

Risk Outlook 2021/2022

What is the new normal? Challenges and opportunities for law firms after the lockdowns

23 November 2021

Introduction

This report looks at what defines the 'new normal': the shape of the legal market as it emerges from Covid-19. We give our view of the key changes, and the threats, opportunities and uncertainties that come from them.

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The current state of the market

After the severe economic downturn resulting from the lockdowns, the economy began to recover. In particular, employment recovered faster

[\[https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/latest\]](https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/latest) than was predicted early in the crisis. Instead, the economy faces a shortage of workers.

A major feature of the end of the lockdown has been the acceptance of what were originally forced adaptations. The experience of remote working has led to a wider adoption of hybrid working [\[https://www.lawgazette.co.uk/news/firms-roll-out-flexible-office-return/5109766.article\]](https://www.lawgazette.co.uk/news/firms-roll-out-flexible-office-return/5109766.article) among those able to do it. This move away from everyday commuting pushed a trend of people moving to less urban areas. This has been clear from house prices [\[https://www.theguardian.com/society/2021/jun/20/rural-house-prices-in-england-and-wales-rise-twice-as-fast-as-in-cities\]](https://www.theguardian.com/society/2021/jun/20/rural-house-prices-in-england-and-wales-rise-twice-as-fast-as-in-cities), which rose twice as fast in rural areas as they did in cities due to people seeking space from which to work.

Many people found that homeworking reduced their expenses. UK households now have £190bn additional savings. Not everyone was able to save, however. Debt and low incomes are still a problem for many, particularly those who lost jobs or were furloughed during the lockdowns.

With people and businesses forced to use remote services, the digital divide has weakened. In the first quarter of 2021, 633,000 more UK residents had used the internet in the past three months compared to the same quarter in 2019. More people than before have had the opportunity to benefit from using online services. These responses to the lockdown have become the basis of a wider push for digital delivery of a much wider range of services. The move online for many legal services, such as methods for witnessing wills online or holding virtual hearings, proved largely successful. And 44% of legal services were delivered online [\[https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2021/07/LSCP-2021-How-consumers-are-using-FINAL.pdf\]](https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2021/07/LSCP-2021-How-consumers-are-using-FINAL.pdf) in 2021.

Firms have continued to innovate and adopt new ways of working. We recognise that the continued hardening of the professional indemnity insurance (PII) market remains an issue for many firms, and two thirds of small firms surveyed [\[https://www.lexisnexis.co.uk/research-and-reports/bellwether-2021.html\]](https://www.lexisnexis.co.uk/research-and-reports/bellwether-2021.html) stated that this was the highest risk to them.

The legal sector fared better than most service sectors [\[https://www.lawgazette.co.uk/practice/legal-sector-shines-as-services-output-recovers/5109517.article\]](https://www.lawgazette.co.uk/practice/legal-sector-shines-as-services-output-recovers/5109517.article) through the lockdowns, and continues to show a strong recovery. As with the 2009-2010 recession, the sector has shown its resilience in the face of extreme disruptions. A significant market in its own right, the stability of its £59.9bn contribution to the economy [\[https://assets.kpmg/content/dam/kpmg/uk/pdf/2020/10/kpmg-contributions-of-legal-services-sector-in-the-uk.pdf\]](https://assets.kpmg/content/dam/kpmg/uk/pdf/2020/10/kpmg-contributions-of-legal-services-sector-in-the-uk.pdf) has undoubtedly helped to support recovery.

Forces of change

There is no sign of the speed of overall change slowing. Here, we set out our current view of the most significant changes for the legal sector, and how they appear to be moving the market. There are a wide range of forces driving those changes, which fall into four categories:

- Economic: the ways in which the underlying economy will cause change.
- Political or regulatory: the actions of the government and the regulatory systems which will affect the ways in which the legal sector operates.
- Consumer behaviour: how consumers' preferences and decisions affect the services they need and choose.
- Firm and market behaviour: the ways in which legal firms', and the whole sector's responses to these drivers act as forces of change.

We must stress at this point that horizon scanning can never be definitive and that we do not present this foresight as an exact prediction of how the market will change. However, trend analysis and identifying drivers of change can help mitigate risks and avoid compliance problems crystallising.

