Trusting Technology

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Consumer expectations and demand are driving the need to speed up the conveyancing process through digitalisation. As a result, many forward-thinking legal firms are looking to expediate processes by removing 'print and post' from their workflow as far as possible. The introduction of new technologies have great potential but need to be proven and trusted to facilitate online communication safely and be integrated into the conveyancing process successfully.

There are a number of reasons for a general lack of trust in new technology introductions. According to the Legal Services Board, Technology and Innovation in Legal Services research report (2018) based on 1502 telephone interviews, the main factors preventing wider take up of technology are: the risks involved in using unproven technology, the potential for greater ethical problems and the lack of IT expertise.

It maybe that a previous 'bad implementation' may have burnt one or two fingers! This could have been something as simple as an incorrect email set-up resulting in a phishing breach. In this sort of situation, staff rapidly resort to printing and posting documentation instead. However, it is possible to remove the risk of phishing using email authentication protocols such as DMARC but, without experienced, up-to-date technical resources it is understandably challenging for the average law firm to keep up with the necessary technology to eliminate this risk.

Concerns around cyber security are also valid. In-fact, cyber security remains one of the most serious threats facing the legal community and is a constant reminder for all firms to take a more secure approach to the protection of sensitive client data. According to the SRA Risk Outlook 2018/19, in the first quarter of 2018 over 70% of all cybersecurity reports were directly attributed to email modification fraud, a sophisticated method of interception designed to capture client bank details and personal information.

Thirdly, a complete implementation which radically addresses the total extent of a digital workflow will inevitably disrupt working practices. Staff will need to be trained and learn a whole new way of working and this degree of change is understandably difficult to accept and address.

Disappointment in previous technical applications after big futuristic expectations points to a better way to consider technical introduction as an evolutionary approach, rather than a complete revolution. Managing the digitalisation of elements in the conveyancing chain in 'bite sized chunks' rather than an 'unwieldy' whole is likely to be much more successful.

In-fact, most solicitors are already moving in this direction to some extent, by ordering searches and providing quotes online. Some forms are supplied to customers by email too and for around 50% of solicitors, electronic ID checking is now standard practice. By taking on different tools gradually, the overall process can be modified. Over time, trust is built in new technology as staff see different parts working for various processes. Ultimately, it will then be possible to 'join up the dots' to create a complete digital conveyancing process with minimal disruption.

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It is possible to develop bespoke in-house technology to address digitalisation of processes. However, this requires significant investment in a development team. Outsourcing and taking advantage of the expertise of an industry specialist should offer a more economical and straight forward option.

One example of where technology development could currently be outsourced and used to streamline the conveyancing process relates to how solicitors can use electronic signatures. Electronic signatures are binding so long as they can be authenticated. One way to ensure the authentication process is to use an electronic signature company such as DocuSign, since courts have already ruled a signature using DocuSign is presumptively valid. However, on a practical level there are a number of issues that are preventing widespread take up.

Contracts for the sale of property and land must be in writing, contain all agreed terms and be signed by all parties; and transfers, charges and some leases must be made by deed (which involves signing, witnessing and attesting).

While EU legislation (The electronic identification and trust services eIDAS) and the UK courts accept electronic signatures as valid; and while HM Land Registry is, as a matter of policy, moving towards digital conveyancing, the relevant UK statute, the Electronic Communications Act 2000, does not expressly allow electronic signatures. Neither does the law of England and Wales comprehensively confirm anywhere the validity of electronic execution in the context of deeds.

However, Land Registry's new e-mortgage system relies on the use of "Qualified" electronic signatures using their Gov verify solution. Essentially the system provides the "Trust" element and is in effect the witness in that it certifies the identity of the person signing. DocuSign is also a Qualified certificate solution.

Poweredbypie has recently launched Brighter Portal a new solution for solicitors which provides a secure document exchange and eSignature portal, protected by 2 Factor Authentication access. By integrating the DocuSing eSignatures solution into the Brighter Suite experience, the technical issues stopping solicitors from taking up digital form submission and eSignatures has been tackled. Here, the law firm creates the document portfolio which includes intuitive, editable forms and digital signature facility, provided by DocuSign. It provides a secure environment for client data as well as streamlining the conveyancing process and helping to avoid delays to the transaction.

The 2 Factor Authentication is important because it means in order to gain entry to the system, a user must demonstrate they have something they know and something they have. Most hacks into accounts are because of poor passwords which are easy to crack with brute force, or social engineering. This is where the second level of security comes in, the something you have. With the Google authenticator app, the only device which will have the correct login code, which expirers every minute, is on the registered user's own device. The portal also offers a way to avoid phishing attacks, as the consumer will know that

their solicitor will only give them official documentation or their bank details on the portal and any emails which they receive are not to be trusted.

New technology brings both excitement and fear however, the very best technology lets staff simply to 'get on with their job'. It works away in the background and staff don't even notice it is there. Technology is developing rapidly but IT providers need to gain the industry's trust. Consumer expectations will force change, making updates to service provision inevitable. However, large scale IT implementations designed to solve total workflow processes are unlikely to result in a satisfactory result. Therefore, by tackling and safely digitalising individual elements of the conveyancing process gradually over time, staff will learn to trust and unlock the advantages of technology.

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