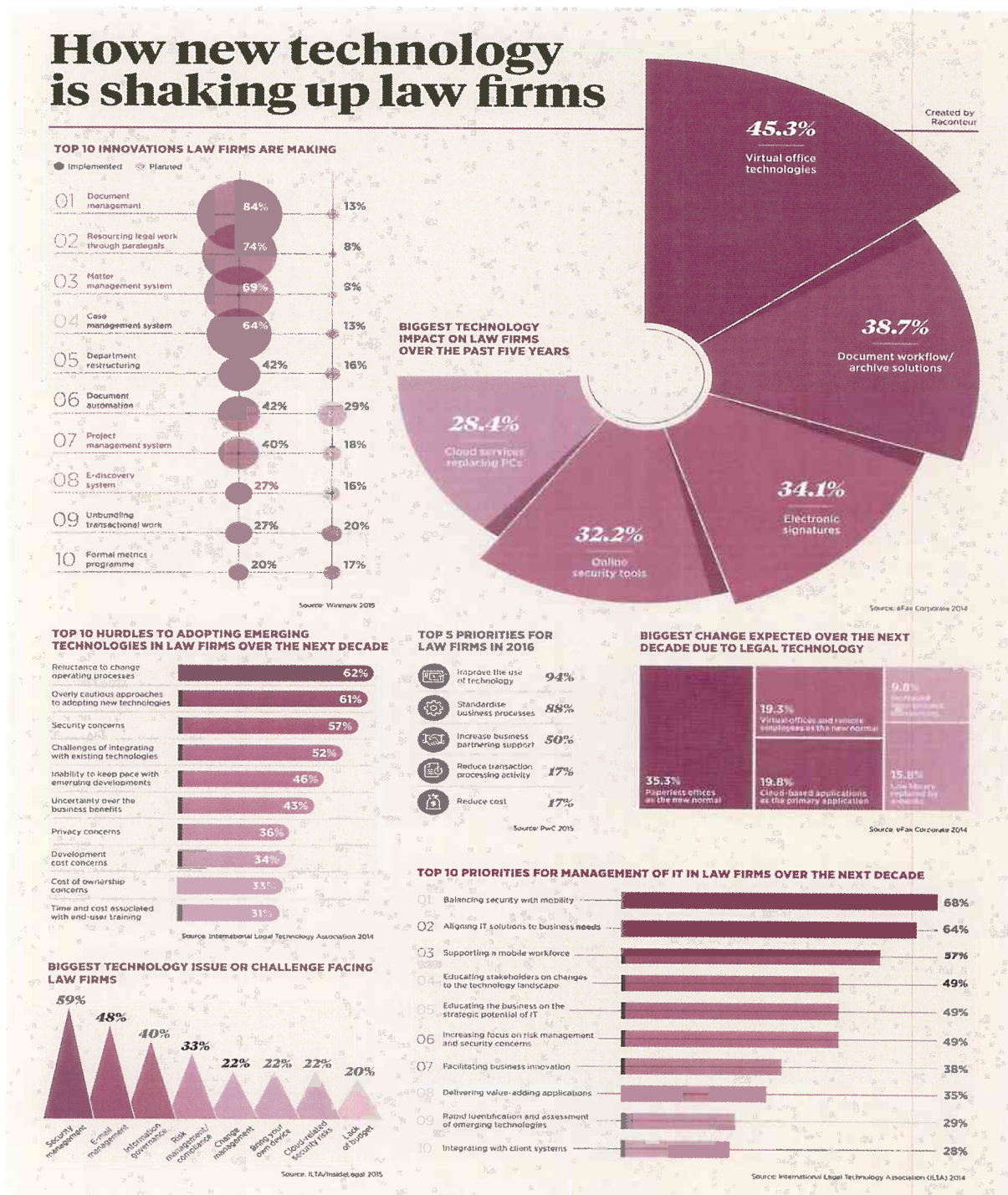
Elevate, a large, international practice, used the Kira machine learning contract search and analysis system for a multilingual contract review in a multibillion dollar transaction for a fortune 500 company. Elevate reported savings of £326,000 and 5,000 work hours from the client’s bill.² Kira is just one platform among many now being used in the legal sector: Brainspace, Kim, Neota Logic, Ravn, Ross Intelligence, and others, are all gaining experience and credibility as they demonstrate their utility.

