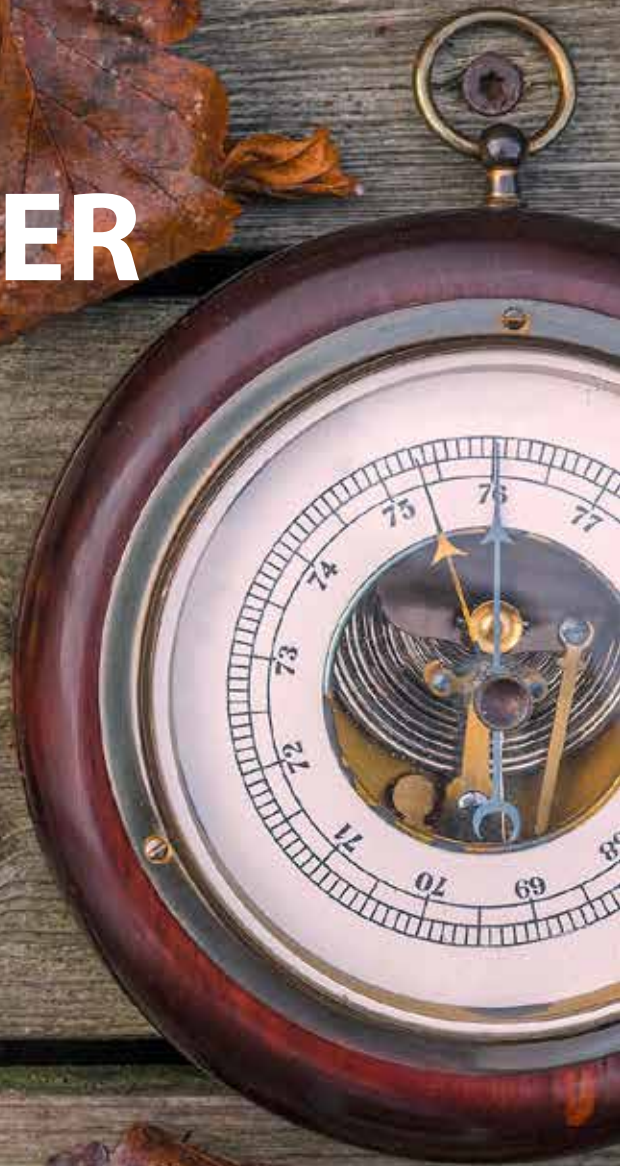


# SCL BAROMETER 2019



# Welcome to the SCL Barometer 2019

## What is it?

The SCL Tech Law Barometer is a new initiative launched earlier in 2019 with the aim of mapping the tech law sector. We wanted to define and understand the booming and ever-expanding sector in which we all work - take an annual snapshot of SCL activity and the thoughts of our members.

## Why?

Tech law is a vital and growing sector, tech pervades all areas of everyday life and it's important to understand this evolution and our role within it. It's also a wonderful opportunity for review and reflection and a stimulus for conversation. We believe that SCL and you, the members of the tech law community, are uniquely placed to do this.

The intention is to build upon this research each year, modifying and refining the questions to ensure they stay relevant, and for this to be an ongoing resource for members, national and legal media and others in the legal industry.

## How we did it

We designed a set of questions in 5 key areas:

- about you
- your business
- tech in your practice
- your training and development
- the zeitgeist

Separate questions were devoted to those working in-house. Each set of questions was designed to ascertain your thoughts on where your work is coming from, how tech is being used in your daily work routines, your experiences, your predictions, your successes, what keeps you up at night and your opinions on some of the current hot tech law topics. There was the option to remain anonymous or to be attributed and lots of opportunity to

expand on your answers and give us more context.

## What we discovered

You had a lot to say! You were honest and open and gave us a fascinating insight into the sector. There were some interesting regional differences and trends; lots of debate and healthy scepticism around the hot button issues like GDPR, AI, online courts and social media platform regulation; and plenty of food for thought.

It's been a tricky year with the introduction of GDPR and the ever-looming threat of Brexit and what that might look like, but we see a robust and expanding sector, a lot of common-sense and pragmatism in the face of new tech 'hysteria' and plenty of reasons to be optimistic.

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Any questions? Contact Maddie Southorn:  
maddie.southorn@scl.org

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# ABOUT YOU

## How many people responded?

136 people took the survey.

## Regional breakdown

Over 90% of the respondents are based in the UK, mostly in England, with 54% working in London.

International respondents come from Ireland, Hong Kong, Singapore, France, New Zealand and Canada.

## Gender breakdown

45% of the respondents are women.

## Level breakdown

45% of those who took the survey work at a senior level (Partner, Legal Director, CEO, Director, Senior Legal Counsel).

6 barristers completed the survey and 4 trainee solicitors.

