Pandemic Planning Becomes a Strategic Advantage

by Bryn Bowen and Leigh Isaacs

Here we are, several months into COVID-19 and some things have become obvious as a result of the radical shift to working much more remotely. Big changes are needed to promote efficient access to digital information both now and for the future. Some industries and organizations have begun to recognize that there are actually some advantages to be reaped when this access is intuitive to and frictionless for the workforce. Where it once may have been difficult to get endorsement for digital transformation, COVID-19 is playing out the business case in real time. McKinsey has estimated that the conditions of the past eight or so weeks have accelerated commercial digital transformation by up to five years in some instances. For the legal industry, this means that the DMS, file shares and personal directories, collaboration sites, practice and client focused databases and other repositories of digital information have become even more elevated and necessary, and having a method to digitally capture incoming paper-based information has become even more important. Additionally, the need for physical files either on or off site to be liberated and converted on demand will continue.

In the longer term, the ultimate solution is to give every practitioner a sophisticated search tool that doesn’t require an advanced degree to understand and use across all pertinent information stores, and firms are well advised to embark on, or enhance efforts to move with alacrity in this direction.

Let’s discuss some practical considerations that may be helpful as you work to wrangle your own internal initiatives and seize upon opportunities that have presented themselves in the last few months.

People Power

There is an opportunity to develop reasonably low threshold approaches to better, more intuitive information and document retrieval.

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In many instances, practitioners, in responding to their changed circumstances while needing to access this ecosystem of knowledge, have lit the way. After all, the more a user is vested in a solution, the more likely they are to employ that solution and encourage their colleagues and working groups to do the same. We've polled IG professionals at law firms and asked a number of related questions.

- What processes were put in place to support remote work with respect to information/knowledge retrieval that make sense for a larger implementation?
- What would it take to formalize those processes?
- How did you engage them collaboratively to develop and work through the processes?
- What worked well; what didn’t?

Some people have come up with their own strategies and workarounds. Take the time to canvass not only your lawyers but your admin/support staff as well to determine what could possibly be expanded upon.

What are some of the more interesting and potentially productive of these approaches and inadvertent initiatives that have bubbled up, and what can be done to encourage both consistent application and broader use?

Firms have had to pivot quickly to supporting remote teams. In fact, Microsoft Teams has suddenly become the go to collaboration tool in legal, particularly for larger, multijurisdictional full service firms, although other mature collaboration platforms (Skype, Slack) offer similar functionality. The good news from an IG perspective, is that, with a SharePoint back-end, proper governance in Teams is not just aspirational, but eminently achievable with the right care, feeding and education.

And that’s the key - making sure that the appropriate pilot group is identified (tips on that later) and that the right project team is in place to educate and support the implementation. One of the benefits of our virtual situation is that this type of implementation is easily targeted and one can avoid getting bogged down during the rollout.

It is likely that your mailroom has implemented some sort of plan to capture and deliver incoming mail. Work with office services/scanning to see how much paper has come in and where it’s gone. From this, you can build improvements to the process. If you’ve implemented such a plan, the goal should be to not return to the way it was. Attorneys and staff have gotten accustomed to having their mail delivered to their inboxes. It is not much more of a reach to then capture that digital scan in the DMS. While not initially ideal, it is one that lawyers and staff have quickly become accustomed to and efficiencies can be further built in. For the first few weeks after offices closed, paper file retrieval activity was probably minimal, the result of attorneys attempting to re-prioritize until anticipated office re-openings. However, the client’s needs prevail and it was likely necessary to access those documents tucked away at the offsite storage facility. The opportunity arose to partner with the offsite vendor to image on demand rather than coordinating the logistics and assuming the risk of having boxes of paper files delivered to residential addresses. If you’re in the position of having to actually retrieve those files for delivery to the office, consider engaging your contract services teams if you have them. Most firms have at least a small core team of people manning the ship (office services, document services, etc.), and under the direct guidance of an experienced team member, these teams can digitize requested documents and deliver them electronically.
It bears mention that if you are taking advantage of any of these opportunities, that it would be prudent to note this effectively in your Records Management System - once scanned the paper can either be destroyed (if the firm’s policy allows for it) or returned to storage - never having to be retrieved again until its final disposition.

Just like at home, downtime is a great opportunity to get your house in order. Take a look at all the data sitting in local drives. Work alongside your IT team, using their tools to monitor it and construct a targeted outreach program to encourage people to file into the DMS (or delete it if no longer needed), highlighting the benefits of having those files available and accessible to their larger teams.

Is your DMS set up in a way that it is useful for people? One of the biggest challenges to IG adoption isn’t the systems themselves but how they are designed and implemented. Are the right folder structures and permissions in place so that working groups can both file and locate drafts and documents easily? This is a good time to engage with paralegals and secretaries whose schedules may allow while working away from the office. The trick here is to minimize the number of folders and ensure that your practitioners are better trained on simple search techniques. It’s always surprising to find out how few lawyers are able to effectively search the DMS in its native form!