Economic drivers

'...the current strength of inflation looks set to prove more long-lasting than originally anticipated',

Price rises and supply issues

Rising energy prices and labour shortages are causing supply chain problems

[<https://www.theguardian.com/business/2021/oct/04/staff-shortages-spreading-to-all-corners-of-uk-business-survey-finds>] across the economy. An increasing range of businesses are reporting staffing difficulties [<https://www.theguardian.com/business/2021/oct/04/staff-shortages-spreading-to-all-corners-of-uk-business-survey-finds>] . Shortages of goods in stores due to difficulties in delivering them are likely to harm consumer confidence. At the same time, rapidly increasing energy costs will affect all businesses, particularly industry, but the greatest impact will be on poorer households [<https://www.bbc.co.uk/news/business-58677439>] .

The current high competition for staff currently appears likely to lead to increases in wages. That would reduce the burden of debt to individuals and businesses.

It is, however, also possible that various influences will keep growth low

[<https://www.theguardian.com/business/2021/sep/22/the-global-supply-chain-crisis-could-fuel-a-severe-dose-of-stagflation>] , even as supply difficulties mean that inflation continues to rise. This would slow the recovery [<https://www.thisismoney.co.uk/money/news/article-7150007/What-life-like-1970s-Britain-time-unemployment-low.html>] .

Other factors affecting the economy

There is some uncertainty about the effect of the increased savings made by many consumers. If they begin spending their savings at a high level, the Bank of England expect a faster recovery. There have already been some signs of this. However, consumers might have developed a stronger savings habit. That would slow the recovery at first, but in the longer term would help to reduce the debt burden in the economy.

Although the government currently regards this as unlikely, there is still a chance of an increase in Covid-19 cases forcing a return to significant control measures [<https://www.ft.com/content/ce4936a4-4b04-45e5-b151-132651b289fa>] . This could cause economic harm, while making trends such as remote working even stronger.

General outlook

The combination of energy price rises and supply difficulties leads many commentators, including the Bank of England, to predict a potentially challenging economic situation [<https://www.bbc.co.uk/news/business-58665538>] . Overall, the most likely development is that growth will stall further or, possibly, reverse for a short time across winter 2021-2022 before the recovery resumes. This is more likely if the UK experiences a colder than average winter [<https://www.theguardian.com/money/2021/sep/25/long-cold-winter-ahead-for-britain-could-keep-gas-prices-soaring-to-record-levels>] with higher energy demands, which some but not all forecasters suggest. The Bank of England now expects that UK GDP will not return to pre-pandemic levels until early 2022 [<https://www.telegraph.co.uk/business/2021/09/29/sterling-keeps-sliding-stagflation-fears-grip-markets/>] .

How are these changes likely to affect regulated firms?

Although the legal sector is very resilient, firms are as affected as any other business by the underlying economy. A return to recession would also affect the ability of many potential clients to afford legal services.

The climate of economic uncertainty is likely to increase the need for legal advice. For instance, for businesses dealing with issues relating to employment, contracts involving energy or the supply of goods, or for those facing financial difficulties. Individual consumers are also more likely to need affordable employment and housing advice.

Political and regulatory drivers

'As I have said before, ADR should no longer be viewed as 'alternative' but as an integral part of the dispute resolution process; that process should focus on "resolution" rather than 'dispute',

Government changes to the role of regulation

The government has started to change and reduce regulation, particularly to make the financial sector more competitive [<https://www.politico.eu/article/city-of-london-action-not-words-deregulation-government-westminster/>] in trade deals. This includes significant changes caused by moving on from inherited EU regulations in a wide variety of fields, including data protection [<https://www.theguardian.com/technology/2021/aug/26/uk-to-overhaul-privacy-rules-in-post-brex-it-departure-from-gdpr>] . The government's consultation on wider deregulation closed in October 2021. It shows a clear drive towards use of regulation to encourage innovation. Among other changes, it is likely to include greater pressure on regulators to introduce and extend 'sandboxes' where regulated businesses can test new ideas.

