

# FORUM

## THE BIG DEBATE

### 2021: A 'New Normal'?

Welcome to a very special debate! For this edition we were lucky enough to speak with 12 companies that work in and around the legal industry. Modern Law put a series of questions together that covered a wide plethora of topics – all linking to our overall theme and imperious question – are we entering a 'new normal' in 2021?

# PARTICIPANTS



**Peter Higson**  
is Operations Director at  
Premex Service Limited



**Gary Yantin**  
is Director of Best Practice  
at Vinciworks



**Viv Williams**  
is Executive Director  
at Viv Williams Consulting



**Mike Knight**  
is UK Sales Manager  
at ARAG



**Alan Ballard**  
is Partnership Director  
at UK Independent Medical



**Nick Hayne**  
Head of Professional Services  
at Quiss



**Dr Tom Quirke**  
is Managing Director  
at SearchFlow



**Gavin Ray**  
is Chief Product Officer  
at Landmark Information Group



**Jenny Screech**  
is Professional Indemnity  
Specialist  
at Howden Group



**Nick Cousins**  
is CEO and co-Founder  
of Exizent



**Neville Dinshaw**  
is Managing Director  
at Law Mergers



**Tim Wallis**  
is Chair at Trust Mediation



**Though this year has been incredibly problematic for the legal sector, what positives, if any, have you been able to take from the pandemic for your business?**

**PH:** Certainly, from a Premex perspective, the biggest positive we have taken from this year is just how resilient our workforce is. Their ability to adapt to the unknown with such positivity has been fantastic to see. This could not be more true, than for our operations and IT/project management teams, who have had to accelerate the development of technology solutions and platforms. Whilst a lot of the innovation was already on the horizon as part of our continual push for process improvements, the pandemic significantly shortened our timescales and our team rose to the challenge with gusto.

The implementation of remote appointments and treatment has also given a glimpse into what the future could look like. Being able to offer a claimant the choice between remote or face-to-face appointments, feels like a positive step. Our mission has always been to make life as simple as possible for claimants, and giving them options as to how and where their appointments take place, has been very well received.



**“The pandemic, in forcing us all to change the way we work, has been an accelerant of change”**  
**Tim Wallis**



**As a service provider to law firms, how have you been able to help provide a more innovative service to their end clients? Please provide an example.**

**NH:** The big issue throughout the pandemic has been to ensure our clients can continue to connect, communicate and collaborate with their clients and colleagues. It was never a major problem the occasional work from home days, but required an urgent solution when everyone was forced home.

A problem for many remained the issue of communication, both internally and externally. Most firms did not have mobile phones for everyone and yet required contact with almost all their people at some point during the day.

Many found their existing and perhaps more traditional phone systems served their office-bound purpose well, but struggled with a dispersed workforce. Something as simple as transferring a call to a colleague would be impossible with a standard mobile, when called by a client.

New Cloud-based unified communication solutions and softphones make every computer a phone, with the ability to transfer calls, hold group calls and pick-up office calls first time, without the need for messages and call backs, which most firms hope to avoid from a cost and customer service perspective.

Flexibility is at the heart of the offering, with users able to set their own availability to ensure they can respond more quickly to client enquiries and cover for colleagues.

**TW:** The pandemic, in forcing us all to change the way we work, has been an accelerant of change. Mediation has moved online, but that is a development step, rather than endpoint. Online dispute resolution has been developing for some time and the pace of change has now been turbo charged.

Online mediation is itself an innovative service, but the online environment is enabling us to make innovative changes to the shape of mediations. Our pre-mediation preparatory phone call to those involved has been replaced by a video conference and this particularly helps the mediator and claimant to get to know each other. The timing and duration of the mediation is no longer constrained by railway timetables and room bookings. So, for example, you can easily adjourn a mediation, locate additional evidence and re-convene. Also, a time slot can be arranged for an expert witness to join for a session. This flexibility makes a real, beneficial difference to outcomes.

