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Is Covid-19 the mother of all disruptors for the legal profession?

In an effort to understand the long-term changes that the COVID-19 pandemic may have on the legal profession, Trish Carroll taps into the minds of final-year law students and also ponders what the fallout will mean for lawyers' engagement with clients.

Who would have thought Plato's view in *Republic* in 375BC about "necessity being the mother of invention" would remain just as astute in 2020?

Never have law firms responded faster to change than now. It's as though 20 years of obfuscation has been wiped away, possibly forever, and what a wonderful silver lining that would be from this Covid-19 cloud.

American columnist Thomas Friedman wrote an op-ed piece in *The New York Times* on March 17, 2020, that spoke of the world BC – Before Corona – and the world AC – After Corona. We all know what BC felt like, even if that now feels like decades ago, and many firms and businesses must now be starting to consider what AC will be like and what it will require of them.

More recently, celebrity chef Colin Fassnidge wrote in an article about his family in *The Sun Herald* on April 12, 2020: "Now that we're all locked in, we are trying not to kill each other. We want to come out of this with the same number of people we had at the start."

Fassnidge's goal struck me as being equally true for law firms. Most of the media reporting about what firms are doing reflects Fassnidge's goals; certainly none are talking about staff cuts yet. However, it got me thinking about how people nearing the end of their law studies, those who have just completed a summer clerkship, or who work in casual paralegal jobs, are feeling about their future in the law.

I engaged with 12 final-year law students. Some of them worked during 2019-20 as summer clerks in international, large Australian or mid-sized Australian firms. Others did not have clerkships. Here is a summary of how they're feeling about their future as lawyers, how their peers are feeling about the impact of the virus on their careers, what they would see as priorities if they were running a firm, and what changes they think will happen in the profession in the AC world.

About their future as lawyers...

There are mixed feelings. Some hold a view that the world will always need lawyers. Others felt anxious about their futures as lawyers. Others said the pandemic had made them realise that some areas of specialisation are particularly vulnerable. As one aspiring lawyer put it: "My desire to one day be involved in media and entertainment law has, to an extent, diminished after witnessing the complete shutdown and halt of the music and arts industry."

Some said that they would be keeping an eye on which practice areas are stronger and more stable during challenging economic times, while others were considering their options for pursuing non-private practice law careers. Those with graduate offers from international firms doing cross-border international work are the most confident and optimistic that their futures remain the same as in the BC world. Even so, some admitted that the pandemic has caused them to rethink how working as a lawyer will change as a result of the pandemic. It has made them realise that broadening their skills in the event of another crisis should now be on their radar.

This quote sums up the way quite a few of the students are thinking: "The ability to take some time off from working, while keeping a close eye on the way in which people have reacted to Covid-19, has definitely made me rethink other options I might have for the degree. It is pretty easy to take the 'easy road' and go from uni straight into corporate law. The forced self-reflection resulting from the coronavirus has reminded me that there is much more to life than taking this route."

How their peers are feeling about the impact of the virus on their careers ...

The prospect of Covid-19 as an imminent threat to employability of law students is a hot topic. Many of those yet to apply for a clerkship are panicking, mainly due to the fact that the distinction average they have worked so hard to achieve might be nullified by a lack of demand in the job market. They're expressing statements like: "There's no chance any firm this year will offer clerkship positions" and "you have to pick a good practice group or else there'll be no work for you".

Those with graduate positions in their firms of choice mostly believe they will start a year or two from now and that things should be back to normal by the time they start. Some expressed concern that their start dates may be pushed back. Others were concerned that pay levels may stall, particularly as they have heard stories of staff being asked to take pay cuts and suggestions that those cuts will have a knock-on effect. Some are learning that even having a graduate job is no guarantee because "when the going gets tough, law firms won't look out for young graduates".

Priorities if they were running a law firm ...

Almost everyone said that, from what they could tell, most law firms seem to understand the correlation between employee welfare and business success. They hoped firms making decisions to cut staff were making those decisions based on evidence and with adequate forethought. They felt a major priority ought to be ensuring staff trusted the leadership to make the best decisions and trust that what they say is true. As one person put it: "They need to be communicating the reasoning behind their business decisions transparently to staff, so they can understand why they're making the decisions they're making and have faith in the leadership."

One law student went as far as to say that: "If pay cuts were necessary, partners should take the majority of the cuts because they are essentially the owners of the business and have a responsibility to ensure that it is financially viable."

Reducing salaries was regarded as likely to be an important aspect of being able to keep staff. There was a strong view that salary reductions should be proportionate to the employee's salary and reductions should be across the board, not selective. This is what they described as a "we're-all-in-this-together approach".