New ways of resolving disputes being encouraged

The government is actively promoting systems that resolve disputes without the need for traditional litigation. These include the new claims portal [<https://www.officialinjuryclaim.org.uk/>] for road traffic accident cases for claimants to use themselves, and a proposed redress scheme for all clinical negligence claims [[file://sra-cub-fs-01.sra.org.uk/data/Groups/Research%20&%20Analysis/6.%20Risk%20Outlook/10.%20Risk%20Outlook%202021/Clinical%20negligence%20reforms%20imminent%20as%20Hunt%20lambasts%20](https://www.sra.org.uk/data/Groups/Research%20&%20Analysis/6.%20Risk%20Outlook/10.%20Risk%20Outlook%202021/Clinical%20negligence%20reforms%20imminent%20as%20Hunt%20lambasts%20)]

The Ministry of Justice, with judicial support, is pushing for more use of alternative dispute resolution (ADR). It aims for integrated online dispute resolution to be 'mainstreamed' in all aspects of legal work

[<https://lawtechuk.io/explore/sme-odr>] . In support of this, there is a proposal for a digital triage portal

[<https://www.lawgazette.co.uk/news/claims-r-us-portal-could-transform-civil-justice-says-master-of-the-rolls/5110224.article>] for all civil

claims, that will direct claimants to the most appropriate online resolution service for their case. As most forms of ADR are not reserved activities, these changes might give unregulated firms a rising proportion of lower value cases. As market disruption tends to begin at the lower value end of the market [<https://hbr.org/2015/12/what-is-disruptive-innovation>] before rising, this has the potential to bring change to the litigation sector.

Digital services increasing

The main focus of the government's regulatory reform continues to be digitally delivered services. Examples of this include:

- the creation of a central, accessible register of all legal judgments that will give easier access to key precedents. This will help people who are self-representing, as well as making automated analysis much easier
- the Land Registry is building a central, digitally accessible register of all local land charges
- the push for digital ID verification systems [<https://www.gov.uk/government/publications/uk-digital-identity-attributes-trust-framework-updated-version>], including the new digital identity trust framework, which will support the Land Registry's new fully online conveyancing process.

A truly secure digital ID system would help to reduce some forms of fraud and increase trust in online services. A cyber security breach in such a system, however, could significantly harm consumer confidence.

How are these changes likely to affect regulated firms?

Litigation firms may need to prepare for an increase in competition from unregulated firms providing ADR services. The speed and extent of this are not predictable, but it is likely that this will affect an increasing proportion of lower value litigation.

The move to online services, particularly the Land Registry's central register of land charges, might speed up consolidation in sectors such as conveyancing. This is because it might make local specialist knowledge less critical to the process, while letting large firms with national reach benefit fully from economies of scale.

There is likely to be a short-term rise in demand for advice from individuals and businesses affected by the end of governmental support schemes such as furloughing. The current evidence suggests that law firms have not been greatly relying on those schemes, so they are not likely to see any strong, direct effects from these schemes ending.

Consumer behaviour drivers

"Despite many more people taking a leap of faith into the online world, for the 6% of households who remain offline, our research finds that digital exclusion during lockdown is likely to be more disempowering than ever." Ofcom.

Hybrid and online shifts

Hybrid working [<https://www.lawgazette.co.uk/news/firms-roll-out-flexible-office-return/5109766.article>] is increasingly normal and appears likely to continue, which will bring back some business to city centres. But pandemic-driven trends of movement to less urban areas, localisation and increased use of online services appear unlikely now to be reversed. This will continue to strengthen those businesses with national presence or that are local to where homeworkers live, while weakening those that still depend on city locations and commuters.

As more services are provided entirely online, the fall in the digital divide is likely to continue. However, there will remain a significant number of people who do not have access to the internet and cannot benefit from digital services.

Older people remain the most likely to be without internet services. Just 0.2% of 16-24 year olds had no internet access, compared to 38% of over 75s. The digitally excluded are more likely to be vulnerable. They are some of those most in need of better access to affordable legal services, but the rise in cheaper and more geographically available online services will not help them.

Ethical demands from society

The Risk Outlook 2020/21 noted the pressures on firms to change that have been driven by social movements such as #MeToo and Black Lives Matter. Consumer awareness of climate change and other ethical issues will create additional demands on firms to show that they act ethically. There has already been pressure on law firms that act for businesses that are perceived as causing environmental harm [<https://www.legalfutures.co.uk/latest-news/uk-law-firms-score-worst-for-transactions-accelerating-climate-change>]. Protest movements have explicitly cited law firms as potential targets [<https://www.lawsociety.ie/gazette/top-stories/climate-protesters-target-london-law-firms>].

