

Winter 2018/19 Update February 2019

# Digital delivery of Legal Services

---

Roger Smith OBE

The  
Legal  
Education  
Foundation

# Contents

<b>Law, Technology and Access to Justice: the current position</b>	<b>3</b>
<b>The USA Plan</b>	<b>4</b>
A Vision of an Integrated Service-Delivery System	4
<b>The importance of the basic</b>	<b>5</b>
<b>The Dutch lead the world – for a time</b>	<b>8</b>
<b>Enter the Courts</b>	<b>10</b>
<b>One aim, many routes</b>	<b>12</b>
<b>Portals</b>	<b>13</b>
<b>Self-help Document Assembly</b>	<b>14</b>
<b>Expert systems, Artificial Intelligence (AI) and chatbots</b>	<b>16</b>
<b>Serendipity</b>	<b>17</b>
<b>Three takeaways</b>	<b>18</b>
<b>Conclusion</b>	<b>22</b>

## **The Legal Education Foundation**

This report updates the last annual Digital Delivery of Legal Services published last year. It is the latest in a line of periodic reports going back to December 2014 published by The Legal Education Foundation (TLEF) and available on its website. This is the ninth in the series, a testimony to the rapid change occurring at the present time. The focus of these reports is the use of technology in the field of access to justice. However, it is hard to isolate this one area from the more general changes that technology is making to the economy, politics and the overall legal services market.

## **Information Technology and Legal Services**

This update follows annual analyses of developments published by The Foundation since December 2014.

These reports are supplemented by a website ([www.law-tech-a2j.org](http://www.law-tech-a2j.org)) and a twitter account (@law-techa2j.org). Some of the content of the website has been integrated into this current update.

## **The Author**

Roger Smith OBE is a solicitor, a visiting professor at London South Bank University, a past director of the Legal Action Group and also of JUSTICE. He is a past director of Legal Education and Training for the Law Society of England and Wales. He has undertaken various international consultancies on legal aid and published a number of international comparative studies.

## **Disclaimer**

All the information in this Report is verified to the best of the author's and publisher's ability, but they do not accept responsibility for loss arising from decisions based upon them and whilst Internet addresses were believed to be accurate at the time of publication they may have changed since then. Where opinion is expressed it is that of the author, which does not necessarily coincide with the views of The Legal Education Foundation.



# Law, Technology and Access to Justice: the current position

---

Information Technology is affecting the provision of legal and judicial services for poor people around the world. But, its impact is patchy and nowhere near as powerful as the impact on the legal commercial market. There, you can see various indicators of interest, finance and change. For example, over 4,000 recently attended the technology [ILTACON conference](#) in the USA and more than 2,000 last year's LegalGeek equivalent in London. One estimate of the current USA spend on legal tech is \$1.5bn on software alone. A further stab at the value of 'the global LegalTech market is ... \$15.9 billion, and growing.' The Stanford University [CodeX Techindex](#), as at 14 September 2018, listed 1078 legal start ups 'changing the way legal is done'. All this frenetic action and expenditure could not avoid being a source of inspiration, not to say jealousy, in the legal aid/legal services/access to justice sector of the legal market. But it is not reflected in a comparable fever of activity.

The relative lack of impact is, to some extent, surprising. A few years ago, it appeared that a number of developments might kickstart a major engagement with tech among access to justice providers.

First, de-regulation of the legal profession in England and Wales looked likely to encourage providers like [Co-operative Legal Services \(CLS\)](#) to link website-led firms with DIY unbundled legal services in cheap fixed fee packages in areas like divorce. Second, led by the [Rechtwijzer](#) project funded by the Dutch Legal Aid Board, it seemed there might be internationally marketed products that combined user-focused guided pathways with online assistance in court proceedings – funded by legal aid authorities. Third, [judicial reports](#) in England and Wales suggested that small claims courts might develop an initial 'front end' that would link DIY assistance with court proceedings in ways which followed the innovative approach of British Columbia's [Civil Resolution Tribunal](#). Finally, the United States Legal Services Corporation (LSC), building on an existing technical initiatives programme, had developed a coherent plan for the use of technology among its grantees – those delivering legal services to those on low incomes in individual states – which was agreed at a summit in 2013. The potential promise of each has not yet really been met.