Quite apart from mediation, we are now seeing definite interest in early neutral evaluation and online arbitration. Sir Geoffrey Vos has promised a civil justice shake-up and you will be hearing a lot more about online dispute resolution.

**TQ:** At the start of lockdown, we launched our Continuity Property Solution. We foresaw the risk of delays that would be faced in the residential property market if a lockdown were to occur and continue for any length of time.

The Continuity Property Solution was launched to offer a timely remedy for property lawyers who were still wanting to progress transactions for their end clients, amid the restrictions that were imposed across the country.

Today, property lawyers and conveyancers are continuing to face significant pressure to make sure transactions happen as quickly as possible - particularly given the Stamp Duty holiday deadline at the end of March 2021.

The Continuity Property Solution isn't a search, but instead is an insurance policy with a £1m indemnity and includes quality-assured data from our current and long-term historic database, meaning lawyers can still access property facts and provide advice. Importantly, it is delivered in a guaranteed timescale – either five or ten working days, depending on the service you opt for – which provides tremendous peace of mind to everyone involved.

What's important is that even amid local lockdowns the property market didn't stop. Therefore, as a supplier to the sector, supporting our customers with innovative solutions meant they could reflect this in their service offerings.



## From the start of the pandemic back in March, the legal profession has had to adapt to new way of working. As a business, what lessons have you learnt over the past 10 months that you can take forward into the future?

**TW:** Post-Lockdown, all our hitherto face to face mediations went online. So, what happened?

Surprisingly, to many, mediators and their clients took to the online environment like ducks to water. Mediators (including self-confessed tech dinosaurs) were soon operating online. They found the platforms were as easy to use, that the broadband was invariably good enough and that the Zoom virtual rooms meant that it was simple to replicate the usual mediation procedures. The digital divide shrank as the use of video conferencing became ubiquitous and it became apparent that many claimants far preferred taking part from their living rooms than a lawyer's office or chambers.

Pre-March the question was "Is F2F more effective than a vid con?". The answer was, and probably always will be, yes. Now, however, the question is "Will a Zoom/Teams etc meeting achieve what we want to achieve?" Many times, the answer to that question is also, yes. So much so that many lawyers have volunteered that they will never fully return to their previous working methods. The fact that the settlement rate has increased during lockdown supports that. In short, our mediators and the lawyers who instruct us believe that there is a new normal.

**GY:** It's true that nothing can replace the face-to-face meeting, but we have also learned that not every meeting has to be face-to-face. This remote working experiment has provided us with insight that we can adopt when we return to the office. Firms that learn to adopt a "remote first" attitude will thrive.

Remote first means that every meeting should be designed to level the playing field between the people in the room and the remote participants. Remote first means that we treat people's time as their most precious commodity. Anything that can be done online should be. Remote first means that we design work to be asynchronous, without assuming that everything should be handled ASAP. Remote first means that we provide employees with a new set of tools, such as home-office equipment, chat software, fancy headsets and comfortable chairs.

Remote first means tailoring solutions to individual contexts. We've shown that with e-learning, such as cyber training or AML, you can create a different experience for every learner based on their particular job role. Employers should leverage this shift in mindset and adopt the best of what we learned from 2020.

**VW:** Lawyers are not the best managers and many firms are still run as a partnership even if they are an LLP or incorporated. The consultant's role has changed and becoming a non-executive Chairman/Director (NED) of a number of firms helps to add more corporate governance to the firm and help formulate both strategy and its implementation. The decision-making process in firms has always been challenging with each owner having their own agenda. A consultant would traditionally be used on a project basis, whereas becoming an NED means you are fully involved with strategy and implementation of that strategy.

There are only a handful of consultants that become fully integrated into the senior management of a law firm, that actually possess the knowledge to guide a firm forward. The majority of services in a law firm are being processed by technology and many law firms do not have the knowledge to make the tough decisions to formulate a strategy to deal with it.