¹ J. O. McGinnis and R. G. Pearce (2014) *The Great Disruption: How Machine Intelligence will Transform the Role of Lawyers in the Delivery of Legal Services*, Fordham Law Review, Vol. 82, pp3041-3066.

² LegalFutures Insight, the impact of technology, December 2015

In 2016, UK-born Stanford University student, Joshua Browder, launched the *Do Not Pay* app to help customers challenge parking fines. In July 2017, the app was relaunched to tackle one thousand legal issues, and Browder has now made the platform freely available for anyone to develop their own applications, regardless of whether or not they can code. Chatbots and virtual legal assistants will increasingly have a role to play in supporting access to justice.

In 2016, Lord Justice Briggs outlined plans for the creation of an online court where judges will decide cases on the basis of arguments submitted electronically.



Blockchain, the technology underpinning distributed ledger technology, elides the need for trusted third parties (such as clearing houses) to record financial transactions. The technology enables faster immutable transactions, reduces costs, is secure and resilient, and will impact significantly on the role of (e.g.) contract lawyers.

Technology and innovation will therefore transform the legal practice landscape. A 2016 *Deloitte Insight* report predicts that 39% of jobs (114,000) in the legal sector may be automated within 20 years.

However, the report also suggests that while technology has led to more than 31,000 job losses in the sector, there has been an increase of c.80,000, generally higher skilled, jobs. The changing way in which consumers obtain legal advice, and how much they pay for that advice, therefore not only requires practices to rethink their business models, it also requires them to consider what skills they expect from their employees, as some traditional roles may quickly be consigned to history, replaced by legal engineers, legal process analysts, and legal project managers.

The Law Society notes that technology is impacting on legal services in five ways:

- enabling suppliers to become more efficient at procedural and commodity work
- reducing costs by replacing salaried humans with machine-read or artificial intelligence systems
- creating ideas for new models of firm and process innovation
- generating work around cybersecurity, data protection and new technology laws
- supporting changes to consumer decision-making and purchasing behaviours³

3. Regulatory and educational changes

The 2007 Legal Services Act in 2007 lists six reserved activities (exercise of the right of audience; conduct of litigation; conveyancing; probate; notarial activities; administration of oaths) that may be provided only by solicitors, barristers or those approved by organisations regulated by the Legal Services Board. These six areas represent just a fraction of legal services delivered across the sector.

In other areas, the regulatory framework has been relaxed to permit non-qualified or non-licensed staff to support legal provision, for instance for personal injury claims. Traditional legal practices consequently face increasing competition from organisations – such as accounting firms – that have not traditionally offered legal services, and which may also be more adept at deploying technology to facilitate advice and services. These “alternative business structures” also allow non-lawyers to own and invest in legal practices.

From 2020, the Solicitors Regulation Authority will introduce the Solicitors Qualifying Examination, which replaces the traditional qualifying law degree. Those wishing to qualify as a solicitor will be able to do so if they hold a degree or an equivalent qualification or experience, and complete a period of qualifying work experience. The SRA’s changing expectations of

“I think where you will see a squeeze in the traditional law firm structure is that you will need fewer support staff doing fairly menial tasks, and in many firms you will also see the middle-ranking fee-earners squeezed out.”

Charles Christian,
Legal Futures Insight: the impact of technology,
December 2015

“If a business is not reinventing itself to adapt to changing market conditions then it is highly likely to be taken over by those that are better adapted to the new environment. This statement is no less true for law firms than for any other business”

Law Society
The future of legal services,
January 2016

³ Law Society, *The Future of Legal Services*, January 2016

legal education provide flexibility for law schools to offer additional experiential learning beyond conventional practice-based experiences, such as opportunities to work with artificial intelligence systems or develop digital “triage” platforms to provide information or produce model documentation.

A recent article⁴ lists 21 institutions in the USA that currently offer educational programmes in technology and innovation in law. There are four such programmes in Canada, one in Australia, and eleven in Europe, including three in the UK: Ulster’s Legal Innovation Centre, and two Master’s programmes at Kings and Edinburgh, both of which are concerned more with the role of law in responding to and regulating new technologies, rather than the application of them.

“Not a single law school [in England] can boast of a centre focusing on either the future of legal services or the role of technology.”

