

# Webinar key takeaways: The Pandemic and Legal Service Delivery in 2020: What Happened and What's Next?

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On December 2, 2020, Osler hosted a webinar, "The Pandemic and Legal Service Delivery in 2020: What Happened and What's Next?", featuring [Gillian Scott](#), Partner, Innovative Products at Osler, and the firm's Chief Knowledge and Innovation Officer [Simon Wormwell](#).

Our experts explore the impact of the COVID-19 pandemic on legal service delivery. The presentation begins by discussing the state of legal innovation before the pandemic, progresses through how the pandemic impacted the legal industry generally, and then moves on to how it has directly influenced the innovation of legal service delivery. From there, our experts discuss several important trends that have reshaped the legal landscape, and the implications of those trends moving forward. Below are key takeaways from the webinar.

## Key takeaways

### The state of legal service delivery in Q1 2020

- **Pace of change:** The pace of change to legal service delivery in-house and in law firms has failed to keep up with the pace of change in businesses, particularly when it comes to leveraging process improvement and technology.
- **Are lawyers ready for change?** In a [blog post](#), Jason Barnwell, Assistant General Counsel at Microsoft, argues that the main challenges to the innovation of legal service delivery reside in the lawyer personality. Barnwell argues that lawyers are ill-equipped to innovate for two reasons:
  - **Status/identity:** That there exists a perception among lawyers that process and automation are a threat to their status and identity; and
  - **Critical thinking:** That lawyers are both by nature and trained to be critical thinkers, a skillset which rests in direct conflict with systemic thinking, which is required to spot patterns and processes that can be improved<sup>[1]</sup>.
- While **both law firms and in-house legal departments are ill-equipped to break out of traditional legal thinking**, in-house lawyers are under greater pressure to do so.
- **Resistance to change is a multi-layered issue:** A survey performed annually by Wolters Kluwer called "[The Future Ready Lawyer – Performance Drivers Survey Report](#),"<sup>[2]</sup> explores

reasons why the adoption of new technology and process improvement has been resisted in legal departments. More than half of respondents said structural and organizational issues were the biggest impediment, while 32% said it's a lack of technology knowledge, understanding or skills. Another 15% said it's because of financial issues.

- **Long way to go:** A significant gap exists between aspirations to use tools and technologies such as AI in legal, and actual readiness to adopt them. This means that lawyers are leaving value on the table. Legal tech has been available, but widespread adoption has lagged. However, as a silver lining, there is a growing recognition that change is needed.

## Trends & impacts of COVID-19 on the legal industry

- **Forced change:** COVID-19 quickened the pace of legal and regulatory change. It was an extrinsic force that necessarily impacted how lawyers work. These changes to legal service delivery were about adoption, not necessarily innovation.
- **Lawyers become techies?**
  - **Videconferencing platforms:** While lawyers work from home, many have been using videoconferencing platforms such as Zoom, Teams, Webex and others to conduct their business.
  - **E-signatures:** Lawyers also adopted e-signature technologies, out of necessity in the court system, and with respect to transactions and commercial agreements. This reflects a partial digital transformation and a move towards paperless practice.
- **Modernizing the courts:** Legislators, regulators and the courts also, to varying degrees, adapted to the use of technology as well, for example:
  - **E-filings:** Pre-pandemic, courts relied almost entirely on hard copy documents, and where the filing of electronic documents was permitted, it was typically supplemental to, and not instead of hard copies. During the pandemic, courts began accepting electronic filings via email. Some courts also piloted cloud-based e-filing platforms. For example, pre-pandemic, the Ontario Superior Court (the Court) was arguably a decade away from the widespread usage of a cloud-based e-filing platform. The platform has now been piloted and is being rolled out for widespread usage in 2021.
  - **Virtual hearings:** The proliferation of virtual hearings will have a lasting impact on the legal landscape. Pre-pandemic, virtual hearings were rare, even though the technology was available. During the pandemic, many courts have been hearing various matters virtually including motions, settlement conferences, pre-trial conferences and even trials. This could have good consequences for access to justice issues and in terms of dealing with the backlog of court hearings.
- **Role of in-house counsel expanded (again):** In the COVID-19 pandemic, in-house legal teams were expected to keep more work in-house, decrease their external spend while also restructuring their teams. They were also forced to pick up new areas of expertise, including advising on employee health and safety protocols, among many other things<sup>[3]</sup>.

