

The New How: Thriving on change

The world is changing. At lightning-fast speed. This white paper, prepared as part of The Lawyer's Smarter Working Week, looks at the main drivers for change in more detail and how you can prepare for 'change'.

March 2021

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“Monday 13 April: a man approached me as I was pricing up stock and asked, ‘I wonder if you can help me, I’m looking for self-help books’. I’m almost certain that he failed to see the irony, so I asked him what sort of self-help books he was looking for, to which he replied, ‘I don’t know!’”

Selling books isn’t easy. Shaun Bythell, author of a bestselling diary on life behind the till, *Confessions of a Bookseller*, understands this more than most: people looking for self-help know they need to do something. They know something has to change. But what? And how?

In-house lawyers can feel like they’ve wandered into a cavernous bookshop when trying to work out how to manage change in the years to come. The shelves groan with learned tomes, yet finding the right direction among the buckling woodwork is harder than it seems. Change is everywhere. Advice on dealing with it isn’t.

This white paper examines the three main drivers for change and how you can prepare for ‘change³’. And, most of all, thrive.

If you have any thoughts on this white paper or would like to discuss any of the issues raised in it, do get in touch.

All the best,



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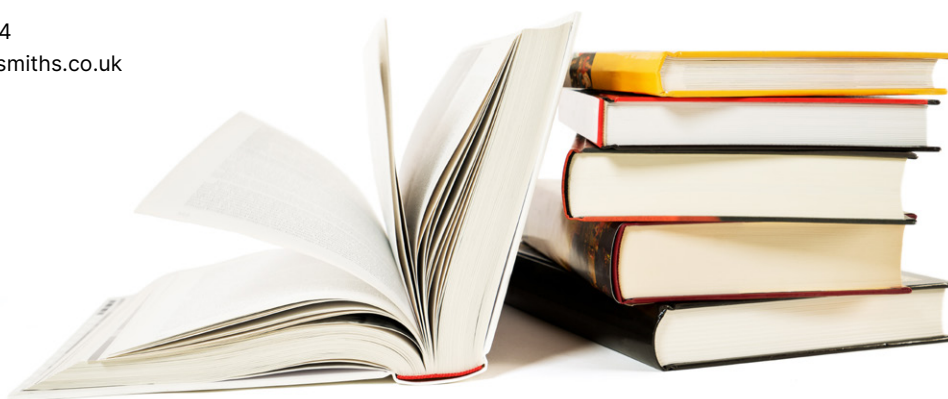
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Introduction

"We are not keen on dramatic change, revolutions, sudden uprisings and upheavals. A truly English protest march would see us all chanting: 'What do we want? GRADUAL CHANGE! When do we want it? IN DUE COURSE!'" Kate Fox: Watching the English

Alas, change is not the exception to the rule, it is the rule. And there's no doubt that a lot of change is coming our way.

However, as we highlight in this white paper, we lawyers do have a choice about how we manage and embrace that change.

There's no doubt that resisting this onward march of change is futile: hoping that it will arrive 'in due course' at some nebulous point in the future. However, without change our world would be in stasis. We lawyers would increasingly be side-lined: new laws wouldn't be created to deal with new problems. New contracts wouldn't be drafted to manage new relationships. Nothing would happen, so disputes wouldn't arise either. While, of course, some might like the idea of this, we'd all be stuck 'in the now'. Forever.

Without change, it'd be a dull world indeed, a quagmire of stagnation.

So change is a constant.

But change itself is changing.

Change is changing

If you could change what you do in your job, what would you do? Where do you even start?

The tyranny of choice over the changes we need to make means that we often end up doing little or, worse, nothing at all. Too many choices can be paralysing. Too often we give up. Change is a great idea—it's undoubtedly important—but perhaps it can wait for another day, 'when we've truly got the time to devote to it'?

Indeed, there are few things we humans are more committed to than resisting or delaying change. We're really quite good at it. As psychoanalyst Stephen Grosz reminds us, 'we want to know what new story we're stepping into before we exit the old one'.

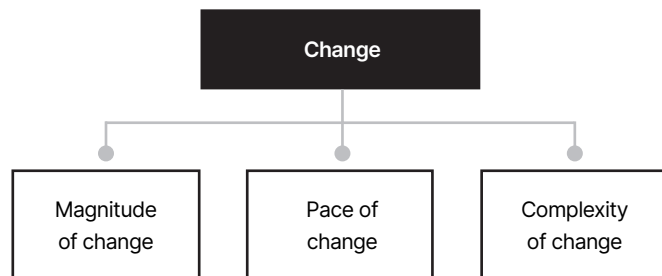
In other words, we want to defy physics and peer into the future to see what's ahead. But of course, we can't. Not really. We might be able to see a suggestion of the first metaphorical bend in the road, but after that the twists, turns and bumps fade into the mist. The far distance is just a haze, if we can make it out at all. Both the journey and the destination are uncertain.