# The USA Plan

It is worth, perhaps, beginning with the USA plan. The Legal Services Corporation (LSC) identified a five point strategy which was a prescient statement of key issues.

## A Vision of an Integrated Service-Delivery System

Information Technology can and must play a vital role in transforming service delivery so that all poor people in the United States with an essential civil legal need obtain some form of effective assistance.

The strategy for implementing this vision has five main components:

- 1 Creating in each state a unified “legal portal” which, by an automated triage process, directs persons needing legal assistance to the most appropriate form of assistance and guides self-represented litigants through the entire legal process;
- 2 Deploying sophisticated document assembly applications to support the creation of legal documents by service providers and by litigants themselves and linking the document creation process to the delivery of legal information and limited scope legal representation;

- 3 Taking advantage of mobile technologies to reach more persons more effectively;

- 4 Applying business process/analysis to all access-to-justice activities to make them as efficient as practicable:

- 5 Developing “expert systems” to assist lawyers and other service providers.

The plan has had a major influence in the USA, not least because it influenced funding decisions. The annual conference which the LSC holds every year to discuss technology has become an important force in inspiring people within the USA legal services movement and a smattering of others around the world. But, the LSC itself could only have a limited effect even within the USA – it funds only some of the civil legal services for those on low incomes in the USA; its grants programme necessarily has to be spread around the country; \$4m a year (the budget for its technology grant programme) is tiny when compared to the levels of commercial spend; services are under enormous pressure in all directions; and the corporation itself is subject to a hostile President who wishes to defund it.

# The importance of the basic


There was perhaps one element which was perhaps not entirely captured by the USA list of priorities. The US principles stated:

All access-to-justice entities will employ a variety of automated and non-automated processes to make the best use of lawyers' time to assist requesters with their cases, including:

- conducting business process analyses to streamline their internal operations and their interactions with all collaborating entities
- having clients/litigants perform as much data entry and handle as many of the functions involved in their cases as possible (given the nature of the case and the characteristics of the client/litigant)
- having lay staff perform a broad range of assistance activities not requiring the expertise of a lawyer
- having expert systems and checklists available to assist and save time for lawyers and lay service providers
- maximizing the extent to which services are provided remotely rather than face-to-face, to save the time of both the clients/litigants and the service providers.

Goals like these are very much dependent on basic office productivity tools that would now be routinely expected in a commercial environment. Installation of these is a continuing work in progress for many organisations and is the source, around the world, of an enormous amount of effort. In particular, legal aid/services organisations have sought to install modern customer relationship management programmes developed originally in a commercial context. This is [Kate Fazio](#) of JusticeConnect in Australia: 'We are in the process of implementing a new customer relationship management (CRM) system that will bring together the functions of several fragmented databases. This work is being led by our operations team. We undertook a six month search process and involved a team of ten staff to examine products. We've settled on Microsoft Dynamics.' Greater Boston Legal Services in the USA, a legal service programme not funded by the LSC, is going through a similar process: 'An early, and very practical, challenge was to design a new intake system': it then moved on to other elements of client management.

In many organisations, a major effort is going into upgrading the basic 'productivity tools' that surround an operational customer



management system. An example is the grant by The Legal Education Foundation to members of the Law Centres Network in England and Wales to implement a digital vision which included:

... a minimum standard for digital equipment and systems across the network ... [followed by]

- phased rollout of desktop computers to Law Centres;
- move from office systems to cloud based services such as Office 365;
- migration of data to secure cloud based storage;
- upgrading broadband where required;
- establishing national IT support;
- developing a national Law Centre data set and standardized set of forms;
- distributing digital tools being developed for Law Centre specific use as they become available, such as, tools to assist with client reception, client feedback and document generation.

A related innovation, linked to making use of established commercial applications for technology, is the exploration of the use of Skype or video to leverage scarce resources. A number of legal services organisations are experimenting with video links from their home base to remote locations in a variety of different ways – sometimes involving pro bono advisers in the package. Thus, just as examples, we have a legal clinic in Ontario which is using a link with a neighbouring community:

Technically, the requirements are simple. We first started doing this with lawyers and paralegals using their laptops in their offices. When we moved into new office space, we included in the plans two video-conferencing rooms. These have a 55" computer monitor mounted on the wall and a computer under a table. When seated at the table in the room, the images on the screen are at the same level – effectively sitting across the table from us. A webcam is mounted just above the monitor, so that when the clinic caseworker and client are looking at the monitor, they are also facing the webcam. A control on the table allows the direction of the webcam to be moved if necessary. We also have a polycom conference phone on the table as some video conferencing solutions use telephone audio. A softbox light in the room boosts the lighting, showing the client and caseworker more favourably than

overhead fluorescent lighting. Finally, an 'on air' light outside the room warns others that it is in use, so the door should not be opened.