For example, conveyancing has been extremely busy for most firms, but the challenge will come as the new entrants bring technology into processing transactions with a target to reduce the conveyancing process to days and not months. How will most firms compete? I have firms that have moved the administrative functions offshore, such as file opening and post completion work, and have doubled their turnover in that department by letting the conveyancers focus on the transaction and not the admin part. They have also doubled the profitability of that department during the same period.

The legal profession will fundamentally change over the next few years with new private equity backed entrants disrupting the way legal services are delivered. We have Insurance companies, IFA's and accountants entering the traditional space and it will become a situation of - adapt to the new world or go out of business. Many law firms do not have the ability to manage such fundamental change on their own and therefore need the help of a consultant/NED to review their current processes, people offices space etc.

There will always be a healthy legal profession but sadly the firms that do not embrace change will not be around to take advantage of the new post-Covid world.



**"The decision-making process in firms has always been challenging with each owner having their own agenda" Viv Williams**

➔ **“It’s easy to take staff morale for granted at the best of times, but it’s something that needs special attention when everyone is isolated” Mike Knight**



**One of the key components of every successful business is its staff. However, given the constraints of remote working we have all endured, how has your business been able to maintain staff morale and keep the company culture alive and kicking?**

**MK:** ARAG has a very supportive culture, not just here in the UK, but throughout the global group, which has helped us enormously through the pandemic and lockdowns. The idea of the ‘ARAG Family’ pervades our working practices and is as old as the company itself, so I don’t think we were left wondering how the company culture would be impacted by the changes. The adaptation just came naturally.

We were also in a very fortunate position, when the pandemic reached the UK and the first lockdown forced so many people to work from home, that ARAG has always been a technologically agile business. As well as making it easy for staff to switch very quickly to working from home, everyone is pretty familiar with the tools we need to communicate and provide support.

That isn’t to say that our Marketing and People Services teams haven’t put a lot of work and imagination into keeping morale up and trying to replace all those intangible benefits that come from working together in an office. We have had a succession of social events, like a virtual pub quiz and a cheese and wine tasting, as well as ongoing initiatives such as ‘buddy bingo’ where staff have been randomly paired for remote coffee breaks. We’ve sent out a fair few care packages too.

It’s easy to take staff morale for granted at the best of times, but it’s something that needs special attention when everyone is isolated. As a business, ARAG has been very busy and is in a strong financial position, but it’s hard to gauge if staff are worrying in the face of all the economic disruption that is following in the wake of Covid-19. Throughout the pandemic, we’ve had a short, weekly presentation from our Managing Director, Tony Buss, in which he explains how and what the business is doing, which has proved really popular, but also reassures people.

Another thing that we could take for granted is the technology. It’s often said that people only notice IT when it stops working and, even in a well-resourced and agile company like ours, the challenges of mass remote-working are significant. Our staff were well-prepared and familiar with most of the tools, but the security implications, the additional training, support, dependence on networks outside our control - all made the IT work more difficult, yet maintaining morale remotely without it would have been very tricky.

**AB:** Employees aren’t just a key component of a successful business; they are the most important part. Discontented, disgruntled, unfit or unwell staff are highly likely to damage company productivity and profitability.

However, astonishingly many UK businesses are likely to spend more on maintaining their fleet of company cars than they are on employee health and wellbeing; despite staff being a business’ most valuable asset.

It is estimated that annual spend per employee on occupational health and wellbeing is often as little as £20, with some more generous companies investing nearer to £100. A person with strong and robust physical and mental health is likely to be more present and positive in the workplace, making the environment a happier and more productive place for all.

This year, however, has thrown quite a curveball into most workplaces and in order to maintain high productivity and staff wellbeing during the challenges 2020 has presented; health, morale and team cohesion were at the top of our agenda. We focussed on four key areas:

1. Maintaining strong contact with home-working employees by way of regular Zoom meetings, WhatsApp groups and company-wide events. Keeping everyone up to date with Covid-secure initiatives and guidance was essential and we set up an occupational health advice line for any Covid-related concerns with direct contact into occupational health.
2. Encouraging good physical health by offering on-line exercise events developed by one of our health coaches. Daily exercise is crucial for remote-workers and this is something we wanted to become embedded and become part of people’s daily routine. We further supported staff with full ergonomic assessments and also invested in any necessary reasonable home adjustments.
3. Mental health has been supported with remote mental health first aid courses. We also implemented a telephone-based graduated approach to mental ill health continuum. This included Sessional Counselling, Cognitive Behavioural Therapy (CBT) and Occupational Psychologists.
4. Offering a methodology underpinned by a bio-psycho-social approach. This has been achieved by looking at physical, mental and social factors for each employee presenting with ill health.

