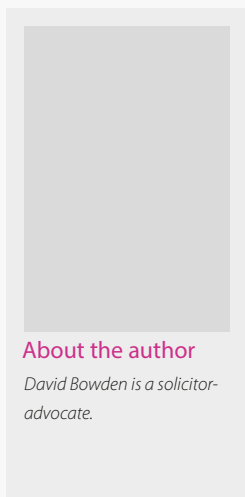


Practice management for legal service providers

David Bowden identifies current trends in practice management and risk solutions.



About the author

David Bowden is a solicitor-advocate.

Those responsible for managing or running a legal services business face many challenges. On the one hand, they must balance the need for the business to make a profit, while on the other the need to comply with a large number of often complex or fluid obligations required by regulators or legislation.

With legal service businesses increasing in size, it is inevitable that they have turned to others for help, be it with technology to manage a practice, training for a firm and its fee-earners, or outsourcing certain functions completely. At the same time, are firms making the best use of other practice management tools, such as the data from complaints handling and client feedback, to improve their service offering? This article looks at trends in practice management in recent years, and forecasts what practitioners think will be around the corner.

There are a number of providers offering practice management and/or risk solutions. The offering from these providers ranges from practice management software to training and bespoke consultancy.

Practice management products

The main software providers, such as Rliance and DG Legal, offer packages or modules which provide assistance on some or all of the following practice management themes: audit; best practice; breach management; client feedback; complaint management; data security; file reviews; gifts and hospitality register; misconduct; money laundering; professional indemnity claims; referrals; quality standards; risk register; tendering; and undertakings.

Firms will also need internal systems to check conflicts which, for larger firms, can prove to be quite a complex task.

Principal features of practice management products

Brian Rogers is a director of the Rliance Group in Tarporley, Cheshire, and had been a practice manager and non-lawyer partner for over 20 years. He says that practice management and risk products provide quality control and overall governance for the business, stressing that the person appointed within the firm to deal with risk and compliance needs to ensure that the business is protected overall and complies with all applicable legal or regulatory requirements.

David Gilmore is the owner of DG Legal based in Loughborough. He says that DG Legal's 'Compliance Caddy' product is aimed at Solicitors Regulation Authority (SRA) compliance. It includes a feature for the Compliance Officer for Legal Practice (COLP) as well as the Compliance Officer for Finance and Administration (COFA), which allows a firm to demonstrate that it has had regard to and/or managed the requirements in the Legal Services Act 2007 and the SRA Handbook. The product also contains separate risk and breach registers.

Solicitor Paul Saunders is the managing director of Legal Eye, which is based in Thame, in Oxfordshire. He agrees that the objective of these products is to ensure that the law practice is managed in the most efficient or controlled manner; risks are as safe as they can; and the business complies with its regulatory requirements and protects customers. Paul Saunders adds that where firms are on a panel (such as a lender for

conveyancing work) they need to be able to work with the panel manager in relation to its audit requirements: having appropriate practice management software makes this task a lot easier.

Market developments

The Riliance system was Brian Rogers' idea. As a risk and compliance practitioner in a law firm, he wanted to make risk management and compliance more effective and efficient. The company now employs 30 people, and advises regulated businesses on risk and compliance matters.

Brian Rogers says there has been a sea change in relation to practice and risk management. It is now much less a 'tick-box' approach, as users can see a genuine business value in these areas. We are in a cyber age, and there needs to be real focus on compliance risks.

David Gilmore observes that there has been an increase in the number of solicitors qualifying and in law firms and start-ups. The introduction of alternative business structures has been a good thing. In relation to regulators, there has been a noticeable improvement at the SRA over the past two years.

When does a firm need a practice manager?

Brian Rogers says that the risks faced by legal businesses can differ from one to another, and that a risk-based approach needs to be taken in relation to what risk and practice management systems or procedures may be appropriate. David Gilmore agrees, noting that when a firm has four or more fee-earners it needs to consider having a practice manager.

Paul Saunders points out that the requirements are the same, and everyone has to work to the same standards. However, managing those risks can be different and, surprisingly, it is easier to enforce a regime across a large firm than across a small one.

The qualities of a successful practice manager

Richard Ansell is a practice manager at the leading banking chambers 3VB. He says that the role of a practice manager (which used to be called a 'barristers' clerk') has two main aspects: practice management and administration and business development. Summing up key qualities, some of the following are characteristic features of successful practice managers, ie, the ability:

- to work efficiently and communicate effectively (a lot of the time under pressure);
- to manage many different strands of work for different barristers in a constantly changing work scape; and
- to gain barristers' trust as well as be a reliable and trustworthy person in the eyes of instructing solicitors, fellow practice managers and court staff; and

- a determined, driven, self-motivated and friendly work ethic usually helps.