## Growth of Alternative Legal Service Providers (ALSPs)

- **ALSPs:** These are focused businesses that specialize in certain sets of disaggregated legal services and often use technologies to perform routine tasks (such as e-discovery, document review, contract management, records management, etc.). In-house legal teams have been increasingly sending work over the pandemic period to ALSPs for three predominant reasons:
  - To access expertise not currently on their team
  - To move some of the burden from their team that has limited bandwidth; and
  - To save costs by outsourcing work as opposed to hiring internally<sup>[4]</sup>.
- **Captive ALSPs:** These are essentially ALSPs developed in-house within law firms. Captive ALSPs distinguish themselves, in part, from regular ALSPs because of their ability to do their work as part of an end-to-end solution on a broader client mandate, making the client experience on a file seamless.
- Our **Osler Works** captive ALSP platform includes **Osler Works – Transactional (OWT)** and **Osler Works – Disputes (OWD)**.

### Where do we go from here?

- **Change is less scary:** Perhaps there is now a greater recognition of the potential value that technology can bring to legal service delivery, when properly paired with people and process. It doesn't devalue the work of legal professionals in any way – in fact, it is an enabler to create value for our end user, which is the ultimate goal.
- **Invest in process improvement:** Process improvement is a discipline. Legal departments and law firms need to evaluate and prioritize projects that can leverage technology and different professional skillsets, and invest in improving these processes:
  - **Identify process in the effort/product:** Look at *how* the effort is made or the output is created.
  - **Optimize resource use:** Make value and data-based decisions to align resources with your desired outcomes.
  - **Support your organization's strategy:** Focus on what is reasonable and manageable based on priorities and impact.
- **Technology is a powerful tool:** Investigate and invest in technology. There are more places than ever (such as [Legaltech Hub](#) and [The Observatory powered by Orrick](#)) where you can easily access information and learn about legal technologies, their value proposition, and their main functionalities, and compare them with other options.

### Q&A

- Following the webinar, we received inquiries relating to the use of electronic signatures. [\*Electronic Signatures in the COVID Age\*](#) is a comprehensive resource available on Osler.com. Prepared by our experts, it includes key considerations such as where electronic signatures can (and cannot) be used and governance issues to consider before adopting

an e-signature tool. If you require information on electronic signature use in your organization, please contact one of the authors of this resource or any member of our [Corporate Governance Group](#).

- We also received questions about assessing investments in technology and demonstrating value from those investments. As we mentioned in our presentation, technology is a tool to enable innovative approaches and process improvements. The key to developing a business case and showing a return on your investment is a solid (or strong) understanding of the problem to be solved. Process improvement projects start with a define and measure approach. Define and document the problem, including what is in and out of scope. Measure by collecting pertinent data (e.g., time spent, frequency, sunk costs) documenting the current state and speaking to stakeholders in the process. From this starting point you can more easily assess and develop your requirements for a solution, including what you may require from a particular technology. You will also have the data to support your investment and demonstrate value gained. If you would like help getting started, please contact one of us, or our process improvement team through [Osler Workshop](#).

[Watch the webinar](#)

## We want to hear from you!

If you are thinking about a virtual design thinking or process improvement session with your team, please reach out directly to [Simon](#) or [Gillian](#) and they would be pleased to book a meeting with you in early 2021. We use the Osler Workshop platform to work with in-house legal departments on operations issues with our clients, and help them evaluate performance in their departments and deliver better value to their businesses and organizations. We look forward to chatting!

*"Webinar key takeaways: The Pandemic and Legal Service Delivery in 2020: What Happened and What's Next?" provides general information only and does not constitute legal or other professional advice. Specific advice should be sought in connection with your particular circumstances.*

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[1] [Barnwell, J. Our Wicked Problem: Building The Future Of The Practice Of Law \(210\), Legal Evolution Blog, November 29, 2020](#)

[2] [The 2020 Wolters Kluwer Future Ready Lawyer Survey Report](#)

[3] The General Counsel Report 2021: Rising To Today's Challenges And Building Resilience For The Future (A Joint White Paper from FTI Consulting, Inc. and Relativity)

[4] The General Counsel Report 2021: Rising To Today's Challenges And Building Resilience For The Future (A Joint White Paper from FTI Consulting, Inc. and Relativity)