Data standards workshop

Note of meeting

8 May 2019

Law Society of Scotland, Atria One

Overview

Present: Callum Murray (Amiqus Revolution), Matt Jewell,(Amiqus Resolution), Cameron Stewart (Scottish Courts and Tribunal Service), Amanda Millar (McCash & Hunter), David Roper (Solicitor), Sarah Blair (Thorntons), Paul Ryan (Focis), Federico Charosky (Quorum Cyber), George Steven (Nalanda), Gavin Sheridan (Viz Legal), John McKenzie (Shepherd & Wedderburn), Emily MacLoud (Just: Access)

In attendance: Charlotta Cederqvist (Law Society of Scotland), Rob Marrs (Law Society of Scotland)

Apologies were intimated from: Dan Hoadley (ICLR)

Callum Murray gave a welcome introduction and some background. In late 2018, LawscotTech held four events around Scotland introducing the new initiative and inviting participation from across academia, professional practice and the technology sector[1].

A theme raised at each event was regarding a lack of common data standards in the Scottish legal profession. It was noted that the lack of such standards made it harder for technology companies to enter the market; for firms buying technology services to get maximum benefit from these services; and that across the market – regardless of size of entity – this led to increased costs and lack of efficiency (which, in turn, harmed consumers and clients).

It was noted that in any roundtable exercise it was not always possible to get every interested person within the room or every potentially important contributing organisation. The group acknowledged this and recognised that the importance of sharing openly and publishing whatever came from this initial session. It was important that the group – and its work – was open and seen to be open.

Each person around the room introduced themselves, explained their role, their interest in the subject and what they hoped to achieve from this project.

Matt Jewell gave an overview of where we are now and explained how the roundtable would work. There would be a 'pre-mortem' to help understand potential outcomes of this work – both positive and negative. This to be followed by challenge setting and, subsequently, a wrap-up discussion to capture other discussion points for follow-up.

A slide was shown focussing on a quotation from a presentation by David Colarusso and Erika J. Rickard: ''*While we are not the first to suggest a redesign, we propose a catalyst: open data standards. We see data standards as both a critical part of well-functioning court systems and a fulcrum for leveraging technology to drive system change''*.

It was agreed the quotation from Colarusso was underappreciated and that any work in this area would likely have to go significantly beyond court work in order to support the Scottish legal profession more broadly.

Callum Murray shared an overview about other work in this area with examples taken from the MOJ's / UK Government Digital Strategy, wider civil service work regarding the importance of data and Scottish Government work in this area. A quotation from MOJ's Government Digital Strategy was highlighted: *Action 16: help third party organisations create new services and better information access for their own users by opening up government data and transactions.*

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[1] A copy of the presentation document is available upon request.

The concept of data principles – collated by the Chief Technology Officer at Ministry of Justice Digital – were shared as another example of clear and useful work already undertaken. These are (1) Divide and assign responsibility for data (2) provide access to data (3) communicate the risk of data (4) make data free to access (5) make data high quality (6) allow data stewards to own their data standards (7) aggregation and enrichment of data sets requires data stewardship (8) encourage national data stewardship by default. A question was asked as to whether this type of approach could be the starting point of a discussion in Scotland.

The Open Data Institute's data spectrum was shared and explained as an example of how we might think more broadly about what data could and should be available more broadly whilst other sensitive information might be restricted to some extent:

Internal access	Named access	Group-based access	Public access	Anyone
Employment contract + policies	Explicitly assigned by contract	Via authentication	Licence that limits use	Open licences
Sales report	Driving licences	Medical research	Twitter feed	Bus timetable
CLOSED	SHARED			OPEN

Pre-mortem

The wider group was split into four groups and were asked to undertake a pre-mortem exercise to answer the questions: What is the worst possible outcome as a result of open sharing and publishing of legal data?

- **Societal impact –** data becoming more important than the truth (people focusing on data rather than the important matters); threat of robot judges/de-personalisation; inequality of arms in litigation (a legal information monopoly is formed; not having data = not having access to justice; clients suffering; people being priced out of justice system.

- **Profession-wide/Competition issues –** small firms may be unable to engage and priced out of market/work; big business comes in to ''own'' litigation; concerns about the uniqueness of legal work (what do lawyers actually do? What can be replicated or automated?) with knock on effect on legal education); data monopoly created. There were worries that costs might go up due to costs of systems to access data.