## Types of firms

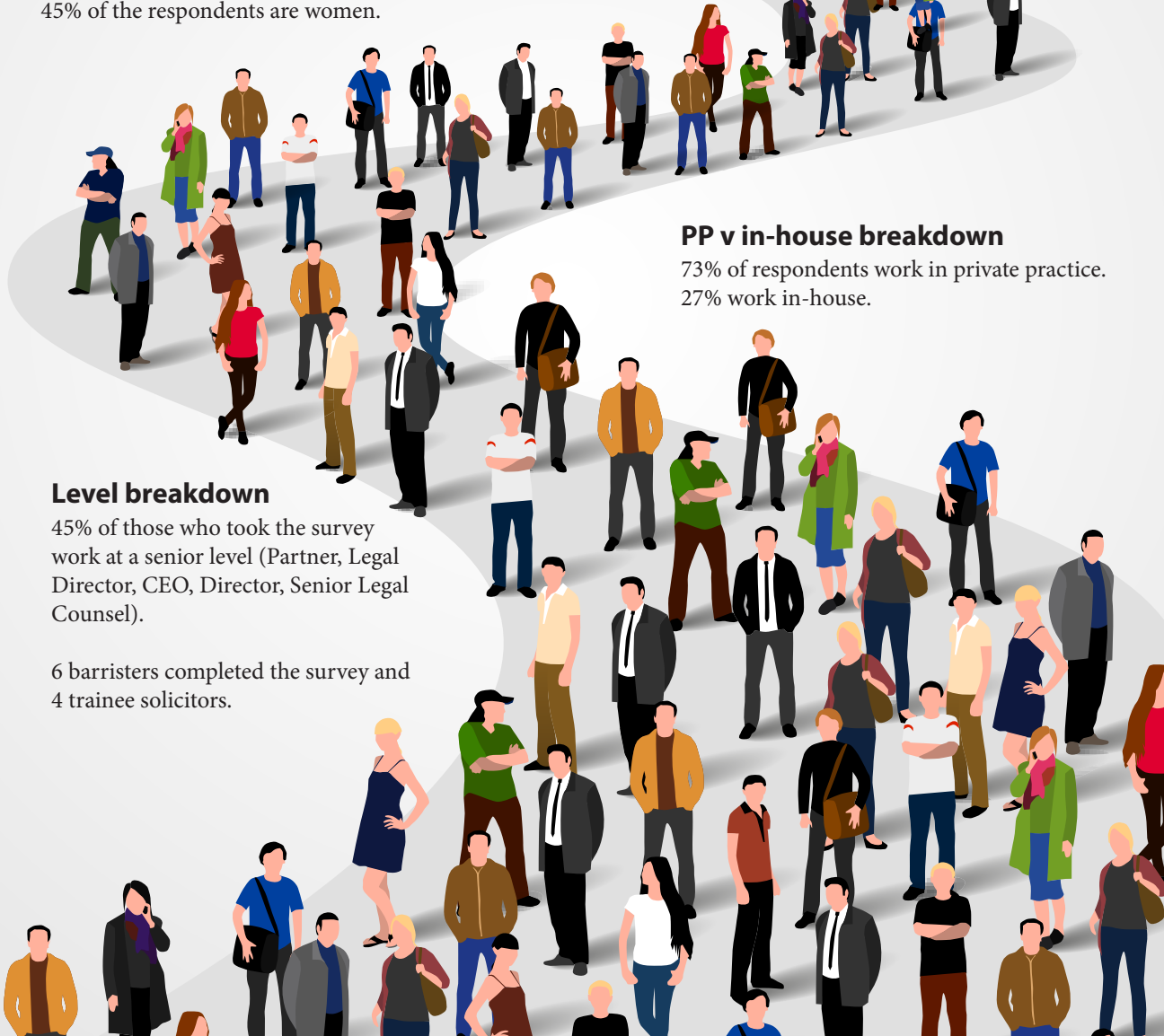
Half of respondents work at 'traditional' law firms (DLA Piper, Baker McKenzie, Bristows, Withers, Slaughter and May, Osborne Clarke, White and Case etc.). Of the rest, 10% have founded their own firm or work at boutique law firms.

For those working in-house the commercial sector was well-represented with Amazon, Comcast, Orange, FT, BAE Systems amongst others.



## PP v in-house breakdown

73% of respondents work in private practice.  
27% work in-house.





# YOUR BUSINESS

**T**his section of the survey was aimed at those working in private practice. The aim of the questions was to give us an understanding of where the majority of tech law work is coming from, does that look set to change or increase over the next 12 months, what expectations do clients have and what trends are emerging in relation to this.

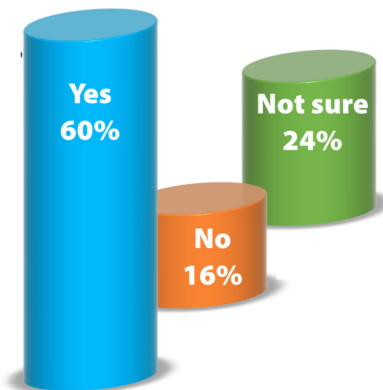
## Q Do you think your tech law work will increase in the next 12 months?