Shelving non-business essential projects came second, although defining what is 'non-business essential' was a topic of debate. Many students felt firms should invest some of their surplus to Covid-19 resources to begin the underlying work needed to accelerate more streamlined ways of working.

Next came rethinking office space and its use after the virus as flexible work practices, especially working from home, will have proven to be a viable arrangement. Firms could find themselves needing a lot less office space and possibly rethinking where that office space needs to be located.

Likely changes post-virus...

Following is a snapshot of respondents' views regarding the long-term impact that the pandemic will have:

- "Virtual courtrooms and teleconferencing will become more popular. These emerging technologies have been around since before the pandemic and they are only starting to be used seriously by firms and courts now. I also feel that solicitors will start embracing working remotely more and be less reluctant to do so in the future."
- "As a young person I really hope that this event will change a number of processes in the legal industry. First, I hope more senior lawyers will have developed a level of comfort with using technology, working from home and engaging in video calls seamlessly. I also hope they stop their archaic reliance on printing by becoming familiar with the presentation of information on computer screens. Second, legislative instruments allowing, and with some mandating, I hope electronic filing with the courts will be expanded to include all jurisdictions and courts. Then (some) barristers might become more comfortable with reading electronic briefs. Third, I think the client experience will remain reasonably similar. I don't expect law firms will discount the importance of meeting face-to-face with clients."
- "Working flexibly will be the new norm. The perception that lawyers need to be able to work from their office to be productive will no longer be the norm."
- "The online court system is functioning well and many of the courts will look to the Federal Court as a great example of how a modern court should operate, and attempt to mirror its technological literacy and capabilities."
- "The virus has emphasised the importance of having working from home and virtual meeting capabilities, but this technology is not ground-breaking. The virus has

probably acted as a wakeup call for the firms who didn't have those capabilities before."

Where are the clients in all this ...?

It's not surprising that clients did not feature highly in the thoughts of the law students, although the need for firms to keep them updated on what their future places of work are doing was regarded as very important.

It's the same for clients. Never has staying in touch (figuratively speaking) been more important. Many firms have acted on their understanding of their clients' hunger for accurate and helpful information to help them steer their businesses through this.

When you think of all the money most firms spend on client entertainment and client education delivered using face-to-face training, workshops and discussions, it's fantastic to see how those budgets appear to have been redirected to establishing Covid-19-specific information hubs. Here are three of the best:

- International firm White & Case has an impressive Covid-19 Resource Centre where information relevant to different geographic regions is updated almost daily: <https://www.whitecase.com/coronavirus-hub>
- Australia's largest law firm by number of Australian lawyers, Minter Ellison, has pulled out all stops to keep its clients, and the market, up to date on issues and implications arising from the pandemic. It has established CuRT, a 24/7 Covid-19 Response Team chat bot: <https://www.minterellison.com/covid-19-implications-insightsmpact>
- Australian mid-sized accounting firm BDO has a great array of information, including practical videos and webinars: <https://www.bdo.com.au/en-au/covid19>

This virus is a real test for how well firms genuinely understand their clients and their needs. At times like this, no one wants to be inundated with irrelevant or untargeted information. Smaller firms are proving adept at bringing to their clients, and the market, targeted information. They may not have the resources of the firms highlighted above, but they are making impressive efforts.

One example that struck me as a bit different comes from Kain Lawyers, an Adelaide-headquartered <50 person firm that quickly implemented a Covid-19-focused series of

newsletters analysing five critical global dimensions from an Australian perspective. One of the key differentiating factors is that Kain has engaged outside experts to provide commentary, in addition to sharing the firm's own experts' analysis. These are accessible at <http://www.kainlawyers.com.au/news/covid-19-news/>. If you take a look, I suggest also reading the firm's decision-making principles at this time, which are summarised as "Be Safe, Be True, and Be Positive." Aren't they wonderful principles?

Whether your firm is mega or minnow-sized, the pandemic has implications for your business and your clients' businesses. Being proactive, practical, positive and prepared to spend the time and effort to help clients understand how they can take advantage of whatever legal protection or opportunity is available to them to minimise the impact on their business will be valued now, and remembered for a long time to come.

As one of the young soon-to-be lawyers said: "Firms need to take a long-term view to a short-term problem. Keeping clients and staff is vital as the cost of getting and keeping both is so high." From the mouths of babes!

Trish Carroll, Principal of Galt Advisory, helps law firms devise and implement successful marketing and business development strategies. She thanks all the students who shared their views so honestly to help make this article useful. She does not advise the firms named in this article. Trish can be contacted at trish@galtadvisory.com.au.