At the same time, firms are facing political pressure on these and other issues.

Unmet legal need

The need for available, affordable basic legal services remains high. 'Finding free or affordable legal help' has been one of the highest searches on Citizens' Advice's internet page throughout the lockdown. This in part reflects the ongoing fall in legal aid. Just 3% of services were funded by legal aid in 2021 compared to 8% in 2014. The fall is reducing the availability of affordable services in important areas of work including welfare and

immigration. It has created effective 'advice deserts' [<https://www.lawgazette.co.uk/news/millions-deprived-of-lawyer-as-vast-legal-aid-deserts-revealed/5109924.article>] ' in multiple practice areas where consumers are more likely to be highly vulnerable.

How are these changes likely to affect regulated firms?

Firms whose client bases are moving or changing work patterns will need to plan for how they can best meet those clients' changing needs. This might involve providing more services online or at a wider range of times, or it might mean focusing on local delivery of services to clients in the areas where they now live and work.

The increasing public concern about ethical behaviour, combined with political pressures, might mean that some firms might find themselves facing difficult questions about balancing clients' rights to access legal support with public pressure.

At the same time, some clients will need advice on how to manage the same public pressures. Consumers and businesses will also need advice on environmental schemes and adjustments, as well as on recovery after flooding events.

Effectively reaching the digitally excluded part of the population will also be a challenge for some firms, while also creating opportunities for firms that can provide truly local services or hybrid services.

Firm and market behaviour drivers

'The world has evolved – it is changing still. By some estimates there have been 5.3 years of digital transformation in the last year.'

Increasing use of technology in firms

There has been a 51% increase in firms' use of technology to manage and process their work, and firms are also making more use of these systems to assist clients. From online information portals to interactive websites that generate documents based on client input, it is clear that many firms are developing their ability to provide services in innovative ways [<https://www.sra.org.uk/sra/how-we-work/archive/reports/technology-innovation-in-legal-services/>]. There are still barriers to them fully benefiting from new systems. Small firms in particular may not have the resources [<https://www.sra.org.uk/sra/how-we-work/archive/reports/technology-innovation-in-legal-services/>] to introduce or scale up new technologies.

Cyber security remains important. Email is still the main target for attacks reported to us, and firms will need to take care to protect themselves or find more secure alternatives.

Mergers and changes to business structures

We have seen some sectors of the market slowly consolidating, with larger firms growing and smaller firms exiting the market. There has also been a noticeable rise in the activity of consolidator firms buying additional practices. This is most notable in personal injury (PI) and conveyancing. For example, 259 fewer firms carried out any conveyancing in the first quarter of 2021 than did so in the same quarter of 2018.

The number of sole practitioners and small traditional partnerships has fallen. The evidence is that, rather than moving to LLP status, firms are more often choosing to structure themselves as limited companies. There has also been a rise of interest in firms listing as public companies.

Professional indemnity insurance costs

The rise in the cost of professional indemnity insurance (PII) is likely to stay until the economy fully recovers. As the rising cost does not appear to reflect any real rise in risk in the legal sector, the main drivers behind it appear to be the underlying market conditions [<https://www.lawgazette.co.uk/news/lawyers-being-punished-for-insurers-costs-elsewhere-says-regulator/5109522.article>]. Commercial PII, however, remains a relatively young insurance market whose natural levels are not certain. Costs might not return [<https://www.legalfutures.co.uk/latest-news/pii-market-only-getting-harder-after-17-premium-increase>] to the relatively soft market seen before the pandemic even after the economy recovers.

At least one insurer is already offering lower premiums to firms that use specified IT security audits. This might be a sign that the market is finding ways of demonstrating lower insurance risks.

The Legal Services Board is reviewing PII [<https://legalservicesboard.org.uk/news/chairs-blog-september-2021>] in response to the rise in premiums. They intend to engage with a wide range of bodies for this work, which will inform their view of how the PII market is operating for firms and their consumers.

For claims relating to firms that have closed with no successor, the Legal Services Board decided in July 2021 to approve our application [<https://legalservicesboard.org.uk/wp-content/uploads/2021/07/20210728-ED173-Extension-of-Solicitors-Indemnity-Fund.pdf>] to extend Solicitors Indemnity Fund (SIF) cover by a year. We will be engaging with firms about the long-term future of post six-year run-off cover and on the affordability of SIF in the longer term.