Nearly 60% of you are anticipating a rise in tech work over the next year and that new tech (AI, driverless cars, fintech, health tech) is driving much of this increase. DP work continues to increase as does dispute work in IT/IP. Many firms are moving into the tech space and are actively promoting and campaigning for this type of work so fully expect to see a corresponding rise.

*“New technologies are advancing at a greater rate than ever. This means that as a disputes lawyer, I’m bound to be kept busy with the unforeseen or unintended consequences, disagreement about how a product was supposed to work in which market, for how long, and whether it should evolve over time.”* **Sarah Ellington, Legal Director, DLA Piper (UK) LLP, London**

*“It has increased year on year for as long as I can remember, and Manchester is a hot-bed for tech business. Almost every new client we get is tech-focused.”* **Simon Weinberg, Partner, Knights plc, Manchester**

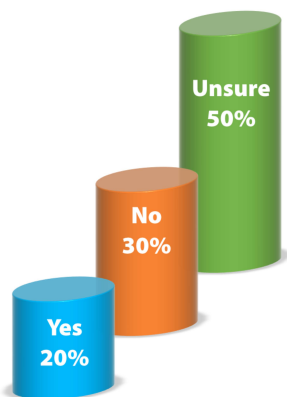
*“We operate in the SME area where there has not been sufficient access to experienced tech lawyers in the past and we have seen a lot of interest in our services.”* **Tina Fernandez, Managing Partner, Orbital Law, London**



*Do you think your tech law work will increase in the next 12 months?*

## Q Will Brexit have an adverse impact on your work?

We posed this question back in Spring 2019 and things have obviously moved on since then. Essentially, we still don't know what will happen as reflected in nearly half of all respondents being unsure of the impact of Brexit on their work.



*Will Brexit have an adverse impact on your work?*

Those working in litigation think that they are likely to see an increase in work because of Brexit. Also, in the short-term many of you anticipate increased work as clients seek advice during this period of uncertainty and after we exit as clients adjust to the new situation. Some of you are already seeing clients moving abroad.

Many of you anticipate a recession, particularly if we 'hard Brexit' and this is likely to see investment restrictions and new projects put on hold as clients and firms are less willing to spend. There is some suggestion that bigger firms are more likely to be impacted by this particularly because pan-European work could be put on hold until post-Brexit.

Those based outside the EU believe they will

fare better although not necessarily immune from the ill-effects.

Everyone who commented agreed that whatever happens in the short-term the impact will be longer and deeper than is currently being presented by government and media.

## Q Are your clients becoming more demanding when it comes to the level of tech knowledge they expect from you and/or your staff?

60% of respondents said yes and said that clients are becoming more tech savvy with many now working in cutting-edge areas of tech. However, many of you said that clients in this sector have always expected lawyers to have a basic understanding of the tech under discussion, given that tech law is a niche area of the law. This is heightened when working at a firm with a renowned tech law practice.

*“Many of our clients offer interesting and cutting-edge products and services (including AI systems). They expect us to understand the technical complexities of their offerings in order to properly understand the legal risks involved.”* **Dianne Devlin, Associate, BPE Solicitors LLP**

*“Although they consider the tech is their area of expertise if I can show that I am “up to date” on the issues or problems arising from their tech creativity then that really helps me with credibility.”* **Sarah Staines, Solicitor, Principal, Touchstone Legal Services, Herts**

*“Most of my clients are not more demanding, but this may be because I have known many for years, and now their business. I believe that being a member of SCL is a great help in keeping up to date with developments, and this means, along with other IT and tech CPD, that I am generally sufficiently well versed to deal with any of their questions.*

*The biggest disconnect is usually when the technical spec or scope is written by the client and is not reviewed by the solicitor. You can spend time taking clients through the contract terms, but they are not trained to think about how they work in tandem with the spec. As a result, most clients write a spec that manages to contradict one or more of the terms.”* **Nigel Craig, Managing Director, Hentys Corporate Limited, Hants**

*“In technical areas such as FinTech, substantial knowledge of blockchain/DLT is needed. Similarly, in cyber security/IT forensics considerable technical knowledge is needed - increasingly the work is granular/specialist.”* **Partner, Dublin law firm**

*“Routinely, the client assumes a level of tech knowledge and does not expect to have to educate myself as to the field of tech that I work in. With AI, distributed ledger, cloud-based systems, agile software development, etc, one is expected to understand this.”* **Guy Tritton, Barrister, Hogarth Chambers, London**

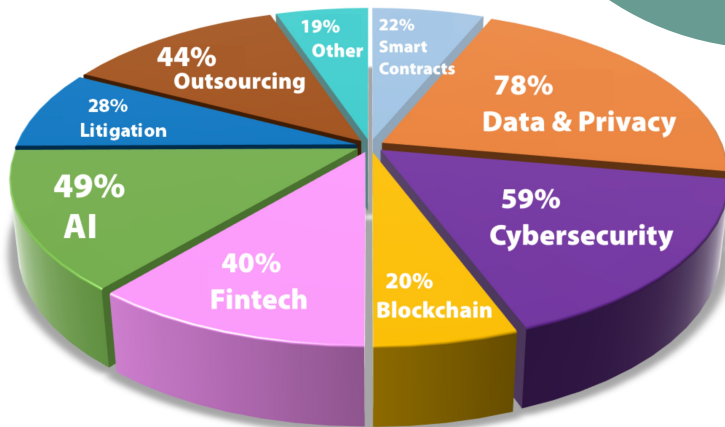
# Q Which of the following areas do you think will drive your tech law business in the next year?