Carrying forward with that theme, there is opportunity to clean up, organize and put some rules around using and maintaining file shares, collaboration sites, internal practice-focused databases to better organize them. What belongs to closed matters? Has content been saved somewhere it doesn’t belong? Now is an opportune time to apply stripped down governance – an interim strategy to get the wild out of the west.

This can also be a good time to develop training and awareness plans.

During normal business operations it can be difficult to get the time and engagement of support teams to provide input, so develop cross-functional remote teams to create the relevant messaging you want and need.

While most are likely looking at cost reductions and perhaps deferring investments in new technology, now may actually be the perfect time to engage with the vendor about that solution you’ve been eyeing up for a while. There may be motivation to negotiate pricing that may not otherwise be possible during a time of normal operations. This can be both a short term (as envisaged here) or a longer term more significant undertaking.

During transformational times such as these, there is a need to quickly develop creative solutions to support and enhance client service around the changed landscape. Practice and firm leaders are actively engaged in these efforts, and in some cases have the foresight to engage the firm’s administrative and practice support network (IT, Litigation Support, Research, KM, etc) as active implementation partners in these discussions. One of the benefits is to encourage collaborative reimagination of the way tools and processes can be employed once the new challenges faced by the practitioners are understood, in order to speed up and improve the viability of these solutions.

**Assessment Template**

So while it’s good to have a nicely compiled list of relatively frictionless initiatives to choose from, the trick remains, which ones best suit your particular environment? While we are all dealing with similar challenges, no two Firms are the same so appropriate consideration should be given to identify your Firm’s priorities and areas of opportunity. Making this assessment can bring its own challenges as you sort through the priorities -
such as lowest cost, smallest implementation footprint, most needed (and by whose standard?), fastest to deploy … the list of contributing variables is lengthy! Let’s find a way to demystify the relative importance and viability of these initiatives. Here are some factors to consider, and they can be categorized or grouped into non-exclusive impact buckets (i.e. span multiple buckets):

**Revenue/Savings**

Formalizing and expanding the initiative will result in an increased volume of work in an existing or new area, and /or will increase efficiency of delivery of service to such an extent that the timekeeper will have increased bandwidth to service other (billable) areas. For example, there is an obvious opportunity for Estate Planning practices to update these types of arrangements (wills, trusts etc) given the effects of COVID-19 such as market changes, health concerns and so on. Enabling that practice to effectively and rapidly engage existing and potential clients with specific proposals to drive business can be accelerated by employing internal sources of information and technology to largely automate what could be very manual processes.

**Quality Enhancing**

Promoting the ability of the legal practitioners to provide a richer, more complete product that results in an improved client experience. Providing access to precedents and models beyond usual sources by looking at some of the newer entrants to the research space, many of who offer access to their corpus of information directly through APIs, or using AI tools in contract analysis are examples of this type of initiative. These should definitely be done in partnership with willing practice groups who can see immediate benefit, from Structured Finance practices to Securities Litigation and M&A.

**Shorter term operational**

The ability to deliver the solution in short order, resulting in basic capability that effectively remotely replicates, or is an improvement on, the service delivery prior to COVID-19. Moving from a manual to a digitally-based closing process, perhaps with electronic signature capability, is a good example of this type of initiative.

**Longer term strategic**

This includes initiatives that can’t be (fully) accomplished in the short term but elements can be incorporated in immediate initiatives. Many of the human capital needs for the digital future will be in the form of what are called ‘knowledge workers’, and firms will have to continue to assess staffing levels and capabilities for the new normal, within this context. The question to be asked is, can existing staff be retained and retooled both to serve the immediate operational and service delivery needs as well as staffing needs for the longer term to service IG initiatives? As firms have had to pivot to support remote working, they are likely to already be realizing areas of strengths, weaknesses and opportunity.

**Cultural/Political**

Internally, in a law firm partnership, it is always smart to focus on initiatives that impact significant practices and influential rainmakers. With that focus, target initiatives to the most active, popular, profitable, influential practice areas and leverage the resulting successful initiatives for the future. Be targeted at first. Then expand. There is merit to the saying “if you build it (correctly), they will come.”

Externally, the opportunity to engage clients directly through collaboration platforms as part of the digital transition is invaluable, and properly managed can certainly enhance the relationship between the law firm and client teams.
The grid below outlines various opportunities presented by this current upheaval in service delivery - all focused on internal retooling. This is not intended to be an all-inclusive list, but rather a tool to promote your own creating thinking in what might be most relevant for your Firm. Once you’ve mapped out your potential areas of focus, a next logical and practical step can be to expand into a RACI matrix to help with prioritizing where to best begin.