  Privacy concerns – the worst-case scenario envisaged was highly confidential information being leaked (i.e. child abuse data; police informant/witness protection data) although it was acknowledged any confidential information being leaked lost due to open data processes was a fundamental risk. There were worries about the potential public response to such leaks. Concerns about mal data (i.e. what happens if something is hacked and changed. How do we know who changed it? Who had access? Examples given were a piece of legislation or a verdict). Concerns about data integrity (junk in/junk out). What happens if AI – for instance – gets it wrong due to high volumes of contaminated training data sets?

- **Law Society specific –** something goes wrong leaving the Law Society of Scotland reputation significantly diminished (with knock-on effects for profession and sector as a whole); Society seen

to be wasting money of the profession on something that doesn't work (with knock on effect of diminished appetite for further work in this area). There were worries that if the Scottish justice sector did not do this someone else would (with negative/costly effects for sector)

- **Realism concerns** – nothing happens, the consequences of not getting the data models right. The status quo of closed 'walled gardens' of data with high costs to access. Ie) transcription costs for legal aid cases

There were comments that efficient doesn't mean effective and that it was easy on occasion to assume that digital/technology solutions were a silver bullet.

It was noted that many of the people around the room are aware that many of the concerns existed at present. It was noted progressing badly could make matters worse or merely change the nature of a problem rather than solving it.

Best-case scenario

Groups then considered ''best case scenarios'' based on iterative work delivering real benefits to the Scottish legal profession over a two-year period:

- **Simple steps:** It was noted that the in other sectors there had been regulatory compulsion for collaboration (i.e. the CMA prompting the CMA9 to work together to form open banking standards). Whilst we aren't looking to compel firms and organisations to do anything it was recognised that the model of integral organisations working together was a useful model and therefore a simple step would be to replicate 'CMA9' open banking standards built in the banking sector across the UK in the world of Scots law; identify + create key working group (and that this should be open – publishing documents throughout etc). Acknowledgement that significant resource exists in Scotland around this area both academically and commercially with Open Banking Excellence groups amongst others.

- **What could we focus on?** Standardised file management; a well-designed public methodology for data standards published; accuracy of and ability to measure a common set of criteria; impactful document review systems.

- **Client experience:** Better client service; shared understanding of value in standardisation for all firms; education of the issues across the legal profession (e.g. open case law); better UX for customers and law firms.

- **Professional buy-in**: Absolutely key to have profession-wide buy-in; rapid prototyping of ideas to demonstrate potential impact; a legal specific case study which proves return on investment for vast majority of members; simple, ''everyday'' systems which actually work. Value must be tangible for solicitors across the profession from inhouse to high street as well as corporate multi-jurisdictional.

- **Societal benefits:** An equality of arms in court; a fairer more just society; better access to legal information and therefore justice.

All groups noted that two years is a short amount of time. They noted that many of the larger organisations would potentially be unable to commit to anything – depending on their planning cycles – for at least a year. It was noted, therefore, that even a best-case scenario was likely to be relatively conservative.

A question was asked about have others innovated and what can we learn from. The Open Banking Initiative was an example. A driving force here were the so-called CMA 9 – the nine largest banks and

building societies in the UK based on the volume of personal and business accounts[2]. It was noted a working group could be identified to replicate the CMA 9.

Organisations which were suggested were:

1. Law Society of Scotland
2. Scottish Legal Aid Board
3. Revenue Scotland
4. HMRC
5. Scottish Courts and Tribunal Service
6. Registers of Scotland.

Others suggested included the Faculty of Advocates, the Reserved Tribunals, the Scottish Government and lenders. This was not an exhaustive list by any means.

A comment was made that we are not necessarily comparing like with like: the CMA 9 was nine large institutions with a clear interest in open banking and that these institutions were compelled to work together. The organisations listed above were not equivalent but rather justice sector stakeholders. How they would interact with such a project would necessarily differ.

It was noted that the nature of the legal market is significantly different to banking/financial services. It was noted that it was essential for the sector to be involved in any development work as it was crucial that what was developed meets the needs of users and not simply the needs of the stakeholders above.

It was noted that the stakeholders listed above could make a compelling case to government about the above: (1) a better client experience (whilst any improvements might be beneficial to firms and organisations it was of the utmost importance that clients and customers saw that benefit) (2) making Scotland a leading jurisdiction in this area with positive impact on legal profession and ambitions around Scotland being data hub for Europe (3) potential savings to the public purse (4) improved access to justice.

A question was asked about how other jurisdictions are developing. It was noted by Gavin Sheridan that in Ireland all judgements of the higher courts were published in HTML (It was thought that this was by accident rather than by design). In Scotland and England and Wales not all are published, and those that are, appear in PDF.