DP and Privacy predictably dominate the list as clients get to grips with GDPR.

Larger firms with more established or dedicated tech practices are starting to see more AI, FinTech and blockchain work although many of you feel that these areas still have some way to go to catch up with the hype that surrounds them. These technologies are taking longer to filter down to SMEs. Smart contract work appears to be rising across the board.

*“I have clients working in all of these areas, so it is easy to see how they will generate work. I would like to think that I would see work in smart contracts and blockchain, but my clients are SMEs and, for the most part, smart contracts and blockchain have not yet become cost effective enough to work their way down the chain.”* **Nigel Craig, Managing Director, Hentys Corporate Limited, Hants**

*“We see a trend in SME tech companies buying legal advice to cope with demands from their customers for more sophistication in the handing of contracts and specific issues like GDPR. We expect that SME growth to favour firms like ours more than the magic circle firms.”* **Charles Drayson, Partner, HCR Legal LLP, Worcester**



*Which of the following areas do you think will drive your tech law business in the next year?*



*“Some emerging tech on hype cycle will take a bit longer to flush through into advisory/transactional work.”*

**Callum Sinclair, Partner, Head of Technology Sector, Burness  
Paul LLP, Glasgow**

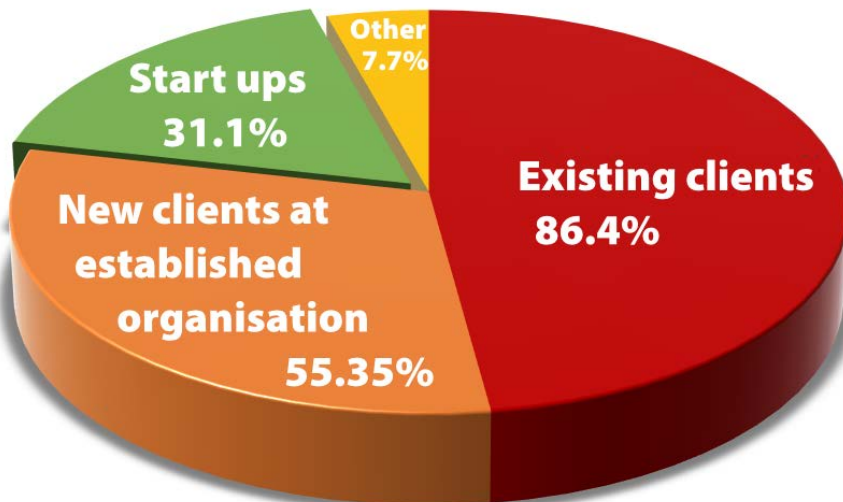
## **Q** Where do you think most of your work will come from in the next 12 months?

Existing clients topped this list with lots of investment in client retention and securing client referrals.

Many of you who selected ‘new clients’ as the source of most work over the next 12 months also said you had plans to grow existing client work.

It was noted that those working in litigation don’t tend to see repeat clients!

We see an interesting trend for firms in the regions doing more work with start-ups. Is this because those firms can tailor their practice to the local community or that regional firms can be smaller and possibly therefore more approachable and affordable for start-ups who have limited resources? Is it that the regions are currently more favourable for start-ups (Bristol, Manchester, Leeds, Cambridge etc.) and is this because of local government investment or initiatives that encourage small businesses? It would also be interesting to find out if these firms migrate to London once they’re larger.



*Where do you think most of your work will come from in the next 12 months?*

# TECH IN YOUR PRACTICE



In this section we wanted to gain an insight into the day-to-day experience of those working in private practice. What kind of tech are you using, how many firms have adopted some form of AI and how confident are you in working with this tech?

## Q Are you using any form of AI in your practice?

68% of you are not using any form of AI in your daily practice and where it is being used you describe it more as machine-learning. Where it is being used it is primarily for reading and reviewing contracts. Many of you are using some form of DMS for reviewing and storing. There is also some use of intelligent software (chatbots).

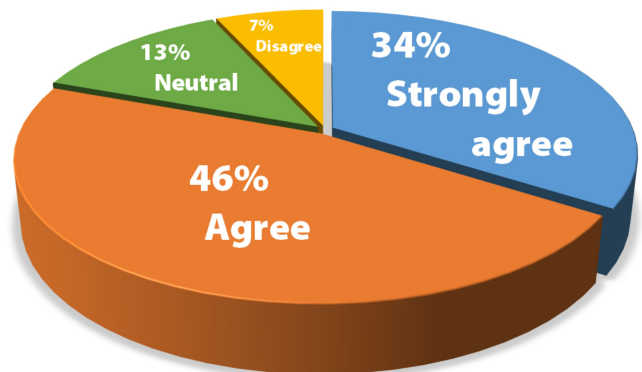
Specific software mentioned included KIRA, Luminance, Tessian and Ayfie.