Two English projects, funded by The Legal Education Foundation, have undertaken similar projects: one in Brighton and the other linking the Legal Advice Centre (University House) in London with an advice centre in Cornwall in the far west of the country.

Kate Fazio summarises the position:

Technology is exciting when it comes to access to justice, however, a lot of basic stuff is not being done well in the legal assistance sector (and the legal sector more broadly). Search engine optimisation is a good example. Not-for-profit and government agencies are not coming up in Google search results when common search queries are made. Overseas, non-reputable websites like Wikihow often outrank them. The sector needs to focus on getting some basic things right – their websites and data management systems, and then move into really innovative spaces. Once the sector has a stronger digital foundation, there are really exciting collaborative possibilities.

The importance of the basic is also shown in the undramatic but invaluable improvement of websites providing legal information. A good example of that is [citizensadvice.org.uk](http://citizensadvice.org.uk). This is being revamped to take into account the lessons on presentation learnt from the Government's own websites (which have significantly improved) and technology that, for example, can show which content readers spend time on and which they gloss over.

---

“Technology is exciting when it comes to access to justice, however, a lot of basic stuff is not being done well in the legal assistance sector”

---





# The Dutch lead the world – for a time

---

The USA may have been the best for domestic analysis sufficiently strong to identify global trends but it was the Dutch who led a global approach with a practical product. Staff from what is now known as the Hague Institute for Innovation of Law or HiiL fanned out across the world to promote the *Rechtwijzer*, a product that they had designed in collaboration with the Dutch Legal Aid Board and an American developer, Modria (which was eventually subsumed into Tyler Technologies).

The *Rechtwijzer* was important for two reasons – it was both a unique product and it was also uniquely promoted. HiiL was always an internationally as well as technologically focused organisation. Indeed, it has now re-orientated towards justice innovation in the legal system, particularly in the developing world. It is run by a charismatic leader, Sam Muller, who comes from an international criminal justice background. As one instance of HiiL's international reach, its Head of Justice Technology and Justice Technology Architect, Jin Ho Verdonschot, addressed the LSC's annual technology conference in 2015.

The *Rechtwijzer* was largely focused on family problems, though it was intended to expand to others. Part of its uniqueness was the way in which it used 'guided pathways'. Instead of static screens of information, users interacted with the programme and received bite-size answers to structured questions. In addition, it allowed online third-party mediation and, indeed, structured communication between the parties. So, mediation could take place asynchronously in a considered way – with or without third party assistance – and with the parties aware of the likely results of court intervention.

The *Rechtwijzer* was designed to increase the number of settlements which could be presented to the court for approval. It was not in itself an ODR (online dispute resolution) platform where the online process itself resolved conflicts: agreements were drafted for submission to a judge in a conventional way for final approval. The hope was that with user payments from private litigators and contributions for legally aided parties it would become financially self-sufficient. The Legal Aid Board pulled the plug when they considered that it was running at too much of a loss. The reasons for its collapse have been contested. One of those





involved in the project thought the reason for failure was that ‘The Dutch Legal Aid Board and Ministry of Justice did not actively market the platform’. But, there may be other reasons. This was a good product but it faced particular difficulties: its main champion within the Legal Aid Board retired; the financial goals were too difficult to meet; not enough time was given; the organisational structure of three organisations trying to work together was unwieldy. Some support for the view that the reasons were contingent rather than structural is given by the fact that the Rechtwijzer has been re-incarnated as a more limited product with easier financial constraints and more of a national focus.

Internationally, the Rechtwijzer’s influence, however, continues. Specifically, the principles of the guided pathway can still be seen in [MyLawBC.com](https://www.mylawbc.com) which was originally developed by the Rechtwijzer team for the Legal Services Society of British Columbia. London-based Relate is also about to launch a product originally developed with help from the Rechtwijzer team. A number of advice websites – such as Victoria (Australia) Legal Aid’s [Legal Checker](#) – now incorporate interactive elements to narrow down relevant areas of information which are then given in familiar linear fashion – as a form of hybrid guided pathway/conventional information website.