The new Scottish Courts online simple procedure was praised. It was noted though for bulk users that currently it was easier to continue to use traditional methods of printing/post. Comments made around the design and planning not considering an 'API' route was something that could be rectified in future through broad understanding of user needs via common standards for court system interoperability.

While a significant amount of discussion had focused on how data standards could assist with the court processes or conveyancing processes, several speakers noted that focusing on these important areas of the profession necessarily would lead to others in the profession not feeling the benefit of such work. A question was asked: is there anything that all solicitors do that causes a shared burden on time could be improved? The suggestions were as follows:

- Document management
- Compliance
- Anti-Money Laundering.

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[2] AIB, Bank of Ireland, Barclays, HSBC, Lloyds Banking Group, Nationwide Building Society, Northern Bank Limited, The Royal Bank of Scotland, Santander

At the suggestion of anti-money laundering Callum Murray declared that his company worked in this area and that although there may well be merit in AML processes being shared and centralized that it wouldn't be appropriate for him to get involved with discussion given a potential commercial conflict of interest. Various comments were made about the broad benefit to solicitors if information was more openly shared around best practice as well as active issues.

A comment was made that in the cyber-security sector all firms share information about incidents (to make the system safer). This is similar to the approach undertaken by the airline industry (i.e. pilots share information about near-misses so the community as a whole can learn from them). A question was asked as to whether this could be replicated in some way in the legal profession.

It was noted that compliance was something that all firms require to undertake and that this was essential work but work that necessarily took away from client work/profitable work. Smaller practitioners in particular – who are not able to hire full-time compliance professionals – will often have to comply with various regulators and evidence such compliance. It was noted that if open data standards could lead to products/services which make compliance easier that would be extremely beneficial for members.

Another focus of the discussion about document management. All solicitors in all practice areas manage documents. It was noted that file management was often not as high quality as it might be and that a profession-wide standard focusing on legal ontologies (i.e. how data is labelled, how it is stored, how it can be retrieved) would be extremely beneficial. It was noted though that whilst this would be beneficial it may very well be a hard sell – every firm has its own way of doing things and attempting to standardise document management may be resisted. In response it was noted that this could be covered by Society "Advice and information'' or ''Guidance'' rather than mandating via a rule or some such.

Conclusion:

Following the wrap up discussion, the broad concerns and potential routes forward were acknowledged. Comments were made around the wide-ranging potential projects which could be considered by the Law Society although a desire to deliver a 'big bang' project to satisfy the needs of every stakeholder across the profession was over-optimistic. Discussion was had around the need to introduce not one but several initiatives and projects to move forward positively

Attendees were thanked for volunteering their time and expressed an interest towards being involved in the discussions and potential next steps once considered more fully.

Next steps:

1. The report of the meeting will be published online and announcements made via social media.
2. A future seminar will be facilitated to invite others to comment on the report and contribute to proposals for next steps. This meeting will be announced in due course.
3. A continuing programme of workshops.
4. A link was noticed between this area of work and ongoing policy development in Education, Training and Qualifications. An action for Rob Marrs was to follow-up with Revenue Scotland, Registers of Scotland and Scottish Courts and Tribunal Service about getting DPLP students accessing their digital systems helping them to be better prepared for the training contract.
5. To raise with Scottish Courts and Tribunal Service the prospect of publishing judgements as HTLM files.

In the meantime, anyone interested in discussing the report can contact the LawscotTech team on tech@lawscot.org.uk.

Appendix A: LawscotTech Board Members:

- Callum Murray (Amiqus)
- John McKinlay (DLA Piper)
- Lyndsey Walker (Addleshaw Goddard)
- Amanda Millar (McCash & Hunter)
- Christopher Barnes (Levy & MacRae)
- Stephen Ingledew (Fintech Scotland)
- Sarah Blair (Thorntons)
- Sam Moore (Burness Paull)
- Law Society of Scotland representatives:
  - Paul Mosson
  - Charlotta Cederqvist
  - Rob Marrs

Appendix B: Organisations which have signed up to be part of the LawscotTech Community (as at 09/05/2019)

- Altis
- AmiqusID
- Clio
- Fintech Scotland
- Juralio
- Mitigo Cybersecurity
- Monax
- Nalytics
- Procerta
- Queen Margaret University Consumer Dispute Resolution Centre
- Snapdragon
- Trace
- University of Dundee
- University of Glasgow