## Q Do you feel confident that you know enough about cybersecurity procedures in your work?

74% of you feel confident that you are adequately knowledgeable about your cybersecurity procedures. Lots of you commented that there's little room for complacency given how important this is and how quickly new threats develop.

## Q What do you think of the following statement: "Technology makes me a better lawyer"?

There was general agreement in the comments that technology enables you to 'add value' by improving efficiency and therefore offering better service to your clients although many of you made the point that being a 'better lawyer' is not all about the tech.



What do you think of the following statement: "Technology makes me a better lawyer"?

*"I am not a better driver just because I drive a car with more automation."* Charles Drayson, Partner, HCR Legal LLP, Worcester

## Q Have you or your firm been involved in developing / incubating any legal tech or apps?

60% of you have been involved in developing or incubating some form of legal tech or legal apps. These include apps and chatbots for internal use and for client-facing work. Many of you are working with legal tech firms or supporting software developers. Those of you who aren't, have plans to do so in the near future.

*"We have incubated a contract review tool and have helped (via investment and otherwise) start-ups with their development of other technology tools for the legal services industry."*

**Partner, London law firm**

*"We are, I believe, the first firm to use a blockchain for managing our billing records. Zero practical value, obviously, but we've got a blockchain, and that makes me happy."* **Neil Brown, Managing Director, decoded:legal, Newbury**

## Q Where do you see technology being most useful in your practice over the next five years? (In order of importance)

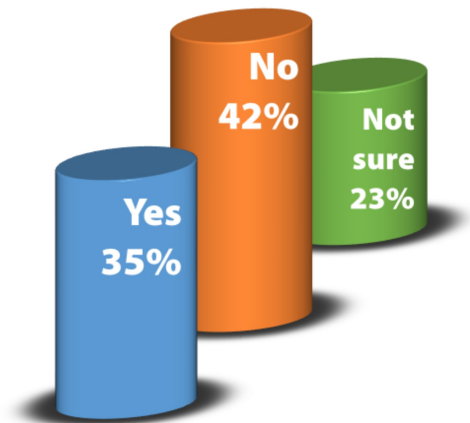
- 1) Remote working
- 2) Document reading
- 3) Legal research
- 4) Client collaboration
- 5) Agreement drafting
- 6) Disclosure
- 7) Smart contracts
- 8) Assessing litigation risk

Other suggestions were recruitment and retention of staff; records creation for DP purposes; internal and client-facing security; collaboration with clients' advisers in other countries (via shared workspaces, data rooms or private cloud storage); time recording on the go; billing support and other legal processes.

# THE IN-HOUSE VIEW



**T**hese questions were designed to work in parallel with the sections dedicated to those working in private practice; to try to capture the same data but take account of the different experience of those working in-house.



*Will Brexit have an adverse impact on your work?*

## Q Will Brexit have an adverse impact on your work?

This question prompted a similarly mixed response from those of you working in-house as for those working in private practice although a higher percentage of in-housers feel that Brexit will not adversely impact your business. The reason given for this are that as many of you work for global firms used to working in a regulated environment you have a head-start. Many of you are also anticipating an increase in work as organisations look to prepare for the unknown.

Some of you work for firms that are already considering moving headquarters outside the EU and there is some feeling that Brexit may adversely impact the recruitment talent pool, funding and research.

*“We will continuously evaluate whether the UK will continue to be the right place for our HQ or whether the economic or political situation or the legal framework is going to change such that it becomes too unattractive.*

*The longer-term impact will remain to be seen but it has already had an adverse economic effect on the whole tech eco system. With companies reviewing their investment strategies and it becoming harder to recruit or retain the right global talent.*

*A shorter-term effect for the legal team is the unnecessary uncertainty and useless need to review the requirements for data transfers and putting in place SCCs for EU to UK transfers. As well as reconsidering the stance where we have main establishments for the purposes of triggering a one stop shop under GDPR.”*  
**In-house General Counsel, London**

## Q Are you using any form of AI in your work?

Interestingly, the results for in-housers is the reverse of those working in private practice with 80% of you using some form of AI in your work. It's chiefly being used for document management: review and collection. Some of your organisations are also exploring the use of chatbots.

## Q Do your legal advisers know enough about the technology you need advice on?

Over 60% of you said yes, stressing the importance of going to specialists and tech savvy firms when seeking external advice. Where specialist knowledge is lacking the comments suggest that it is in the areas of AdTech, health and cyber tech.

Those of you working for technology firms (Orange, Amazon etc.) receive in-house training on the relevant tech.