Focussing on these essential areas ensured a company-wide wellbeing approach and importantly very high employee satisfaction rates through this Pandemic.



**“Health, morale and team cohesion were at the top of our agenda” Alan Ballard**



→ “We anticipate seeing a great deal of consolidation of the market as some law firms exit, with a smaller number of them picking up the market share” Peter Higson



**Discuss the importance of a thriving and close relationship between law firms and service providers when tackling the challenges that 2021 will inevitably hold?**

**PH:** Given the changes on the horizon, the close relationship between law firms and MROs has never been more important. We’re working closely with our customers to integrate systems and reduce touch points and friction as much as possible in preparation for the introduction of the CLA.

Technology is going to play a huge role over the next 12 months, and we anticipate seeing a great deal of consolidation of the market as some law firms exit, with a smaller number of them picking up the market share. Those firms currently developing IT solutions to manage PI claims in the small claims track will undoubtedly be looking into acquisitions to help meet their growth objectives. The MRO relationship, whilst one part of the ‘PI supply chain’, will be pivotal to support these new, emerging platforms as the efficient delivery of a quality med report will be a key enabler to progressing the claim and tying the client into the process.

**GY:** In many ways the world didn’t slow down in 2020. In fact, many of the challenges that the legal industry faces have heightened. Risks that seemed years in the future have accelerated their timelines. More than ever, deep relationships between law firms and technology companies are necessary for forging a new future for the profession. We have collaborated for years with “core groups” of law firms that come together to brainstorm the technology tools of tomorrow. Competitors - who understand that discussing new ideas openly and collaboratively benefits everyone.

Over the past year, this collaboration has grown. Moving these meetings to Zoom has enabled us to bring together global experts and international government representatives to tackle new regulatory concerns such as DAC6, a European Directive that poses the most significant compliance challenge to law firms since the 2002 Money Laundering Directive.



**As we enter into 2021, the role of technology has undoubtedly become more significant than ever before. Discuss the importance of investing in Tech for law firms? How critical is it for law firms' survival and development in the market?**

**DR:** The pandemic has focussed minds on the competitive advantage technology offers, but firms must first consider their business objectives, then the technology needed to help them reach these goals.

Cloud is increasingly attractive and taking practice management, telecommunications, storage, applications, email etc., into the Cloud offers many advantages including flexibility and resilience, but it is only the right choice if it helps move the business towards its ultimate objectives.

Combining Private or Public Cloud with on-premises resources still delivering a return on investment or running non-Cloud friendly applications, to deliver a pragmatic Hybrid solution, is a good future.

New entrants to the market are set up with Cloud in mind, leveraging technology to deliver a streamlined service. Specialising in key disciplines, with lower costs, these agile firms are a real threat to the traditional mid-size firms. Law firms are beginning to recognise the prize is not in the technology itself, but rather the way it can be utilised to deliver legal services to their clients, more efficiently, more promptly and more conveniently, whilst reducing cost whenever possible.

**TQ:** The use of automated workflows, case management, AI, and data integration is creating efficiencies in the overall property conveyancing process and I only see these expanding further into 2021. It's already having a big impact on the way we work by enhancing existing processes, delivering new insights, assessing complexities or automating tasks to help reduce queries.

For example, search turnaround times are automatically updated on our platform in real time, giving the complete transparency that is so in demand by today's 'information hungry' consumers and reduces overheads.