The overall failure of the Rechtwijzer is, however, highly significant. It indicates the difficulty of any one national legal aid funder putting its weight and resources behind one solution to the use of technology to provide access to justice. LSC has, perforce, operated in a different way – funding a set of individual initiatives. It has assumed the role of encourager and pump primer rather than mainstream provider.

England and Wales has traditionally spent the most per head of the population on legal aid but its role has been eroded by the swingeing cuts to legal aid introduced from 2012. Legal aid spending is under pressure in most jurisdictions. In addition, as a further problem, many legal aid schemes – like that in England and Wales – rely on a mix of private and public provision to deliver basic level provision which makes it hard centrally to find the resources to invest either in technology or even to develop the kind of coherent technology strategy possible for the LSC.

---

“The overall failure of the Rechtwijzer is, however, highly significant. It indicates the difficulty of any one national legal aid funder putting its weight and resources behind one solution to the use of technology to provide access to justice.”

---

# Enter the courts

If legal aid is not to be a major central funder of government-led technological reform, there is probably only one other credible candidate other than the commercial market or a few foundations with, overall, very marginal funds: the courts. Around the world, governments and judges are being drawn to the possibilities of delivering their services online. Where the focus is on civil small court or tribunal claims, there may be opportunities for increased access to justice.

The leader in this field is the Civil Resolution Tribunal (CRT) in British Columbia. This was created by legislation in 2012. The really innovative part of this tribunal has been its front end: the 'solution explorer' which it explains as follows:

The Solution Explorer is the first step in the CRT process. We'll give you free legal information and self-help tools. If necessary, you can apply to the CRT for dispute resolution right from the Solution Explorer.


The explorer leads you to refine your issue and to ways of resolving it short of court action before you make an online application. The CRT has not been independently evaluated but by July 2018, 23,971 people had used its small claims solution explorer and 40,865 for 'strata dispute', a type of housing dispute.

The CRT has been influential around the world. Lord Briggs, asked to write a report to commence the digital court programme in England and Wales, visited British Columbia (BC) to see it. He placed high importance on the replication of something similar in the small claims court that he was recommending for his jurisdiction:

success will be critically dependent upon the painstakingly careful design, development and testing of the stage 1 triage process. Without it, it will offer no real benefits to court users without lawyers on a full retainer, beyond those inadequately provided by current practice and procedure. Pioneering work in British Columbia suggests that it will be a real challenge to achieve that objective by April 2020, but one which is well worth the effort, and the significant funding budgeted for the purpose.

The first tier of the process was also explained in the report of a committee chaired by Professor Richard Susskind that preceded the Briggs Reports (para 6.2):

The function of Tier One of HMOC [the Online Court] will be to help users with grievances to evaluate their problems, that is, to categorize their difficulties, and understand both their entitlements and the options



available to them. This will be a form of information and diagnostic service and will be available at no cost to court users. This part of HMOC will be shared with or will work alongside the many other valuable online legal services that are currently available to help users with their legal problems. For example, systems developed by charitable bodies or provided by law firms on a pro bono basis will either sit within HMOC or be linked to the service. The broad idea of online evaluation is that the first port of call for users should be a suite of online systems that guide users who think they may have a problem. It is expected that being better informed will frequently help users to avoid having legal problems in the first place or help them to resolve difficulties or complaints before they develop into substantial legal problems.

The England and Wales court modernisation programme has proceeded apace, funded largely and controversially by the sale of existing physical courts. Much has amounted to an improvement, particularly for professional users of the court – the judiciary and lawyers. However, in the rush for rapid implementation, the Briggs/Susskind initial stage has largely been forgotten. A respected mediator reported his profoundly underwhelming experience of using the beta version of the small claims online procedure.

There were no guided pathways; no built-in assistance for users (who increasingly will be acting without help from legal aid); and the system effectively leaves it all to potential litigants to make their own claim; there are no checks or structure to assist them:

Apart from a series of questions designed to identify the basic information about the parties you are given a blank box in which to explain the case. ... I was left with the impression that I could have answered with information that my case was totally devoid of merit with just a series of rambling random sentences and the case would have issued on payment. This is not how an online justice system should operate.