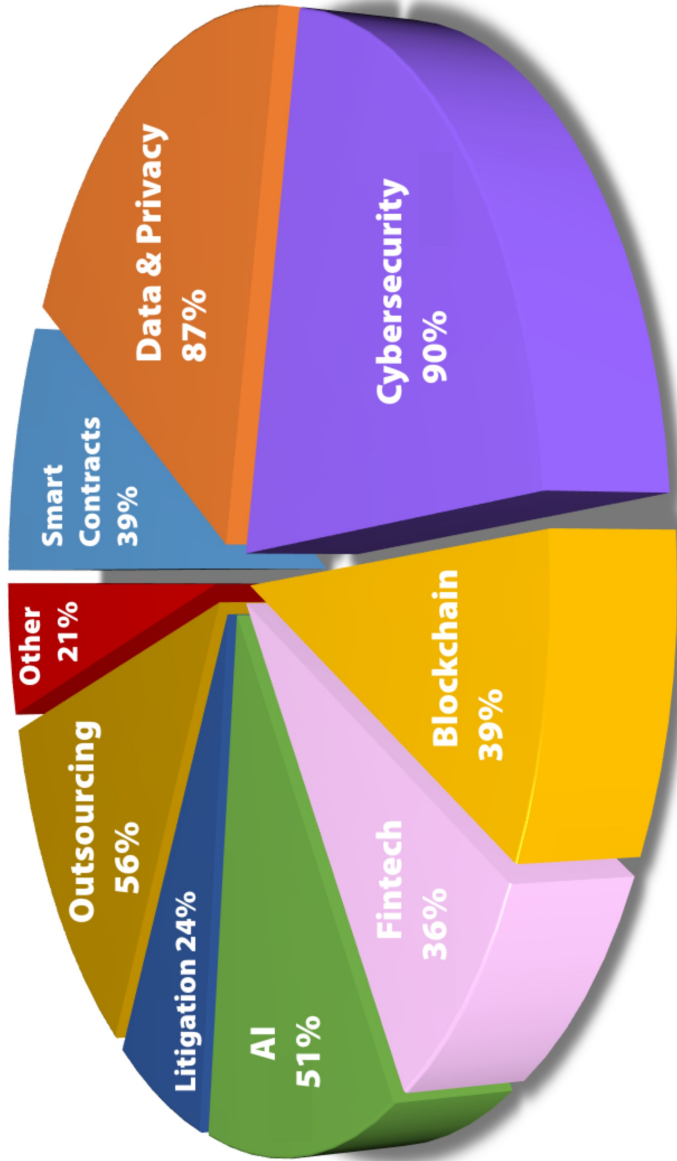
## Q Which of the following tech law issues will you work on in the next 3 years?

Similar results to private practice with cybersecurity and DP and privacy topping the list of tech law issues you think you'll deal with over the next 3 years (although cyber takes the top spot here). Outsourcing and blockchain also take larger slices of the pie for in-housers than for those in private practice.

*"The regulatory framework for privacy and data protection will become increasingly complex world-wide. That means that this type of work is going to become ever more mainstream and bread and butter for commercial tech lawyers in my team, and outside Europe. That leads to litigation, at least potentially."* In-house General Counsel, London

*"Blockchain holds some potential practical application for data asset libraries. Data asset libraries will need to be accessed through digital identity verification processes which will need to be secure. People will want to "port" their data (personal or not) and derived data (insight and inference) to other providers, this too will need to be secure and will need open standards for interoperability to occur.*

*Drawing in data from a variety of sources on the same individual based on a myriad of digital identities, will require federation. There will be privacy, ethics, and liability issues along the way."* Patricia Shaw, SCL Trustee, CEO, Beyond Reach



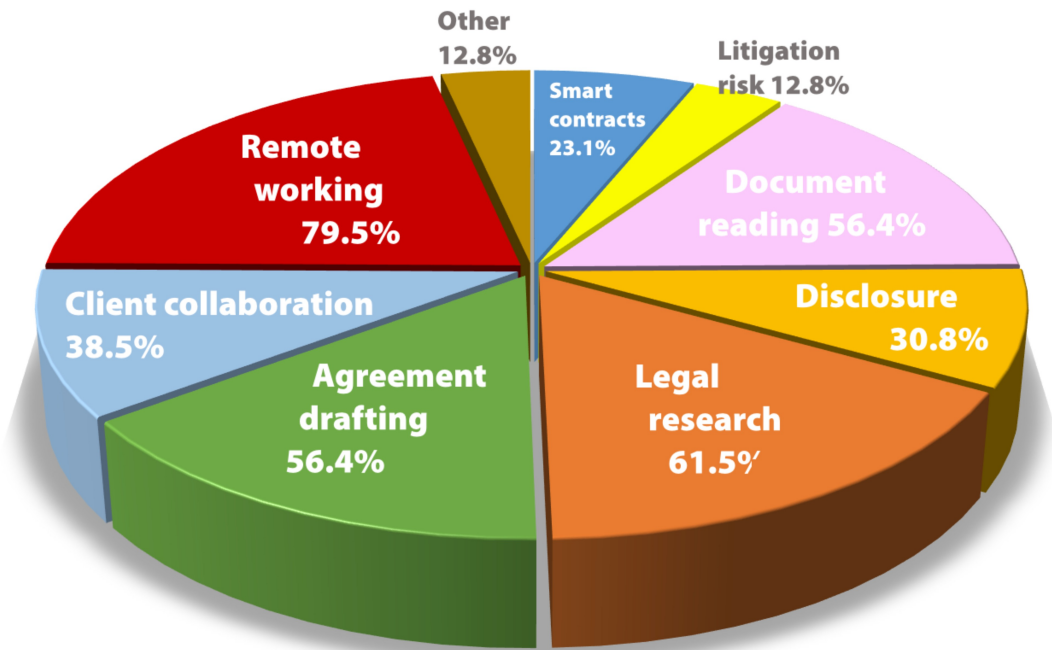
*Which of the following tech law issues will you work on in the next 3 years?*