So change is a constant. Our professional and personal lives are all about change; it gives them meaning.

The bigger problem we're all grappling with isn't so much change, but the pace, complexity and magnitude of it.

In other words, change itself is changing.

The following three factors multiplied together substantially amplify the effect and impact of change; we call it the change³ effect:



Change³



This disruptive trio of change³ will be turbo-fuelled by technological change and advancement. It will shape the practice of law in the decades to come.

Let's take each one of these factors in turn:

Pace

Yuval Noah Harari in *Homo Deus A Brief History of Tomorrow* notes, 'centuries ago human knowledge increased slowly, so politics and economics changed at a leisurely pace too. Today our knowledge is increasing at breakneck speed, and theoretically we should understand our world better and better. But the very opposite is happening'. There's no doubt everything feels so much more manic nowadays. We sense yet more change approaching, quietly at first, but then it screams into view like a fighter jet flying low overhead. And then another booms into sight. And then another... And we struggle to understand what this all means.

Complexity

The digitisation of information, interconnected smart systems, the increase in communication over distances, cheaper computing power, and wholesale changes in business models and industry norms: these are just some of the things that have upended how our world works in recent decades.

And things are getting more complex still, often powered by tech:

- according to experts the financial markets have become structurally more turbulent since the 1960s in no small part due to developments such as high-frequency traders. In 2019 *The Financial Times* noted that even the volatility of volatility has started to spike
- our politics have become more unstable as people respond to what the British Election Study (BES) refers to as 'electoral shocks' such as the economic crash in 2008/09. BES notes that across the three elections from 2010 to 2017 almost half the UK electorate (49%) didn't vote for the same party
- social media platforms have turbocharged, and all too often poisoned, the way we socialise. The Alan Turing Institute calls it the 'issue attention' economy and believes 'social media platforms have been shown to inject instability and uncertainty into social life, public opinion, civil society, and the policy-making environment.' It's no wonder people are feeling so unsettled.

Magnitude

More people in the world means more wants and needs (at the end of this century the Earth's population could be at almost 11 billion, according to the UN). It means more cities and more towns, and more businesses. It means more challenges, opportunities and problems to solve.

And the magnitude of the changes that we face is daunting: the climate crisis, loss of biodiversity, inequality and the post-COVID-19 economic recovery among others. There's a lot to do.

Dealing with change³: what your business can do

The good news is that there's much that in-house lawyers can do to become change champions in their businesses. As we mentioned in a recent legaltech report in The Times, 'a considerable ongoing challenge for in-house lawyers will be the ability to embrace new technology'. But change isn't all about tech and it doesn't take as much time as you'd think to embed it into your working day. Here are our thoughts on how in-house lawyers can embrace change and thrive in the months and years ahead:

- recognise the need for change: ensure that the pressure for change and the fundamental need to recognise the dramatic effects it will have on your business are acknowledged at the very highest level within your organisation
- create an environment in which innovation and change can thrive within your organisation: this may involve giving space and support to those who have proved most innovative in the past, or formally creating an innovation team (or both). Remember that it is not necessarily the most senior people who are the most innovative. Also remember that this is absolutely not something simply to delegate to the existing IT team within your organisation. You need to have your lawyers front and centre in this effort
- never discount the value of enhancing the experience of using your team for the business: this sort of change can sometimes be difficult to measure, but can increase your visibility and ultimately impact on the business
- engage with your team and take a people-focused approach: listen to your team about what they want and need. On tech-enabled change, the former UK Government Digital Service Director General, Kevin Cunnington, agrees: 'it's all too easy to think that developments in technology make people less important. With every year and every job I've had in digital, I become more and more convinced that the reverse is true'. The upshot? Focus on your team and other stakeholders when implementing tech. Tech is best when it's about people and tech, not people or tech