The limitation of domestic English thinking is particularly concerning because a wave of jurisdictions are now poised to implement online small claims courts – from Utah and Ohio in the USA to Victoria in Australia. A choice is opening up between the BC and the English approach. Some jurisdictions will regard simple digitalisation of existing procedures plus perhaps the addition of some degree of online mediation as the required solution – as in England and Wales. Others will follow the BC model.

# One aim, many routes

---

In the absence of a comprehensive approach made possible by one major funder, technological advances are split into a wider number of discrete projects in different jurisdictions which do not really hang together in a coherent fashion beyond perhaps the productivity tool improvements. Put at its best, we are in an age of disparate experiment funded by occasional foundations and various market initiatives.

attract considerable commercial interest. The problems of 'poverty law' tend to involve fewer internationally valid principles and far fewer documents.

Initial optimism about website-based providers, like Co-operative Legal Services (CLS) able to harness fixed fee services with various packages of assistance for clients and resourced by de-regulated possibilities of funding has evaporated. CLS has pulled back its ambitions and focused more on probate than family law. It is looking for a tie-in with its national funerals business. Even in England and Wales, with its loose rules as to the practice of law, online legal retailers like Rocket Lawyer or LegalZoom have made little dent in the market for legal services in the areas of 'poverty' or 'social welfare law' from which legal aid has been withdrawn. There are examples of virtual legal practice in England and Wales – as in the USA – but there are surprisingly few and, in any event, there is little inherently innovative in simply practising through a website rather than an office.

---

“There are examples of virtual legal practice in England and Wales – as in the USA – but there are surprisingly few”

---

A major inhibitor in the access to justice field as compared with the commercial is not only the absence of the level of funding but also the prevalence of large numbers of small providers unable to provide the large levels of 'clean data' to be expected from large commercial practices. The emphasis on installing basic productivity tools is an illustration of this. In addition, the commercial sector deals with processes such as due diligence in company mergers and acquisitions which are essentially the same across many jurisdictions. That creates an international market, independent of jurisdictional peculiarities, of enough size to

# Portals

The USA principles from the 2013 LSC summit do provide the beginning of a grid against which we can place developments in different jurisdictions. Many jurisdictions are, for example, concerned to provide some version of an advice 'portal'. These differ in their emphasis but have some or all of the same elements. There is the provision of general information (for some jurisdictions, the distinction between advice and information is important, as in the USA, and others, such as England and Wales, it is not); referral to providers – who, in many jurisdictions, may be predominantly pro bono services (which in an increasingly accepted jargon, may be managed at levels that are often described as cold, warm or hot depending on how much assistance is given to the person being referred); and intake for specific services on clearly demarcated grounds of scope, merit (sometimes) and financial eligibility. The LSC is working on two demonstration projects in Alaska and Hawaii. These have assistance in kind from Microsoft.

Justice Connect has just developed its Gateway project. With help from Google, Justice Connect is developing a suite of linked programmes:

Our online intake tool, already launched, helps people quickly and easily understand whether they are eligible for our services, and make a full application online. Our referral tool will help our sector colleagues understand when we can help, and easily warm-refer clients deep into our system, reducing referral drop-out. Our pro bono portal will revolutionise the way we work with our network of 10,000 pro bono lawyers, ensuring we're making the most of their capacity, and matching them with the right clients.

An important element of a full portal is the provision of information which will potentially allow a user to deal with their own problem or, at the least, to understand it better. England and Wales has two of the best examples of general information websites: that of the [Citizens Advice](#) and one by an organisation called [Law for Life](#). Historically, these did not have to be so good at referral because legal aid was widely available from lawyers in private practice. That position is now changing and there may well be a move to websites more like that of [Illinois Legal Aid Online](#) whose origins are in the pro bono movement and which combines the provision of information, some self-help material, referral and intake.



# Self-help Document Assembly

---

The LSC's second objective related to self-help document assembly. In the USA, the LSC has rather shrewdly funded a project called A2J author which is:

a cloud-based software tool that delivers greater access to justice for self-represented litigants by enabling non-technical authors from the courts, clerk's offices, legal services organizations, and law schools to rapidly build and implement user friendly web-based document assembly projects.