Professor Richard Susskind,
Tomorrow’s Lawyers: an introduction to your future

4. Challenges in the Welsh legal sector

In Wales, the challenges are compounded by a legal sector that has not yet fully realised its economic potential.⁵ The sector employs c.5,000 solicitors in 450 firms, characterised primarily as small-to-medium sized practices and very few large organisations. While there are real strengths in aspects of law related to the devolutionary settlement, the country cannot afford to view legal practice in purely devolutionary terms. This is a view supported by the (unpublished) 2015 Doolan Report on the future of the legal profession in Wales.

If Wales is to have a prosperous legal sector the economy of law and the commodification of legal services must be addressed. Wales needs to respond with alacrity to the opportunities that the changing profession offers, and to develop a stronger presence for corporate/commercial and property law, as well as for other specialisms. Welsh law schools must work to equip their students for roles that may not yet exist at the same time as reassuring prospective students of the continuing value of a legal education.

“Legal technology may be all the rage, but it’s not just a fad. It may very well be the factor that decides which law firms thrive and which will eventually find themselves left in the dust.”

Brennan Ong, LawAdvisor,
Australasian Lawyer,
22 June 2017

In 2005, a report by Davies and Mainwaring noted that a “vibrant Welsh legal service is a vital element in promoting local competitive advantage and also in protecting the integrity of the emerging Welsh legal jurisdiction”⁶, while also revealing that, when adjusted for population, Wales has c.60% of the number of solicitors in England, and that “despite the fact that one third of all solicitors in Wales are located in Cardiff, London dominates the supply of legal provision in Wales”. The authors further argue that “Wales as a whole is notably weak in a wide set of legal skill which are applicable to most areas of commercial activity” and it is in the areas of law that “satisfy personal, family and social needs”⁷ where Wales remains comparatively strong. The further corollary is that “Welsh legal firms are relatively inexperienced with regard to specialised areas of law, notably business law”⁶, and that Welsh firms are particularly vulnerable to the commodification of legal services.

⁴ www.clocktimizer.com/legal-tech-university-courses/

⁵ Cahill Review on the *Future of Legal Services in Wales*, (2013)

⁶ Davies I & Mainwaring L (2005), *Research Report: the supply of private practice legal skills in Wales*, Law Society

⁷ Davies I and Mainwaring L (2007), *Territorial justice and access to knowledge*, International Journal of the Legal Profession, vol 14 no. 3, November 2007

The sector is also slow to grasp the opportunities afforded by the application of technology, where investment in skills and innovation could rapidly nurture a “LegalTech” cluster of start-ups and service providers that deliver economic and social benefits, create jobs, and which may drive the Knowledge Economy. The Legal Geek start up map⁸ demonstrates that there is an emerging LegalTech industry, but its reach into Wales is currently limited.

5. A challenge to the sector

Law is the great, enabling profession and a key driver of the Knowledge Economy. The technology-driven changes impacting on the sector are an opportunity as well as a threat, so the question is not when or whether the legal profession and legal education providers in Wales should respond, but how?

How can Welsh legal practices harness technology and innovation to grow their businesses?

How can Welsh law schools adapt their curricula and experiential learning opportunities to ensure law graduates can enter the profession with the capacity to drive further change?

How can Welsh Government foster the enabling policy environment to support this transformation?

There is a genuine opportunity for Wales to lead the UK, even Europe, in creating an infrastructure that stimulates and empowers modern legal practice, research and education. This will require

- a cohesive approach across the profession in Wales, the Welsh law schools, and the organisations who support legal services;
- commitment from Welsh Government to invest in developing new skills in the legal sector;
- an innovation strategy for the legal sector in Wales;
- collaboration between the Law Schools to ensure that legal education in Wales equips graduates with the skills to drive innovation in legal practice;
- sustained effort from the Law Society for Wales, Learned Society for Wales, and the Welsh judiciary to drive change;
- a focus on developing a LegalTech research and development cluster in Wales;
- sustained engagement with the UK legal sector, to learn from those larger practices that are already changing the way they deliver legal services, and
- engagement with the in house counsels of major organisations and utilities based in Wales.

Initially some of the challenges that need to be considered from the perspective of Welsh legal education and its response to them, include the following: First, the changing global economic business environments; second, the impact of digital technologies; third, new entrants and competition for legal services; fourth, public funding; professional regulation and principles of access to justice; lastly, Wales and jurisdiction making.