- speak to your business about innovation: how are they using technology? What frustrations do they currently have relating to the legal services they receive or the way in which they conduct their own in-house team? From these internal conversations, you can both learn and generate ideas for innovation
- do your research, bearing in mind there's a lot of information out there: the FT has called choosing legal tech the 'tyranny of choice'. Be smart about what change works best for you and your team and don't be afraid to ask difficult questions of any third parties (such as vendors). Ask your lawyers how they have managed change and whether they can put you in touch with people that can help. Use your network!
- start from somewhere: as with most things in life the key is to start, even though the first step can often be the most difficult. If not you, then who? You don't need to adopt a stark all-or-nothing approach. Start small, if needs be, and build from there
- do a trial run: when introducing change, how does your team get on with it? What did they like? What weren't they so keen on? How can any third parties (such as vendors) help you hit the ground running so its implementation is as seamless as possible?
- don't think that all change is about tech: make tech work for your business where it's needed. If some can be fixed without tech, great! But if not, don't rule out a tech solution just because it doesn't do absolutely everything you want
- don't allow perfection to be the enemy of better: you need to start somewhere: typically 80% better is much better than 0% better!
- become familiar with technology providers: this should, of course, include those already in the business of offering legal technology solutions. But it should also include a wider range of technicians and developers who may be open to assisting you in any new ideas for tech or processes that you may have
- above all: remember you are probably much better than you think you are in implementing change. Don't believe the propaganda that lawyers 'don't do change'; as, frankly, in most cases there's much evidence to the contrary. For decades in-house lawyers have adapted to change—from letters, to faxes, to emails—and will continue to adapt in the future. Witness the recent change to working from home during the COVID-19 pandemic. Don't be bamboozled by jargon and never be afraid to ask an 'obvious' or 'daft' question



Case study on change: AI and contract review tools

Imagine someone telling you on New Year's Eve 2019 that, in 2020, the price of a barrel of US oil would dip below \$0 (to minus \$37 at one point) or that, in March 2021, it might be illegal to sit on a park bench.

On the surface, it's been a lot to take in.

Everyday there are examples of a world upended by the COVID-19 pandemic and people struggling to make sense of it all.

But there's a lot going on under the surface which has almost gone unnoticed in the hubbub of COVID-19 media coverage, but will have profound changes in our day-to-day lives. For example, the government-funded Economic Statistics Centre of Excellence (ESCoE), in a report published in January 2021, estimated that up to 1.3 million people born overseas decided to leave the UK between the third quarter of 2019 and the same period in 2020. Globally, a McKinsey survey in February 2020 noted that 87 percent of executives said they were experiencing skill gaps in the workforce or expected them within a few years. The fear? When the recovery starts in earnest, there'll be too much work and not enough people to do it. Sound familiar?

In Japan an aging population and tight labour market has created similar problems. This means for years the Japanese have been pioneers in using artificial intelligence (AI) to fill the gaps and keep the economy on an even keel. A recent report published by US research firm ESI Thoughtlab put Japan as the world's top AI adopter, noting that in the country AI is seen as complementing jobs and not replacing them.

And it's not just in Japan where AI is being turbocharged. Where Japan goes first, the world often follows (remember the Sony Walkman?). The New Scientist reported in October 2020 that the coronavirus has also 'put a rocket' under plans for more AI globally. And lawyers are not exempt from this trend.

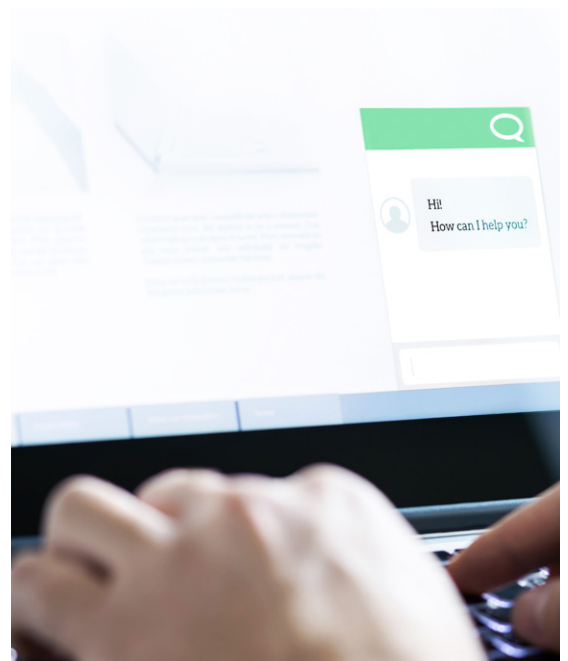
With Brexit reversing the famous 'incoming tide' of EU laws (in the words of Lord Denning), but creating a brand new flow of domestic laws – and consequent contracts to consider and amend – more work for in-house teams looks certain. What's more, as life gets increasingly more complicated (think 'change3') and new laws are created to deal with it, there'll be plenty for in-house lawyers to be getting on with there too. The question is: is there enough time in the day to deal with it all?

