

Innovation

Change our attitude to change

By Susan Dunn, Head of Litigation Funding.

This year Harbour celebrates its 10th anniversary and to mark the occasion, we devote the first Harbour View of 2017 to 'innovation'.

Some equate 'innovation' to the use of technology. For years there has been talk about the detrimental impact of technology on the legal sector. I don't share Richard Susskind's view that lawyers will disappear altogether, but technology can take us a long way to making the process more efficient and cost effective, taking lawyers away from the administrative burden so that they can focus on why they became lawyers.

As the Global Legal Post reported on 3rd March, the effective use of artificial intelligence and technology is still more of a myth than a reality as law firms are slow on the take-up of technology. Groups such as the Disruptive GCs should help drive this agenda more, and could have an impact on the market, not least because a lot of them come from technology-based businesses.

Technology could be used to provide better management information for law firms and their clients. Too few firms are capturing data thoroughly enough to drive real insight and budget prediction skills. Lawyers use

sophisticated billing systems and have data they could analyse better, enabling them to decide which services they could charge on a fixed costs basis. Understanding their own business better, allows firms to charge with greater precision and thus offer a better service to their clients.

Bright, entrepreneurial lawyers join firms but lack sufficient opportunity to shine in the early years of their career. Technology can help with the standardised part of their job and junior lawyers can then focus on legal strategy and add real value.

The structure of law firms is less conducive to dealing with change which nowadays is pretty much relentless. Firms which have been flexible or innovative, stand out from the crowd. Keystone Law integrated mobile and flexible working structures in their day-to-day practice. Clifford Chance and Gowling WLG appointed Heads of Innovation. Pinsent Masons combines legal know-how and technology to create services such as Cerico (regulatory compliance solutions), Out-Law (daily legal news) and Vario (a hub of freelance legal professionals).

Of one thing I am sure: if law firms won't use technology, their clients will. One such example is JP Morgan's programme COIN.



“Taking lawyers away from the administrative burden so that they can focus on why they became lawyers.”

It interprets commercial loan agreements in seconds with less errors and no holiday requests, replacing 360,000 legal hours annually.

The media often writes about the diminution of litigation. One of the reasons often quoted is its high price tag. The irony is that if costs were better managed people would in fact litigate more. I am convinced of this.

We see increased consolidation of law firms in the legal market but rarely are such mergers presented as opportunities to innovate and modernise.

What about our courts and the pressure they have been under? Lord Justice Briggs' current proposals for civil litigation reform are a great step in the right direction and I hope the profession embraces what he is proposing.

This brings us back to funding and Harbour's 10th Anniversary.

As a funder whose origins date back to 2002, we have an amazing window on the legal services market. Both law firms and general counsel talk to us about cases as well as their respective challenges in running their businesses.

A common observation from corporates is that legal services are expensive and should be delivered more efficiently. We heard this 10 years ago, and we still hear it today, so it seems that not enough progress has been made.

GCs are required by their management to extract value from every pound spent. Budgets are generally more constrained - and decreasing annually - and GCs are interested in hearing how third party funding (TPF) can help them with that. Clients expect their law firms to mirror the challenges they are facing and to provide solutions for them.

Also clients mostly act individually, rather than collectively. If they'd act in a more 'unionised' way they might be able to implement the changes they are asking for more quickly and help drive innovation. I hereby think about groups such as the Disruptive GCs mentioned before.

Costs remain disproportionately high for the administrative aspects of legal service provision. If legal costs were lower - by which I mean reducing the cost of the administrative part while preserving the genuine strategic and insightful legal thinking - more claims would be pursued.

Some law firms have been very pro-active in embracing TPF as a means to assist their clients, but others are of the view that their clients are not interested. This does not tally with what we hear.

GCs, and their CFOs, value funding as a commercial tool to offset the risks of litigation/arbitration: another party is paying for the legal costs with no recourse when the case is lost. With legal expenditure taken off their books, the capital can be used for other projects, even if it means they need to share the proceeds.

Some have approached us directly for assistance with both funding as well as law firm selection, recognising the breadth of firms we work with. They value that we are accustomed to finding solutions enabling them to pursue good claims.

People often ask me what has changed most in the world of TPF?

The biggest change must be in the use of TPF itself. Initially used by those who had few options financially to pursue their proceedings, it is now increasingly used as a tool to manage risk by every type of client. Blue chip companies routinely fund ongoing litigation as a means of removing significant legal costs from their balance sheets.

That change is marked by the range of law firms with whom we now work. Firms have woken up to the fact that their clients demand that they understand the use of funding. Those embracing this early on, have the leader's advantage.

Harbour will continue to explore and discuss opportunities; fund a wide range of cases and help drive innovation beneficial to all parties involved.

May I take this opportunity to thank you for your continued support over the years. I am looking forward to the next 10 years and more.

Exciting times ahead!