Fiona Fitzgerald is chief executive of Lincoln's Inn-based Radcliffe Chambers. She adds that successful practice management needs a good team, with energy and drive to implement policies and procedures quickly, but includes bringing people with you effectively; in addition, IT is part of and is, indeed, integral to success.

From a risk and compliance perspective, Brian Rogers notes that a good practice manager needs a healthy appetite for business management as well as operational and risk management. He says that regulations and systems will change and events will happen, and a good practice manager should be happy to work through this when the changes are required. He says that it is imperative that a practice manager has foresight of the business's twin goals, ie, what the business wants to achieve and what will protect it.

Just as important is paying attention to changes on the horizon. He adds that a high-quality practice manager has a genuine ability or desire for change management and is determined to implement appropriate change strategies. A good practice manager should also demonstrate the benefits of practice management, and convince everyone in the firm of these advantages and get their 'buy-in'. David Gilmore agrees, adding that a practice manager needs to be forward looking, pro-active, dynamic and have an ability to plan for the future.

Paul Saunders adds that a practice manager needs patience and a clear view of the business plan. A practice manager needs to know what the partners want the business to look like and to have buy-in from those partners.

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) known as the General Data Protection Regulation must be implemented by 25 May 2018, and a practice manager needs to set out a timetable to achieve this. Where a firm is seeking to achieve a quality assurance standard, the practice manager needs to set out a timetable to attain this.

Evolution of the practice manager's role

Fiona Fitzgerald stresses that the pressure on practice managers is now enormous. Not only are they dealing strategically with where the business is going, they also need to keep a tight rein on the figures where the risks arise. Risk awareness and compliance has become a larger part of the role over the past few years.

As a long-standing practice manager at 3VB, Richard Ansell has seen a lot of change as the legal services market has evolved

and continues to do so. Modernisation, competition, a fast-paced marketplace and considerable advances in technology mean that practice managers nowadays must respond to challenges they might not have been exposed to a decade or so ago.

More direct competition between barristers for work, and between chambers and solicitors, has forced a positive change for the lay client and has been a key driver in the faster paced service industry we are now part of. Responding quickly, efficiently and appropriately to enquiries, and not wasting solicitors' precious time are key. Advances in technology have opened up a new working world, and a barrister and their practice manager can work almost anywhere in the world, with all the resources at their fingertips as if they were at their desks. Equally, these advances have made it easier for the world to come to chambers, and for a large commercial set such as 3VB it has been possible to develop barristers' practices on the international stage as well as within these shores.

Hardware and software developments have also helped chambers to become more efficient and business like. For instance, not only can work be received by e-mail, it is possible to liaise about and administer and conduct cases via e-mail. Increasingly sophisticated systems provide detailed and focused information for business development purposes too. This means that ever more information is required. As chambers modernise, it is also the case that the market has become more regulated. Practice managers, chambers' directors, and support staff have had to put in place management systems to reflect both modern business and regulatory norms. Chambers are far more recognisable businesses structures now, and the widely held, dusty, cloistered view of barristers is a distant memory. The author would suggest that the General Data Protection Regulation is a good example of an up-and-coming regulatory change which will have an effect on chambers and practice managers.

Paul Saunders says that a practice manager's role is now a much more corporate chief operating officer-focused role whereby, operationally, the practice manager has a clear understanding of where a firm makes its profits.

David Gilmore adds that practice managers now need to undertake much more compliance work than previously. He noted that the COLP and COFA regimes have been in place since 2012. There is also the challenge posed by firms working electronically more and more, which carries the risk of cybersecurity. David Gilmore warns that some practice managers have underestimated the risks and impacts of a cyber breach.

A day in the life of a practice manager

From Richard Ansell's perspective, there is no 'typical day' for a practice manager at a set of chambers as no two calls or e-mails

are the same. From his personal point of view, this is great because there is plenty of variety in his work diet.

That said, there are common themes such as planning immediate commitments as well as others as they grow bigger on the horizon, liaising and negotiating over fees, case allocation, fixing hearings, and practice planning with barristers. So, each day's pie chart of work will include slices of case and fee administration, business development, practice reviews with barristers, planning for hearings, but the slices are never the same size.

For Fiona Fitzgerald too, no day is the same. Her day usually involves a significant amount of coaching of others, ensuring that projects are being implemented, talking to clients, setting targets and goals and confirming that they are being achieved, problem solving and, in general, 'ensuring we are the best we can be'. In all organisations, you need to maintain the energy and excitement to get things done, but also to set and steer the vision.

The benefits of having a practice manager

In 2016, Emma Walker was appointed risk and compliance manager at Burnetts, a solicitors' firm with four offices in Cumbria and north east England. She soon realised that the firm's compliance data was not being managed as effectively as it could be, which was leading to difficulties in producing reports on any trends or issues. She started looking for a suitable centralised system that could maintain all of the firm's compliance records and also facilitate the reporting of audit procedures. Emma Walker needed complete visibility over compliance across all the firm's four offices.