This allows organisations to use a basic template to draw up a simple guided interview that generally takes a user through half a dozen steps to a courthouse where their objective is achieved – e.g. to issue proceedings of some kind. A2J Author is supplemented by the work of an NGO, [Law Help Interactive](#), a Pro Bono Net project, which provides assistance both to users and to lawyers. One of its products, a motion to modify child support of spousal maintenance in Minnesota won recognition as the 'best automated form' in 2017 from the Self Represented Litigants Network. That reflects a move toward the provision of self-assembly documentation.

The UK has followed into the self-assembly field with caution. [CourtNav](#), however, is very similar to projects fuelled by A2J author – without the visuals. It is an online tool developed by a specialist Citizens Advice office in the Royal Courts of Justice (the central civil courts of England and Wales). The system has now been taken up by the whole Citizens Advice and can be accessed from local offices. It relies on pro bono lawyers to check the self-assembled documents.

There has also been some exploration in England and Wales of the possibility of interactive self-assisted letters rather than court interventions eg for a disability payment known as PIP (Personal Independence Payments) where an app will help the users with a letter of claim and another provider will produce a similarly interactive request for a mandatory reconsideration. A user can be guided to complete a standard letter with information that is relevant to the matter in hand – and given 'just in time' resources to help them understand what is required.

The interactivity enabled by the internet offers a number of ways in which provision may be tailored to an individual user and services leveraged. The guided pathway framework for advice is one example. Another more specific use has been in digitalising 'legal health check ups'. This idea has been around for some time and, before the internet, it consisted of offering people a questionnaire to check on their legal needs. This is an obvious candidate for digitalisation and the newly created [ABA Centre for Innovation](#) has announced that:

Currently in development is a free, online legal checkup tool that is being created by a working group led by the ABA Standing Committee on the Delivery of Legal Services. The checkup will consist of an expert system of branching questions and answers that helps members of the public to identify legal issues in specific subject areas and refers them to appropriate resources.

Actually, Canada has already got there in the form of [Halton Community Legal Services](#) in Ontario. Since it published an online legal aid checkup in 2014, around 3,000 have been completed leading to over 1000 requests for more legal advice and another 1000 for more information.



---

“The interactivity enabled by the internet offers a number of ways in which provision may be tailored to an individual user and services leveraged.”

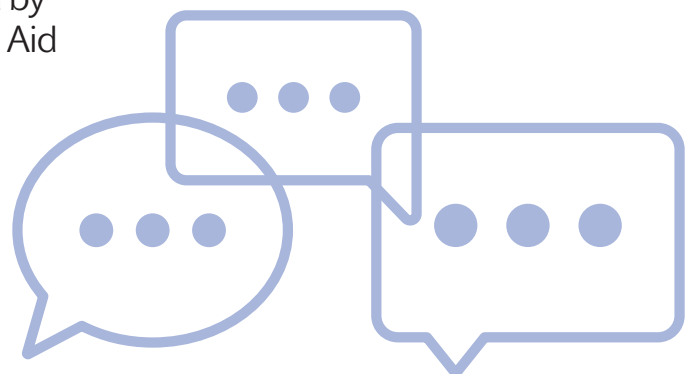
---

# Expert systems, Artificial Intelligence (AI) and chatbots

---

Additionally, the LSC identified the importance of expert systems. This takes us into the world of AI and its little sister, the Chatbot. Indeed, guided pathways are a move towards the kind of branching logic required by AI and, ultimately, its application must be able to help in the presentation of information and advice. In its turn, that leads to a question which can be articulated as 'should we plan to sleep with google' – i.e. should the aim of information providers in legal services ultimately be to take a suite of services provided by one of the big commercial providers – most likely Facebook or Google. Or is it important for independent advice agencies to maintain their own identity. Luckily, this dilemma is some way off and may even be too much of a diversion to raise. For the moment, a person seeking advice on the law in their own jurisdiction will look to provision provided by organisations like Illinois Legal Aid Online in the USA or Citizens Advice in England and Wales.

Chatbots have been the subject of enormous hype. At the centre of their use in an access to justice context has been Joshua Browder, one time Stanford University student. He has developed a number, most famously grouped under the Do Not Pay name and available as an app. These began with assistance in challenging parking tickets and have now moved into the field of (USA) small claims. They do help and the interactivity of the chatbot is an advance but many of the applications are actually still quite simple, not to say simplistic. They may well assist well informed users with fairly good technical and language skills. Those more disadvantaged are likely to need more of a combination in which the technology supplements rather than replaces individual assistance.