Efficiencies like these will become more common as AI techniques adapt to more complex forms and even entire workflows, which in turn will bring further cost savings. Given that the residential property market is continuing to swell with new instructions, automations of this nature can only be a good thing for lawyers, as they offer valuable accelerators for both process tasks and achieving compliance. Investing in such innovations now will therefore clearly pay dividends in the long run.

**GR:** In talking with senior partners over the last year we asked "Is technology important to you?" and overwhelmingly the answers all converge on a simple "yes". As much as lawyers may not naturally be technologists at heart it's interesting because they know it matters to their clients, and so they want to adapt.

This is not a topic of 'technology, for technology sake', but is all about the specific benefits that the client-base now expects us to all move towards. Security is paramount, as lawyers gather, collate and process vast amounts of data; it is

imperative to know that our data-rooms and workflows are secure, efficient, fast and effective.

Security is not just immunity from unauthorised access; it is also ensuring that clients know that documents are original, from a trusted source and that they remain tracked as they move through and out of our processes. Traceability, authenticity, security – these are all increasingly important to clients in all walks of life, so when it comes to significant property transactions, it is not a 'nice to have', but an absolute expectation.

**JS:** Strong relationships with the right service providers will be a key part of the survival strategy for many law firms as we move through 2021. This will be particularly important when it comes to the annual renewal of professional indemnity insurance (PII). If a law firm cannot renew their PII cover, then they cannot continue to practise. A firm's engagement and relationship with an experienced and specialist broker could therefore be the difference between the success and failure of the business.

PII rates have been increasing over the last two years and we are currently in the hardest market we have seen for PII since the profession moved their insurance arrangements from the Solicitors' Indemnity Fund to the open market. Capacity and appetite within the insurance market have reduced and insurers are no longer clamouring for this business. We see little opportunity for this to change through 2021. Insurers are concerned about an increase in claims against solicitors as a fallout of the pandemic and the potential for law firm failures, requiring insurers to provide run-off cover for six years, even if they do not receive the premium.

It has never been more important to be represented by experts who have a proven track record of working with law firms and strong relationships and influence with insurers. This is a time for specialist market professionals. Firms should do their research and never hesitate to ask questions to ensure that they can have confidence in the service their broker will deliver. For example, it is useful to establish which insurers a broker can access and whether that access is direct or via another broker, which adds an extra layer to the process. Understanding whether a broker has any exclusive or special arrangements with particular insurers is another important issue to canvas.

When preparing for their PII renewal in 2021, firms should also focus on demonstrating the quality of their risk profile. Insurers are looking to select the best quality law firms and the proposal form and related questionnaires provide a "snapshot" of the firm that could determine whether it can keep the doors open. A good broker can help a firm navigate their way through the questions and achieve a better understanding of exactly what insurers want to know. Even small things can make a difference and it is surprising how often some issues are overlooked or not presented in the best way. Regardless of market conditions, a broker's assistance in optimising your presentation goes a long way to securing a successful renewal.



**In 2020, law firms have had a chance to assess their position in the legal sector. Has there been an increase in mergers and acquisitions as a result of some feeling now is the right time to leave the profession? Do you expect to see an increase in the next year or so?**

**ND:** 2020 has certainly been a strange and difficult year to say the least. Many small and some mid-sized law firms have struggled to adapt to the necessary changes required to survive or even standstill financially. This has resulted in a significant upturn in law practices, home and abroad, coming to market for sale or merger. Many practitioners who have been in the profession for decades have taken the accelerated view that now is the right time to sell/merge their law practice and exit the profession. Some buyers who have been sitting on their cash due to the uncertainty of Brexit and the current global pandemic are using the opportunity of aggressive purchases, keen to take advantage of seller's willingness to exit.

I believe over the next 24-months we will see significant consolidation in the legal profession due to continued uncertainty. This will result in small to mid-sized law firms looking to come under the umbrella of a more substantial practice – thus taking advantage of economies of scale such as professional indemnity insurance, rent and staffing costs which generally represent the largest expenses of a law firm.