This is where AI-enabled contract review tools come into their own.

And AI-powered tools also help with efficiency. An article in the Harvard Business Review in 2018 – 'How AI is Changing Contracts' – noted that, 'inefficient contracting causes firms to lose between 5% to 40% of value on a given deal, depending on circumstances.'

Businesses are increasingly unwilling to accept these sorts of statistics, particularly where the technology is there to help them be smarter at what they do.

AI-powered contract review tools are here to stay and they will revolutionise how lawyers deal with many of their contracts.





Contract: intelligent analysis

At Shoosmiths we officially launched Cia[®] (Contract: intelligence analysis), our AI-powered contract-review tool in January 2021. This industry-leading smart tool—one of our key change facilitators—helps in-house lawyers save up to 5 hours of legal review time per contract, putting valuable time back in their diaries. The result? In-house lawyers can move away from the day-to-day grind of ever-overflowing inboxes and rediscover the art of the possible. (That contract you've been putting off for days? Done. Those NDAs you've not had the time to look at? Ready.)

In-house teams can ask Cia[®] to whiz through a contract and tell them in jargon-free and plain English the key things they need to be worried about. Using the easy-to-use self-service option, they get the heads ups on what matters to their business, with no fuss. With Cia[®] in-house teams can concentrate on what matters to them: dealing with the ever-increasing amounts of change they face as we start to recover from the challenges of COVID-19 and the coming out of lockdown. Cia[®] can offer you:

- **Time back in your diary:** save 3-5 hours of legal review time per contract
- **Rapid turnaround:** get instant results with our self-service option or let us take the strain with a guaranteed same-day turnaround with our managed service (if received before 2pm)
- **User-friendly:** all Cia[®] outputs are written in plain English, so can be provided directly to the business without the need to 'translate' the advice
- **Coverage:** Cia[®] reviews any commercial contract for purchase of services, goods or IT or NDAs. More contract types are being developed all the time
- **Ready-to-go:** Cia[®] is a 'plug and play' solution: you can get all the benefits of Cia[®] instantly, without the need for a lengthy onboarding process
- **Improved deal cycle:** Cia's[®] rapid response, with pragmatic advice, results in more deals getting agreed in less time than conventional methods. What's not to like?

For more information, visit the Shoosmiths website: <https://www.shoosmiths.co.uk>



Review hours saved per contract



Reduction in legal spend



Yearly working hours saved per lawyer

The future of lawyering is now

Case study on change: smarter, faster, better

In May 2020, two months into the first wave of the COVID-19 pandemic, Shoosmiths launched the 'New How', a comprehensive long-term strategic project on change: to build a smarter, faster, better normal through innovation.

Then, as now, change has been turbocharged. It's happening: at a speed, and to an extent, which has often taken us all by surprise. The 'decades-in-weeks' timeline of events, and coming in and out of lockdowns in recent months, has been deeply unsettling, for people and businesses alike.

We've all had to change, whether we liked it or not.

But there's no doubt, every business we have spoken to wants to emerge from this crisis stronger than before. Most major businesses are already devoting a lot of management time to ensure that the future looks better than the past. The World Economic Forum (WEF) calls this the 'Great Reset'. In a survey of nearly 21,000 adults in 28 countries, conducted by the WEF and Ipsos in September 2020, 86% of people said they want to see a more equitable and sustainable world after the pandemic. The BBC reported Stewart Butterfield, CEO and co-founder of Slack, as saying 'work will never be the same even if we don't yet know all the ways in which it will be different'. Slack's research of 4,700 workers found that only 12% want to go back into the office full time and 72% want a hybrid arrangement. At the moment we know what we want, but we still don't know how we'll get there.

Similarly, from what we've seen, what businesses offer to their customers may not fundamentally change. Not yet anyway. But it is abundantly clear that how it is done will. How is very much up for grabs. For us, this 'New How' is how in-house teams could—and should—be doing things now.



Over the past few years we have developed innovative products, processes and working practices at Shoosmiths like matters+, Live Working and Cia® (see above). These change-enabling tools mean in-house teams can work:

- **smarter:** by combining the latest technology and AI with market insight and legal expertise, our teams have created a suite of products designed to help clients achieve a competitive advantage and operational excellence
- **faster:** speed of execution and delivery are key features of the products Shoosmiths has developed, and the result is significant time saved to put in-house teams back in control
- **better:** the combination of smarter intelligence and speed of execution results in better outcomes for in-house teams. Our solutions help to get deals over the line more quickly so clients can focus on core business activities

As we mentioned in a recent interview in *The Lawyer*, when developing the New How we've sought to take on an 'Apple-esque approach'. We've simplified concepts, looked at core functionalities that GCs need and built products that 'just work'. And we're learning everyday.