# Serendipity

There is a high degree of serendipity in current exploration of technology. This is a new field and new opportunities are opening up for innovators in all sorts of enterprising and unexpected ways – of which these are three examples. [rightsnet](#) in the UK provides an internet platform on which rights workers can build up a community; be updated on new cases and legislation; and mutually assist each other to answer questions. In the USA, [Project Callisto](#) is developing totally innovative ways using technology to combat sexual harassment on university campuses by facilitating the reporting of sexual harassment in a way which allows the automatic matching of records if users report the same perpetrator. Similar, but slightly different use of the confidential recording

possibilities of the internet is made by [Justfix.nyc](#) which facilitates the recording of housing disrepair in New York City. This has plans to expand into other cities both in the USA and elsewhere. Finally, the crowd funding movement is a good example of an initiative which is, in practice but not theory, dependent on the internet. Technology is just a tool that brings potential funders together with opportunities; but, crowdfunding is beginning to have an impact. UK based [crowdjustice.com](#) has funded challenges to Brexit in the UK and Stormy Daniels in her USA litigation against President Trump. Finally, AI itself can have unexpected uses. One UK family law practitioner uses his subscription to IBM Watson to predict costs on cases so that he can better meet the challenge of fixed fees.



# Three takeaways

So, what is the take away? As far as legal tech and poor people are concerned, there is no 'killer app'. There are, however, a myriad of small scale advances. There is the continued spur of the froth on the commercial legal tech bubble. So, who knows what is to come? There are some conclusions which might shape further behaviour.


*1 Most immediate value may come from the implementation of 'productivity tools' which have become standard in commercial fields.*

The use of SMS or texts for short communications, particularly reminders of appointments has become standard in many health or commercial organisations. The adoption of customer management systems which will allow those in the access to justice to do the same could be a major advance – as could the basic core of a system that marshals dealings with clients in the same way as is becoming routine in commercial law-linking documents, appointments, diaries and court appearances. Commercial firms are increasingly using video to communicate about their product and this too would be helpful in the access to justice sector.

*2 The importance of experiment, evaluation, research, monitoring, international benchmarking and leadership.*

All round the world people are grappling with much the same general problems – albeit with very local particularities. Given that information technology is transnational even if most law is not, then it would be surprising if there were not lessons to be learnt from international comparison, comparative research and global benchmarking. Increasingly, the need for these becomes overwhelming.

We need to start benchmarking similar projects against each other – particularly because of the almost universal shortage of funds. In some jurisdictions, there are national bodies that might undertake this role: for example, in the United States the Legal Services Corporation, the ABA Centre for Legal Innovation or the various court-based research groups. Academics have a role and there is a particular need for European collaboration which might help to overcome the current English-speaking bias to what comparative coverage there is. There is also a language barrier to overcome. It is easier to keep track of developments around the world which are articulated in English than it is in other languages.



We need continually to monitor, research, and discuss evaluations of ongoing projects. There is too much 'fire and forget' – the running of IT projects without rigorous evaluation of the results and without any sharing on a national and international basis.

### *3 Identification of 'What works' – segmenting users*

The reason for more international benchmarking and comparison is to identify what works in the context of legal services and access to justice. It seems likely that the section of the population that is in need of legal services but unable to access them is not homogenous in terms of its digital and legal capacity. There will be groups among those on low incomes who have the requisite language, technical and others skills to use digital tools. We need to be able to identify and to encourage them. To do this, we need to pool experience but also to recognise that, within all our societies, there will be groups for whom digital is not appropriate.

### *4 Sustainability*


The Holy Grail of technology projects in the access to justice field is sustainability – the idea that they can reach a steady financial state through uncovering a stream of funding that will keep them going after the initial seed corn investment. There are projects where this might be possible. Crowdfunding is an

obvious one where money might come in on what is effectively a commercial basis. Project Callisto is an example where technology for access to justice might provide a route to other funds as educational institutions are encouraged to invest in protection of their students. Generally, however, the notion that website-based provision can raise significant funds is pretty fanciful. After all, poor people do not actually have much money: that is their fundamental problem. We will need governments or other funders to provide the resources for some time to come.