## Q Where do you see technology being most useful to you in the next 5 years?

to remote working and document reading and agreement drafting have equal weight after this. Other suggestions included manufacturing, automation and behavioural science and mobile tech.

Again, as with the private practice respondents, you see the same five tech as being most useful to you in the next five years although you priorities them slightly differently. Legal research is seen as second only



*Where do you see technology being most useful to you in the next 5 years?*

# Q What is the one thing that would improve how you work with external legal advisers?

This question was left open and we had a lot of comments!

*"We use a number of different types of law firms. It is harder for the large law firms to service smaller clients. All law firms should learn to work with different advisers to a client."* **Legal Director, IT and Telecommunication Services Firm, Hants**

*"Focus less on the academic and more on the commercial reality."* **Legal Counsel, Global media organisation, London**

*"A deeper understanding of our business and the sector in which we operate (financial services)."* **Solicitor, Investment company, London**

*"Better understanding of ad tech."* **Legal Counsel, Global telecomms company, London**

*"Greater transparency, both on credentials and pricing."* **Senior Legal Counsel, Global logistics company, London**

*"Integration when needed into in-house team. More sharing of knowledge systems. We as in-house lawyers should have a "satellite" knowledge and working relationship with our external advisers."* **Clive Davies, Senior Counsel, Fujitsu Services Limited, Bracknell**

*"Having a client portal with a dashboard for each matter, showing the lawyers on our file and their contact details, how much we have incurred so far, a central storage location containing all of our correspondence and documents generated by external legal, and a secure encrypted chat channel."* **Darren Grayson Chng, Senior Legal Counsel, SCL International Editor, Singapore**

*"Internal transparency about which external legal advisers are approved for use, and their fee structures and service levels."* **Andrew Sharpe, Legal Counsel, Orange Business Services, Slough**

*"Ensuring lawyers are at the forefront of technological developments."* **Head of Legal, Financial Services Firm, London**

*"Seamless integration with file sharing to enable advisers to pick up immediately where last left."* **Laura Moorwood, Trainee Solicitor, Kentucky Fried Chicken (GB) Limited**

# **YOUR TRAINING AND DEVELOPMENT**



This section was aimed at finding out about your personal training and development as a tech lawyer. We wanted to know where you go to get your training and how confident you are about the tech you use for your daily work. We also included some more general questions on diversity in the workplace, being part of a specialist tech team and whether tech lawyers should know how to code. The same questions were given to those working in private practice and in-house.

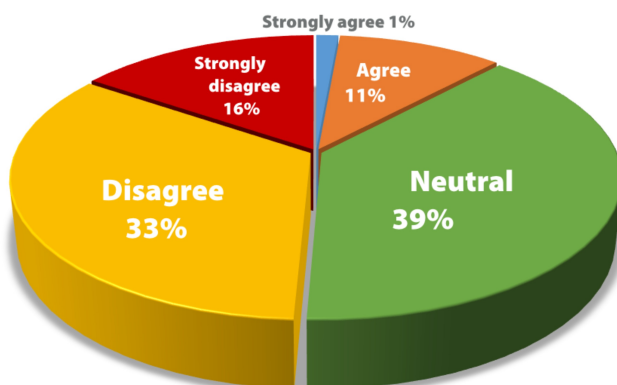
## Q What do you think of the following statement: *“Tech lawyers need to know how to code in order to best advise their clients”?*

Only 12% of you agree with this statement. The majority disagree, with the consensus that a basic understanding of technology, and how business uses it, is enough. Many of you commented that with so many different coding languages it isn't practical to be fluent in all of them. For those of you who agreed with the statement, and have coding skills, you feel your knowledge is helpful in drafting contracts as the logical process is similar.

*“Whilst it can never hurt to be able to fully understand a client’s day-to-day activities, and what goes into their role, I don’t think it’s a particular hindrance for a lawyer not to be able to code. Lawyers can advise architects without being able to design buildings themselves.”* **Charlie Lyons-Rothbart, Associate, Wiggin LLP**

*“Not an absolute statement – i.e. not all tech lawyers need to know how to code, but within a firm/team it will help if there is someone with that skillset.”* **Martin Sloan, Partner, Brodies LLP**

*“It helps to understand the client’s issues from the client’s perspective. Being able to code gives this insight.”* **Mark Weston, Partner, Hill Dickinson LLP, London**



What do you think of the following statement: *“Tech lawyers need to know how to code in order to best advise their clients”?*

## Q Do you feel adequately trained to use the technology available in your firm?

80% of you said yes. For those who said no, some felt that their firms were not making the most of the tech that was being employed or that the tech itself was limited. Many of you are 'self-taught' and make sure that you stay abreast of new developments as it helps with your practice and clients expect it.

