



### Will Covid-19 change the way lawyers work in the future?

Ever since the Covid-19 outbreak two years ago, virtually everyone's lives have turned upside down. From collaborating with colleagues through Zoom to managing digital clutter, lockdowns have presented workers with the greatest challenges of the 21<sup>st</sup> century. Particularly, as part of a sector heavily reliant on direct human interaction, lawyers have had to adapt much of how they work to ensure that clients still get the necessary support. Having been over 18 months since the start of UK lockdowns, there has been sufficient time to adapt to this new lifestyle, raising the question of whether there will be long-term effects of Covid-19 on law work.

A good starting point is looking at the fundamentals of being a lawyer and to what extent the pandemic can limit this. Essentially, a lawyer's role is to advise clients on legal matters and apply the law to specific cases. This means that a lawyer's job builds itself on communication between different individuals, as well as understanding and solving complicated arguments, and dedication and research towards different cases for long periods. Currently, video conference websites like Zoom allow groups of people to talk together in real time and collaborate on important documents. Working on a device means that pages of online articles and documents are at your fingertips, making research more accessible and – most of us having spent more time using the internet recently – easier and quicker. This has also been advantageous as tools which speed up and strengthen decision-making and writing, such as translator apps or grammar checkers, are more accessible. A lawyer's salary ensures that they can generally afford the right technology to access these tools smoothly. So, it is fair to say that if home working were to continue as government rules, then a lawyer's job can be fulfilled remotely to some extent.

Following on from this, however, we must look at the choice that lawyers can make after this opportunity for change provided by the pandemic, as the likelihood of work getting relatively back to normal is relatively high. In some cases, the discussion of online law has already been raised as the world faces rapidly increasing digitalisation of basic services such as shopping and managing finance. Joshua Rozenberg started his 2016 book *The Online Court: will IT work?* by stating, "By the year 2022, most civil disputes in England and Wales will be resolved through an online court." Lockdown has only pushed for this further: in a survey conducted with over 500 lawyers last year, the general feeling was that online court should continue. Her Majesty's Courts and Tribunals Service (HMCTS), which deals with justice modernisation projects, states that the UK has a new approach of 'agile development', i.e. testing in small steps with lots of feedback at each stage. Figures involved in online court development also insist that every decision about a person's rights would still be made by a judge, as opposed to 'cyber judges'. All papers would be digitally recorded and filed, meaning information can be inputted once and transferred across all relevant documents, and hearings would only take place when necessary and fair. This would save around £250m a year by eliminating many

of the costs of running a paper-based system using real courts, meaning barristers may be working at court with clients who are remote in the future.

As clarified before, there will most likely be options for lawyers' working methods, and so we should think about whether Covid-19 *should* change a lawyer's normal workday in court. In the interest of justice, there can be limitations to carrying out cases virtually, particularly concerning interaction between lawyer and client. According to anthropologist Ray Birdwhistell (1970), about 65% of a person's reaction to or feeling towards a situation comes from nonverbal cues. Even with video images (which can lack quality and speed), nonverbal cues can be distorted or hidden, making interpretation of those cues more difficult to lawyers especially. If unable to understand a person's reaction or emotional state, misunderstandings and miscommunications can occur, making these important discussions potentially lack the quality and reliability needed for a lawyer to make the necessary decisions with their client. Moreover, there is a lack of atmosphere of value in conversations, and distractions such as children and pets create a feeling of disconnect from the situation at hand. Therefore, the likely route is that online hearings will only be used when appropriate and plausible.

An additional aspect of lawyer's future work after Covid-19 is the challenges presented of legislation itself. As the pandemic led to a major health concern in the UK, the government introduced regulations which created and amended rules about what different people must do for public safety. At the same time, this created exceptions in existing law which raises the question of whether lawyers will become more lenient and understanding in future decisions. An example of this is the amended laws on incapability of work and qualifying for statutory sick pay: in most cases, employees will only qualify if they are deemed to be, "incapable by reason of some specific disease or bodily or mental disablement of doing work which he can reasonably be expected to do under that contract." This means that employees who may have mild flu-like symptoms for example, such as a blocked nose or cough, are typically still capable of work; however, amendments due to Covid-19 mean an employee should not work if they have been diagnosed yet show mild to no symptoms, or even if they have *not* been diagnosed or shown symptoms. In scenarios like this, lawyers face obstacles in ensuring that the laws enforced across nations align fairly with the best interest of the public and provide the right protection to people. Covid-19 has affected everyone including lawyers in some way, whether that is in the way that they live or the health of themselves and their family; resultingly, lawyers have potentially developed a greater sense of understanding of and empathising with different people and situations they may be used to, leading to a legal system which could be less solidified than before.

When I read this question, I remembered that Covid-19 is not exactly the first pandemic of its kind: just over a century ago, the influenza pandemic took over the globe. Despite how old it may seem, how law will evolve in response to Covid-19 in the nearer future may be informed by similar circumstances in 1918. Prominently, a pandemic may trigger a *force majeure*, or unforeseeable circumstance which can delay or prevent performance of an obligation. In the Court of Appeal of California's 1920 decision, *Citrus Soap Co. v. Peet Bros. Mfg. Co.*, the Californian legislature's implemented isolation rules in response to the influenza pandemic interrupted a soap maker's manufacturing processes, delaying delivery to a customer past a deadline. The customer then sued the soap maker for breach of contract. However, the soap maker's contract included a 'contingency of delay in performance' section (like a *force majeure* section), and so the court held in favour of the soap maker, concluding that the section permitted the soap maker to deliver the soap within a realistic period after the original deadline. Even though *force majeure* sections are common in commercial agreements today, they may not necessarily ensure that a business is protected from Covid-19's effects, as these sections are interpreted separately per case and may not be as broad as the soap maker's section. Thus, lawyers will be encouraged to learn from these experiences and develop application skills in the future to make litigating easier and more successful.

Then there is the question of the future generation of lawyers learning through the pandemic. As identified earlier, law firms seek resilience and dedication in their applicants; this is exactly what the pandemic has built into keen learners. Within a very short time span, students and teachers shifted their environments, regular routine and method of education to conform to new regulations. Constant uncertainty around the corner and lack of clear opportunity means that students like myself have had to adapt to continuous change. This requires serious motivation and thirst for experience, especially when lockdowns have negatively impacted over 91% of the world's students mentally, meaning future employers will likely find ambitious lawyers. Furthermore, work life and personal

life have become more hybrid as our bedrooms and kitchens have often become workspaces, allowing for greater flexibility in working arrangements and better work-life balance.

Evidently, there are countless aspects regarding whether Covid-19 will change the way that lawyers work in the future. Nevertheless, I think that the pandemic's impact on the younger generation of lawyers particularly outshine any plans to ignore Covid-19 as an opportunity for change. Having been able to adjust in an already technology-dominated world, these robust learners will help push for an economically effective, flexible online system alongside necessary court and office work. Moreover, newfound experience will allow lawyers to align with modern-day values of tolerance and ease in a complex society for a greater post-Covid-19 world.