How will these changes affect regulated firms?

The increasing pace of change and the need to adapt to ongoing reforms, combined with the cost of new technologies, is likely to benefit large firms that can afford new systems and make use of their economies of

scale. Those large firms that choose to list as public companies can access more resources and strengthen that advantage further

With no guarantee that the PII market will soften, some small firms in particular might find themselves needing to change how they work to manage the costs and deal with competition from larger firms. Although adopting new technologies can help such firms reduce their costs, many will have limited resources available to invest in innovative systems.

One major effect of competitive pressures could be more consolidation. In other markets, an initially steady process of consolidation has often led to a sudden and rapid move [http://publications.aston.ac.uk/id/eprint/18473/1/Benefits_from_competition.pdf] to a market dominated by four or five very large national brands. We cannot know whether the same will prove true in the legal market. However, as the need for efficiencies in PI and conveyancing in particular are likely to grow, we expect consolidation trends to continue [<https://hbr.org/2002/12/the-consolidation-curve>] and it could accelerate.

As well as large nationwide businesses, however, a time of rapid change suits more informal networks that can adapt swiftly to changing circumstances. Freelance hubs and virtual firms are expecting to expand [<https://www.legalfutures.co.uk/latest-news/profession-on-the-cusp-of-explosion-in-consultants>] , but any firm that can take advantage of the opportunities will be in a good place to thrive.

Conclusions

The legal sector came through the challenge of Covid relatively well, demonstrating again its ability to survive and even thrive in extraordinarily challenging times. As ever, legal firms will be a key source of advice for people and businesses. They will help the economy and society recover from the impact of the pandemic and adapt to the challenges of the future.

How to make the most of opportunities and meet the challenges

As times continue to change and present us all with surprises, there will be many opportunities for law firms. This will especially be the case for those that can adapt to the changing way people want to access services. Whether working nationally and online, contacting clients through apps and chatbots, or providing focused local services directly where people live, firms that meet their potential clients' needs will flourish.

While most of the population will benefit from the increasing efficiency and access provided by online services, a significant proportion of the most vulnerable people with the greatest legal needs cannot. Meeting their needs affordably and effectively is a critical challenge for the market.

The uncertain economic climate presents difficulties for even the most currently effective businesses. The most adaptable firms are likely to be those that can best manage uncertainty and serve their consumers' needs whatever changes the world might present them with.

Information will be key to doing that and we will publish more frequent short Risk Outlook reports to update on different potential threats and opportunities in a timely way. Of course, we will continue to give up-to-date information to help you meet the challenges we are all seeing.

You can contact SRA Innovate [<https://www.sra.org.uk/solicitors/resources/sra-innovate/>] to discuss ideas for different ways of working.

We will also be testing ideas by running pilots that will help more firms prepare for challenges and opportunities of the future. As an example, we are working in collaboration with the Law Society, the Legal Services Consumer Panel (LSCP) and the Bar Standards Board (BSB) to explore the potential for family law services to be unbundled [<https://www.sra.org.uk/sra/news/sra-update-97-unbundling/>] . We will share the findings and case studies from these, so firms can make more informed decisions about what might work for them.

As with our previous Risk Outlook [<https://www.sra.org.uk/archive/risk/outlook/risk-outlook-2020-21/>] s, we will continue to share the latest advice on managing threats such as cybercrime. The National Cybersecurity Centre [<https://www.ncsc.gov.uk/>] (NCSC) also provide guidance on managing all aspects of cybercrime, for firms of all sizes.

If you are introducing new technologies, you will need to do so securely, staying fully compliant with rules on data protection. The Information Commissioner's Office (ICO) gives more information on their website [<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/artificial-intelligence/explaining-decisions-made-with-artificial-intelligence/>] .

Get involved

In these times of exceptionally high uncertainty, the best understanding and decision making will come from a dialogue between all of us. We want this report to help those conversations.

You can share your thoughts with us in our survey [<https://form.sra.org.uk/s3/Risk-Outlook-Survey>] on how a changing market might affect legal services and how we can all best respond to those changes.

Use www.sra.org.uk/riskoutlook to link to this page.