The result of this New How? In-house lawyers can align themselves much more closely with wider business priorities and become true partners to their businesses. As the 'Great Reset' kicks in, this is vital for in-house lawyers who want to hit the ground running as the economy starts to open up as the lockdown eases.



Despite what you might tell yourself sometimes, tech isn't evil...





matters+ is the hub of your legal operations: intuitive, simple to use and powerful. It provides an innovative legal management solution, designed by lawyers for lawyers, to help in-house teams track, analyse and manage their workloads. It revolutionises the way you work.

This game-changing software tool is the fruit of years of extensive development between Shoosmiths and leading software developers. Much of our team has worked in-house so we understand what in-house lawyers need and when they need it. As we noted in a recent interview with *The Lawyer*, the product provides GCs with a sort of 'corporate conscience': connect online and access data matter wherever you are, distribute work among your team and check updates. Be in the know in real time. What's more, as in-house teams grapple with change³:

- it captures data and delivers analytics to enable those deciding on change and implementing it to base their decisions on fact not corporate folklore
- it brings the practice of law by in-house teams into the 21st century. It's a virtual front door to the legal team: with chat functions and automated instructions and updates bringing your team into the heart of your business. Vital when so many teams are now working from home
- it is agile, giving you the key information you need at your fingertips 24/7 (matters+ is accessed via secure web browse)

For more information, visit the Shoosmiths website: <https://www.shoosmiths.co.uk>



It allows me to spot trends and to predict workloads: to always be one step ahead.

Sarah Holford, Head of Legal Compliance, Scania

Legal Tech Ecosystem

matters+ provides a simplified approach to legal tech. It will futureproof your legal operations and provide you with the tools and information you need to operate a best-in-class, 21st century legal function.

Legal Hub

matters+ is the hub of your legal operations. It's the tool you and your lawyers use every day to manage the thousands of matters passing through your department each year.

Designed by lawyers, for lawyers



Conclusion

“Change will not come if we wait for some other person, or if we wait for some other time. We are the ones we’ve been waiting for. We are the change that we seek.” Barack Obama

Be optimistic for the future

Specialists on the psychology of lawyer behaviour in the US say that the most common words that people who work with lawyers use, when describing us, are ‘pessimistic’, ‘negative’, ‘sceptical’, ‘critical’ and ‘cynical’. Ouch.

The result? Many lawyers default to looking at new ways of doing things with a heavy dose of pessimism. This lack of optimism crowds out any attempt to be excited about our collective future.

We can, and must, allow ourselves to be hopeful; to see change – technological or otherwise – as an enabler and not as a default threat. We’ve survived countless changes in the past. We’ll do so again. After all, survival and a desire to get on is the ultimate optimistic act.

Let’s fight for a future in which we not only survive, but thrive.

Be active in the change you want to see

We know this isn’t always easy. In our hectic professional lives, submitting to the fatalistic approach of ‘whatever will be will be’ is tempting. Perhaps it’s quicker just to surrender to our fate in the style of glib news anchor Kent Brockman in *The Simpsons* (‘I, for one, welcome our new robot overlords’)?

If we travel down this path of least resistance, the risk is we end up where we don’t want to be. However, we do have agency in what happens next. We owe it to ourselves and the business to do everything we can to back up our optimism with action.

The future is not preordained. There’s a lot we can do to learn about new technology and ways of doing things.

From our experience, it is surprising how easy it all is once you start. The key, however, is to do just that: start.

Be people-focused

Too often, discussion of technology feels dystopian and cold, as though humans have nothing to do with it. In this scenario, people are just an afterthought. This doesn’t help.

Put simply, technology ought always to be about people and tech, and not people or tech; tech is here to serve us as lawyers (and ultimately our business). It is here to complement what we do and free us up to do the things that lawyers do best. The profession is, and will remain, a people business.

Through our experience of developing new technology and systems, such as Cia® (our new AI contract review platform), Matters+ and Live Working, we’ve seen how these powerful tools can transform the practice of law and make us and our clients work smarter, faster and better.

By following the three themes above and allowing ourselves to be excited about the years ahead – as opposed to fearing them – we’ve developed a steadfast clarity of purpose.

Our advice? Ditch the self-help books and start chatting to your business.

Focus on what they need and how new ways of working and technology can get them to where they want to be.

For more information, please contact us. We'd be delighted to hear from you.



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