6. Proposal

Given the scale and timing of the predicted disruption for the UK and the Welsh legal sector, it is proposed that the **Learned Society of Wales** and **Swansea University's College of Law and Criminology** consider a two-strand, mixed-speed, collaborative initiative aimed at

- *characterizing the imminent and future challenges that technological disruption has for the legal profession from an international and UK perspective.*

⁸ www.legalgeek.co/startup-map/

- *facilitating greater awareness, discussion and ultimately collective sector preparedness for the impact on legal training in Wales.*

Purpose: The objective of the initiative would help project Wales on the international stage, identify synergistic relationships with foreign partners and facilitate solution based ideas that could help address or prepare for local deficiencies. Being unique, the flagship series would also provide for a positive perception for Wales - important in attracting the best students and staff.

LSW Fellows Steering group: Key to the success of the initiative would be convening a high profile LSW steering committee, comprising relevant Fellows, to supervise and strategically direct the project. The Fellowship contains very relevant academic and professional experience which could be drawn upon.

Strand 1

This first strand signalling Wales's interest would involve organising and hosting a high profile international lecture series over a two-year period, beginning autumn 2017. This would involve a range of distinguished/world leading commentators and legal opinion formers with the working brief of capturing contemporary and cutting-edge insights on key issues including rate of change and possible solutions.

The series would be delivered by a range of internationally recognised and influential opinion formers and cover a range of representative topics. The format would comprise a lecture followed by a structured Q&A and in a number of cases by a dinner for a small number of invited guests with a view to facilitating future networking.

The proposal is to have 6-8 speakers (3-4 per year) spread over the 2 year period (2017/18) with lectures geographically distributed across Wales. An indicative listing of relevant speakers would be generated by the Steering Group with supporting partners suggesting additional or alternatives.

Given clear HE sector relevance, Indicative costs (assuming institutional pro-bono auditorium hire) to cover speaker travel, accommodation, marketing/ photography and post lecture-dinner would be expected to be in the region of £60-70K.

Sponsorship: Given the international ambition of the initiative and relevance to domestic issues in Wales, it is proposed to seek sponsorship from a range of established large corporate law firms and interested stakeholders including Welsh Government. A precedence for this form of joint partnership between Academia and Government exists in Scotland in the form of the Kilbrandon Lecture series inaugurated in 1999. These are supported by the Scottish Government and the University of Strathclyde. (See www.celcis.org/news/entry/2014_kilbrandon_lecture#sthash.KaLG6Lez.dpu)

- Eversheds Sutherland (<http://www.eversheds-sutherland.com/global/en/index.page>)
- Blake Morgan (<https://www.blakemorgan.co.uk/>)
- Capital Law (<http://capital-law.co.uk/>)
- Geldards (<http://www.geldards.com/>)
- Hugh James (<https://www.hughjames.com/>)

Branding: In the interest of ensuring memorable identification for the series, while also availing of the opportunity to highlight one of Wales's neglected past intellectual minds it is proposed to consider naming the series after Richard Price. Price was one of most influential intellectuals and polymaths that Wales ever produced. In addition to his work on ethics, philosophy and maths, Price

is credited with being the author of the concept of level premium life insurance - a disruptive innovation instrumental in providing credibility for the life insurance industry today.

Strand 2

It is proposed that a second slower track but related strand (over 36 months) be announced with the first strand. This would market a competitive high profile, fully funded PhD scholarship (c.£19,000 x 3pa) based at Swansea University. The content focus of the research thesis could be developed in collaboration with the Learned Society Steering Committee and could involve potential fellows of the Society playing an active part in the supervisory teams support. Anticipate advertising this fellowship broadly to signal an interest in the how such technological developments may facilitate the growth of distinct legal jurisdiction abilities to service the growing legal devolutionary sphere.

7. Next steps

The Legal Wales conference⁹ (15th September, Swansea University) provides a first forum to explore some of these issues. The programme includes a keynote address on the future of the Welsh law schools, and a panel session on technology and innovation in legal practice. The conference creates an opportunity for eminent members of the Learned Society of Wales to come together to discuss the challenges and to take forward this proposal.

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⁹ www.swansea.ac.uk/law/events/legalwales