<table>
<thead>
<tr>
<th>Name of initiative</th>
<th>Stakeholders /interested parties</th>
<th>Time to implement (pilot)</th>
<th>Degree of difficulty</th>
<th>Change Management /Personnel/ Process challenge</th>
<th>Tech / infrastructure needs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capture and digitization of incoming mail</td>
<td>Office Services; Copy Center;</td>
<td>Days</td>
<td>Low</td>
<td>Low</td>
<td>Networked multifunction devices</td>
</tr>
<tr>
<td>Image on Demand - Offsite Storage</td>
<td>Storage Vendor; Office Services; Records Dept</td>
<td>Days</td>
<td>Low</td>
<td>Medium. May require contract negotiation</td>
<td>Networked MFD</td>
</tr>
<tr>
<td>Data Clean-Up &amp; Organization Initiatives</td>
<td>IT; GC; Practice Management</td>
<td>Weeks</td>
<td>Medium</td>
<td>Medium. Reduce change impact by having users drive this.</td>
<td>Might need to license software to track, visualize, analyze and protect unstructured data</td>
</tr>
<tr>
<td>Training, Awareness &amp; Marketing Campaigns</td>
<td>All Firm leadership, partners and staff</td>
<td>Weeks / Months</td>
<td>Medium</td>
<td>Medium. While the campaign itself may not require significant changes; the things you are asking people to do may</td>
<td>Delivery mechanisms for training, such as learning portals, file sharing programs, etc.</td>
</tr>
<tr>
<td>Ongoing Remote Working /Real Estate Reallocation Strategy</td>
<td>Facilities /Operations; Finance; HR</td>
<td>Weeks / Months</td>
<td>High</td>
<td>Medium/High. Will need to involve multiple departments in negotiations of real estate; change management for reduction of onsite paper footprint and engage HR in policy decisions related to ongoing remote working</td>
<td>Will need continued IT infrastructure to effectively support ongoing remote workforce; consider asset management /tracking system if not already in place</td>
</tr>
<tr>
<td>Collaboration Enhancements</td>
<td>Practice Groups; Knowledge Management; IT; IG</td>
<td>Weeks / Months</td>
<td>Medium</td>
<td>Need to gather a solid understanding of what is already working and why, along with technological capabilities. Any significant changes will bring a change management component that needs to be considered.</td>
<td>IT infrastructure, system(s) that can be designed or built upon to meet designated requirements.</td>
</tr>
<tr>
<td>IG/DMS Strategic Plan</td>
<td>IG; Practice Groups; Knowledge Management; IT</td>
<td>Weeks / Months</td>
<td>Medium</td>
<td>Depending upon the degree of changes necessary, change can be low to high. Care and thoughtful deliberation should be given in advance to ensure that any update to DMS strategy supports, rather than hinders, work performed by legal teams</td>
<td>Potential System updates that will provide desired functionality of new and improved enhancements</td>
</tr>
</tbody>
</table>
Some Larger/longer term issues to consider

If you already have an IG strategic plan, this is a good opportunity to revisit and reorder it to incorporate the practice and operational changes that have occurred. If one doesn’t already exist, include a path for closer collaboration with IT to better leverage existing technology tools as part of a larger IG project rework. Serious conversations about infrastructure in the cloud as well as outsourcing infrastructure are also being had, as they become more viable solutions in the current climate. The IG ramifications of and policy changes for such moves need to be considered for data at rest and data in motion, including access rights management, security and jurisdictional issues. Regarding information related policies, review those you have in place. If the Information Management and Retention policies don’t currently designate the electronic file as the official file, revisit it now. This should be done early on as it will provide the foundation for other digital initiatives to be implemented. If digital signatures have been implemented, is there a policy that governs use? If not, seize the moment.

An earlier point suggested that current events have presented a good opportunity to revisit staffing, capabilities and areas of focus. This is a much larger issue that warrants its own treatment, but now is a prime opportunity to utilize secretaries and assistants in the cleanup and organization process. They will now be more tangibly contributing to practice management, have intimate knowledge of work being performed, and direct access to the lawyers they support. Make sure that strong secretarial leadership is in place and supportive of the efforts to retool. Engage them early and comprehensively. Expanding more broadly, now is a good opportunity to assess roles performed by all support staff, such as in-house technology support and records and information governance staff.

What skills do you have? What skills do you need? What adjustments can be made now and what do you need to plan for in the future? While not all goals and objectives can be met now, there are likely areas where significant improvements can be made with what you’ve learned and experienced thus far.

Conclusion

While the opportunities we’ve outlined above are intended to provide a foundation to carry IG forward post-COVID-19, we’ve provided some tools to help you invest the time in identifying what is most important for your firm. Any creative approach you take can be the difference between maintaining status-quo and being transformational. As C.S. Lewis says, “hardships often prepare ordinary people for an extraordinary destiny.” Now is the time to seize upon the current crisis and use the new normal being forged to finally digitize and organize the firm’s information assets and bring transformational change and practice efficiencies. This will allow true leveraging to afford new methods of identifying business capabilities and practice opportunities, and a better reopening of our business world.