Burnetts trialled a number of modules from Riliance, including those on file audits, complaints management and a risk register. Emma Walker says that it has been both quicker and easier for Burnetts to provide evidence of its compliance to accrediting bodies and regulators, which saves the firm time and money. She praises the file-audit module, which allows Burnetts to create its own file-audit questions, as it is invaluable in demonstrating compliance with various accreditations, as well as providing effective supervision of the firm's entire staff.

Global law firms, such as Clifford Chance LLP, are also users of Riliance software. The firm has instilled more structured governance where all its offices use the same platform, with the London office, which is the central hub, retaining oversight. On gifts and hospitality, Clifford Chance has adopted a risk-based approach, and has tried to instil a process for its national and international offices in order to protect its reputation.

Client feedback data

Among the many modules that the Riliance system offers to its subscribers is one for recording client feedback. Surprisingly, this

is one of the least used modules, which could be an indication that firms are not seeking this key intelligence from their clients.

David Gilmore points out that recently some owners set up successful law firms with no prior experience of said management, including one with a logistics background. He says that these business owners have the advantage of not having learned bad habits.

Before setting up DG Legal, David Gilmore worked in management at Marks & Spencer and at the then Abbey National. Looking back, he observes that, at both organisations, time was set aside every week for staff training. He says that the legal sector is poor at training: law firms have not taken up client feedback tools or used the data from client feedback to improve the service they offer.

Paul Saunders refers to the market study from the Competition and Markets Authority (CMA) into digital comparison tools.* Paul Saunders says that a quality comparison site for legal services providers would be beneficial, and that Legal Eye is currently working on this. He adds that a 360-degree review with customers is 'very beneficial', but that law firms were 'uncomfortable' with this. Legal Eye offers a facility where it will sample files, make telephone calls and provide client feedback to firms.

David Gilmore recommends the Google Business Review Direct Link Generator tool to DG Legal's clients, and the business management consultancy walks the talk by using this tool itself. DG Legal actively encourages its legal client customers to provide written feedback, and then adds this to Google Business Review.

He says that this influences a firm's rating in Google, and having Google reviews accounts for 8–10% of its algorithm. Disappointingly, he notes that only a 'minority' of law firms were using this in marketing to get them up the search engine rankings.

Using data from complaints or file audits

Paul Saunders points out that firms can outsource their complaints to Legal Eye, which will then recommend what action to take. He stresses that firms (particularly smaller ones) or fee earners can get 'very emotional' about complaints, and it is difficult for firms to deal with them 'dispassionately'.

Paul Saunders said that the most reliable indicator is an ability to review staff files, noting that there is little substitution for picking up a file and knowing what to look for. He says that Legal Eye is also dispassionate when conducting its file audits, producing a follow-up report with a list of corrective actions, which is sent to the firm's COLP. This report identifies trends, and where a firm has a 'rogue' fee earner, Legal Eye can pick up symptoms in their files, which Paul Saunders adds are not just limited to complaints. Paul Saunders stresses that software

or office procedures alone will not and cannot identify rogue individuals.

Brian Rogers says that one of the most popular modules in Riliance's practice management offering is on complaint management.

Product pricing

A small firm, with fewer than 10 users, that subscribes to the Riliance Complete Compliance package, which includes the software system, will pay £150 plus VAT per month. Firms that take training or consultancy from service providers can pay by the day for bespoke projects, or as part of an ongoing subscription.

For firms looking at General Data Protection Regulation compliance, Legal Eye offers a service for £2,900; however, this includes a review and mapping of firm's existing processes, advice on compliance, and production of all necessary new policies or procedures.

Future predictions

Brian Rogers says that the General Data Protection Regulation will give clients much more power in relation to what is done with their personal data, and businesses must be ready for its implementation in May 2018. He stresses that the regulation is not industry specific, and that regulators, in general, will give data protection more focus going forward.

Regulators have said that they will not be looking to make early examples where breaches occur. However, this attitude may change if they do not see businesses preparing for General Data Protection Regulation Day! He also notes, from his colleagues in the technical support side of Riliance, that older web browsers or versions of Microsoft Windows which offer inferior levels of security protection are still being used, and suggests that these be updated urgently. In time, all legal businesses will go paperless, especially as compliance with the General Data Protection Regulation will be easier if everything is digital.

David Gilmore agrees that the offices of a law firm will become paperless. He also agrees that there is naivety in the legal sector on the threats from cyber fraud. Paul Saunders adds that firms will utilise more outsourcing and expert functions whether it be risk, compliance or human resources. The dual focus will be on producing profit as well as providing a good legal service.

* The Digital comparison tools market study was launched in September 2016. An update paper was published in March 2017, available at: <http://tinyurl.com/ydemyxaj>. In July 2017, the CMA published the responses to the update paper, available at: <http://tinyurl.com/y9yyfl3t>