There is another aspect to sustainability. Digital is probably best seen as a supplement to the work of agencies and organisations rather than substituting for them – though this will be a temptation for governments. For example seAp developed its interactive disability claim as a way of providing some level of help which used the expertise that it had built up from its work for clients for those outside its catchment area. Digital is better developed as a supplement to human resources, not an alternative.

### *5 The Digital Divide*

The question of the digital divide still hangs over the use of technology in the provision of access to justice. Where technology is used on a voluntary basis to supplement face to face to



provision – such as by the Citizens Advice Service in England and Wales – that is not really a problem. A non-digital route remains. To the extent that systems go ‘digital by default’, as is the (English and Welsh) Government’s mantra, this raises difficulties. These can be seen in the field of Universal Credit where the intention is to move the whole system to a digital basis. The *Observer* newspaper reported that ‘According to data released under the Freedom of Information Act, which analysed applications for universal credit over one month, a fifth were turned down because of “non-compliance with the process”’. We will see in due course how this compares with figures for digital courts and digital exclusion has to be born in mind even by the great enthusiasts for digital expansion. We need more evidence about this crucial factor.

It is too early to accept fixed limitations on the reach of digital in a legal setting but we need more research and experience of whatever the limitations actually are which are imposed by lack of the appropriate technical, cultural, linguistic, social and cognitive skills. There will be a percentage of every population in every country which will not be able to take advantage of digital means of communication and, for them, there needs to be alternatives. It may well be that we should accept that, say, 20 per cent of the

population will be unable to use digital means of communication effectively. That is sizeable enough to require addressing and retaining face to face channels of communication. But it still leaves a majority of the population that can be served by technology.

## 6 *Legal Empowerment*

Technology has the capacity to aid the legal empowerment of those currently unable to obtain the information that they need and there is growing interest, particularly in countries with developing economies, about how this might work. However, many disputes between those on low incomes and those in powerful positions require not only information but advocacy support. Government departments and powerful corporations may, for example, remain obdurate in refusing the rights of an individual. Information may not be enough: some form of assistance may be required to succeed. Technology is only a tool: it will not, by itself, be a solution. However, one value possibility that technology can accentuate is the collection of data so that agencies in the field can better bring together similar classes of case in order to demonstrate problems and, indeed, solutions.

## 7 Interactivity

Ultimately, it is the internet's capacity for interactivity which offers the best prospect to combat access to justice. Digital can increase the information to which people have access but it can also provide myriad ways in which users can interact with that information either through chatbots/AI/guided pathways or audio/video connection or by using the data collection capacities of the net. A number of funders, like the US Legal Services Corporation and the Ministry of Justice, are showing an interest in funding the first steps to incorporating artificial intelligence in the form of natural language programming and machine learning into access to justice provision. It is still too early to assess how this might develop.

## 8 'Sleeping with Google'

As the experience of the sector increases, the question will arise about whether the best way forward is for the various organisations involved is – in whatever way becomes available – to hand over their expertise in basic information and signposting to a major commercial player. There is an argument that the only way in which that basic 'portal' function can be properly universalised is through Amazon, Facebook or Google. The benefits of being able to ask Siri or Alexa about your benefit entitlement or housing status are obvious. There would have to be a commercial rationale but the provider might be able to make money on referrals. Would we want this to happen? Could a commercial provider keep the information up to date and why would it want to? This is the issue that sometimes goes by the description of 'sleeping with Google'. No offer has been made as yet but we need to prepare ourselves for the appropriate answer.



# Conclusion

---

Technology will undoubtedly change our world – and very rapidly. The impact of AI alone on our politics, economics and society will be immense. Commercial legal services will provide a very close example for those involved with access to justice in the sort of transformation that will come. The prevalence of pro bono services will accelerate the passing over of ideas and inspiration.

Technology is likely to play a lesser role in the access to justice sector than the commercial. There just is not the finance available. Those needing help will face hurdles not evident in the commercial sector. However, increasing interest and experiment are unavoidable. We can however confidently predict that some amazing advances are still to come.





For more information, or to learn more about this and other projects funded by the Foundation, please visit [www.thelegaleducationfoundation.org](http://www.thelegaleducationfoundation.org)