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**“It has never been more important to be represented by experts who have a proven track record of working with law firms and strong relationships and influence with insurers”**

**Jenny Screech**



**As we look to move into a post-Covid world, will there be more appetite for outside players to enter the legal sector through mergers and acquisitions rather than it simply being a firm-centric sphere?**

**ND:** Never has my company received as many enquiries from non-lawyers looking to enter the legal profession since the onslaught of Covid-19. Buying or setting up a law practice for a non-lawyer through the Alternative Business Structure (ABS) route is straightforward. I believe the trend is set to continue where more entrepreneurs or private equity houses will take advantage of legal practice acquisitions or investment into law practices. Many ABS law practices are now being run as businesses because ultimately, that is what they are.

I think it is inevitable that certainly during these turbulent times, the ABS trend will continue – the benefits are tremendous. Three key factors:

- Strategic management offering a wider range of skills leads to market innovation and lower fees for client services
- Financial muscle to drive the business forward enabling the business to diversify and grow
- Employees of a business can own an interest in the company – retention of good quality staff and desire to go the extra mile for their business

Yes – it is a new way of thinking for many solicitors, but one shouldn't be afraid to embrace change!



**“Remote working has exacerbated the challenges for legal professionals even further with staff relying on old software and outdated processes” Nick Cousins**



**Discuss the importance of providing modern products for modern law firms which are both bespoke and tailored to the needs of a law firm in 2020? What impact has the pandemic on this?**

**NC:** Before COVID-19 hit, we had already recognised that the probate process was a challenging one to say the least, with legal services firms caught between their clients and financial institutions, grappling with systems they knew were ‘unfit for purpose’.

In fact, we recently surveyed legal professionals and only 15% said they had software dedicated to probate and the majority admitted that the time it takes them to prepare and receive grant of probate on behalf of their clients is ‘unreasonable’. Just 7% said they think the current probate process is efficient.

Remote working has exacerbated the challenges for legal professionals even further with staff relying on old software and outdated processes while others are struggling to replicate office procedures in their own homes.

Institutions have also been impacted, often having difficulties in accessing the documents they need or being unable to process sensitive information remotely. While for those who continue to work with mail or hard copy documents – but have seen a dramatic reduction in the number of staff in the office – trying to keep on top of their paperwork has been hugely challenging.

Then of course there is the sad fact that deaths have increased significantly this year in light of the pandemic, meaning the sheer volume of work has also risen.

All this has come together to create a perfect storm where staff are struggling to access tools and systems that were already inefficient and time consuming. They are finding it harder than ever to get in touch with financial institutions working on skeleton staff, all while being asked to do even more work than usual.

It is perhaps little wonder then that when asked if lockdown had exacerbated the problems they already experience when dealing with probate cases, 73% of law firms said yes.

Exizent was formed in late 2018 with a vision to make the bereavement process better for everyone involved; the problems and issues that Covid-19 has brought has simply strengthened our conviction that innovation is needed. In an era of digital communication and increasingly more accessible personal data, we should be harnessing both in order to make managing a bereavement easier and more efficient, not relying on antiquated processes that are simply not fit for purpose.

Pre-pandemic, modern law firms were crying out for bespoke technology products tailored to their needs. But now, given the impact the pandemic has had, the need for a cloud-based solution for legal services firms which can integrate directly with financial institutions and their processes feels clearer than ever.

**GR:** For law firms that are looking to innovate and lead the way, they need systems that are flexible enough to support their highly trained and busy staff in their own specific workflows and accessing what they need, when they need it. We can see that traditional IT systems that may have once sat in the basement and needed individual support and local access, are now transforming to cloud services, remotely accessible, highly configurable and very flexible when it comes to integrating old and new technologies. This flexibility should no longer be driven by long customised software projects, but more by systems that can be rapidly configured to meet specific needs and adaptable to new document and data types as we all move fully digital.

While this approach has long been on the agenda, the pandemic has brought it to the forefront.



**“ For law firms that are looking to innovate and lead the way, they need systems that are flexible enough to support their highly trained and busy staff” Gary Yantin**