

Opportunity in the new normal: why should law firms review conflicts processes?

Balancing technology with human skill is enabling law firms to bring stability to new business intake and conflicts of interest processes.

The phenomenal rise of the **global law firm** has transformed international legal practice. Aided by rapid technological development, goods, capital and personnel entered 2020 with unprecedented levels of mobility. After the initial response to COVID-19, during which many law firms focused on remaining operational, partners are now **evaluating their operating models and mobilizing rapid change** to align with the new demands of a post-pandemic world.

As law firms embrace the *new normal*, an increased reliance on technology is enabling firms to explore the value of virtual collaboration tools and bring efficiency to archaic process through automation. Existing conflicts and intake processes are now being tested in new ways.

Historic issues in the new normal

“Since all new business flows through conflicts and intake teams, the focus for many law firms in a post-pandemic world should be to thoroughly review conflicts and intake practices to assess existing activity and identify opportunities to increase efficiency and agility.”

Stuart Poole, Vice President & Director - Law Firm Advisory Team, Aon

Cross-border transactions between governments, individuals, and organizations will remain standard practice in multinational business. Networks of clients and their parents, subsidiaries and affiliates, exist across multiple geographies and as law firms engage with this increasingly globalized commercial environment, issues associated with conflicts of interest are evolving for law firms.

Driven by a duty to preserve confidentiality for all current and former clients, law firms have addressed challenges of new business intake (NBI) and conflicts of interest (COI) by writing a policy, and/or appointing a committee, and/or implementing technology.

Although these measures taken by law firms to address the challenges of NBI and COI offer both inherent and combined benefits, the value of taking a strategic approach should not be underestimated. Experts recommend engaging with a three-phase strategy:

1. Evaluating existing business processes is an important first step. Often, engaging with **a specialist advisory service** will enable firms to benefit from the advisors' experience of working with other firms of diverse sizes and structures. Leveraging this experience enables firms to take an objective view of their existing processes and identify any vulnerabilities or inefficiencies. With these insights, firms are in a position to make informed decisions about updating processes.
2. As technologically-capable challengers enter the industry and disrupt business, the race to innovate is pressuring law firms to invest in technology for NBI and COI processes. While technology is a useful tool enabling traditional law firms to remain competitive, it's vital to thoroughly evaluate the technology for its compatibility and alignment to the firm's needs. Before proceeding, making a judgment of whether the technology is going to fit the process, or if the process going to fit the technology will help to drive the integration of processes and technology moving forward. Tailoring the product may involve some negotiation with the vendor, and having the support of a client-centric, vendor-agnostic advisor will be valuable.
3. The final step is to strategize for implementation. Technology is becoming increasingly sophisticated and there is a growing need to invest in talent with specialised skills to ensure the technology is performing optimally, digest the data output and turn this into actionable insights for the firm. This role is critical to the firm's success and may be suited to a variety of candidates (such as highly educated candidates with an interest in law but perhaps without qualifications in legal practice). Specialist advisors offer guidance on **how to achieve an optimal conflicts and intake teams** by identifying opportunities to harness diverse education and experience and develop this talent; benefitting both individuals and the firm as a whole.

A real-world story:

In the market for new software, an Am Law 100 firm sought the support of an expert advisory team during the software selection process (phase two) to:

- Examine a list of items and concepts with potential software vendors regarding their products and how they might best meet the needs and objectives of the firm
- Receive guidance through implementation of the new conflicts software
- Receive support with the operational aspects of implementing new software
- Benefit from the specialist team as a point of contact with the software vendor for day-to-day communications, addressing organizational issues, information gathering, and project milestones and deliverables
- Review progress, act on objective recommendations and ensure appropriate testing protocols are in place to monitor performance over time

Looking ahead: algorithms and attorneys

Law firms have broadly reached a juncture at which technology and human skill intersect. While investing in conflict attorneys may appear to be a substantial initial cost, the long-term value of this resource can be significant. Reinforcing algorithmic outputs with contextual insights and relationship nuances enable firms to translate reports into meaningful business decisions – tools which combine traditional practices with evolving technology.

The collaboration of talent and technology also created an internal compliance barrier; conflict attorneys take an objective perspective of the information and removes this burden from the partnership.

“Despite increasing operational efficiency and improving data management, implementing technology, however sophisticated, cannot eliminate human effort entirely. For a process which directly impacts profitability, monitoring and appropriately managing an automated NBI process is critical.”

Stuart Poole, Vice President & Director – Law Firm Advisory Team, Aon

Sustainability: the three-stage strategy

Technological capabilities are evolving as rapidly as the needs of law firms are changing. This accelerated development in a post-pandemic world will demand frequent and objective reviews of firms’ NBI and COI processes.

The three-stage strategy is cyclical and should not be abandoned after initial completion. As the global commercial environment continues to recover from the impacts of COVID-19, any changes to operating models should trigger stage one: a revaluation of the NBI and COI processes. The objective insights of a specialist advisor are equally valuable on revaluation, bringing not only existing knowledge of the firm, but supplementing this with wider commercial insights to identify new vulnerabilities and actions.

Rapid evolution of technology brings a multitude of new products to the market. Any changes to law firms’ operating models may render existing technology insufficient, or an unnecessary expense. With objective insights and access to **cyber experts**, advisory services evaluate technology for its scope to adapt to the changing needs of the firm and ensure robust cybersecurity measures are in place. Importantly, the support of a vendor-agnostic advisor can bolster firm’s negotiating power with new and existing vendors if to identify and secure alternative products.

A real-world story:

An Am Law 100 firm needed specialist support help to restructure its conflicts, NBI and lateral hire teams to maximise the value of their investment:

- An objective view of the results identified recommendations for both immediate and near-future process improvements for conflicts, NBI, and the lateral hire/new hire teams
- Any necessary action was taken to increase efficiency and productivity, which can include reorganizing the conflicts and NBI teams and redefining the roles of the members of those teams
- Developing and implementing tailored training ensures that employees feel confident and supported to perform their newly-defined roles
- Specialized law firm advisory support, particularly for the leadership and management teams, helps to implement the structural changes and drive real change

As the technology changes, as too will the skills required to operate it and manage its outputs. These new skills may require ongoing training to develop conflict attorneys' capabilities.

The need to balance of skills and technological infrastructure will continue to present challenges for law firms. But if successfully achieved and refined, this balance will enhance software performance and accelerate growth now and into the future.

If you'd like to discuss any of the issues raised in this article, please contact **Stuart Poole**.