## Q Are you part of a specialist tech law team?

53% of you are part of a specialist tech law team. Predictably many of those are within the larger law firms and those with an established tech law practice (DLA Piper, Bird & Bird, Fieldfisher, Hogan Lovells, Bristows, Slaughter

and May, Baker McKenzie, Brodies, Cooley). Many of these sit within a wider litigation and arbitration practice while others are responsible for all legal advice, not just tech-related.

There were also some chambers represented (4 Pump Court, Henderson Chambers) and in-house legal teams at commercial technology firms (Fujitsu, Orange, DHL, Worldpay).

## Q Where do you get your tech law training / knowledge?

Delighted that SCL topped this list! Other sources included learning from clients and contacts, peer-to-peer and the wider tech community. Academic research also featured.

*"With the exception of SCL there is a lack of tech law and good data privacy training from a tech law perspective particularly outside London."* **Mary Traynor, Senior Solicitor, Forde Campbell LLC**

*"When you spend hours a day in your bedroom on the internet from the age of 7 you start to learn a thing or two about technology."* **Alex Smith, Trainee Solicitor, Taylor Vinters LLP, London**

*"Live sessions (SCL, conferences, seminars, webinars) tend to be the most impactful but I find this also needs to be supported by my own research and reading."* **Rebecca Keating, Barrister, 4 Pump Court, London**



Where do you get your tech law training / knowledge?

**Q Does your employer actively encourage greater diversity in your team?**

**76% said yes.**

*“At present we’re all white women aged between 30-50, and we know we’re not very diverse but there are only 4 people working directly in the business. Once you look at our outsourced service providers you start to see a different balance, but it is still limited in terms of diversity.”*  
**Advocate, Jersey**

*“I lead the UK activities of DLA Piper’s Leadership Alliance for Women which promotes gender diversity in a number of ways. DLA Piper also has other diversity networks, all of which work closely together.”* **Sarah Ellington, Legal Director, DLA Piper, London**

*“When we consider the application forms to decide who to ask to interview, we redact information about which schools’ candidates attended”* **Lucy McCormick, Barrister, Henderson Chambers**

*“The company is heavily invested in diversity and encourages all employees to get involved in helping shape a more diverse business.”* **Legal Counsel, Global telecomms company, London**

*“We have unconscious bias training, a diversity mentorship program and a number of other training etc events. Senior management have diversity and inclusion KPOs that they push down to their teams to ensure this gets the attention and focus it deserves.”* **In-house General Counsel, London**

*“The firm actively promotes inclusivity and non-discrimination in all it does but does not promote greater diversity for its own sake.”* **Peter Stevens, Partner, TWM Solicitors LLP, Guildford**

*“We are signatories of the GC Statement on Diversity and Inclusion, and proactively assess and benchmark our I&D initiatives, which have very visible support from the whole C-suite.”* **Alessandro Galtieri, Deputy General Counsel, Colt Technology Services**

*“Yes, although this is feeding through somewhat slowly given the hierarchical nature of a law firm.”* **Associate, London law firm**

*“Shoosmiths takes diversity very seriously and our Commercial team (of which Tech forms a significant part) is very diverse.”* **Craig Armstrong, Partner, Shoosmiths LLP, London**

# THE ZEITGEIST





In this section we invited you to comment on a few of the 'hot topics' currently swirling round the tech law sector.

We made these questions deliberately provocative in the hope that we would get plenty of responses. It worked.

## Q Do you think online courts will work?

*"However, file limits for e-filing are a nightmare (construction and engineering litigation is very document heavy and with complex files such as CAD drawings which the courts appear unable to cope with currently) and in any event paper, hard copies of all bundles are required to be filed. It is a good idea to have online courts, however teething problems will need to be dealt with and clients often want their 'day in court' which an online forum doesn't satisfy in quite the same way."*

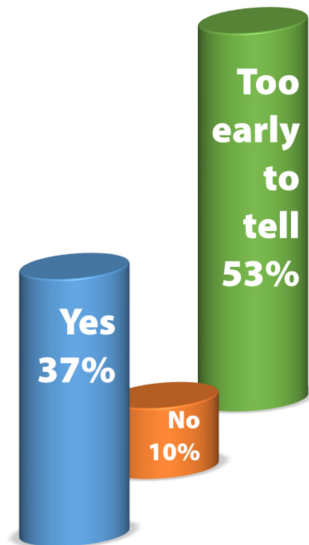
**Amanda John, Associate, Katten Muchin Rosenman UK LLP, London**

*"The trick is to use technology where technology is best - e.g. the bundle, remote communications, and not for the sake of it. Proportionality will remain central in promoting access to justice."*

**William Hooper, Director, Oareborough Consulting, Newbury**

*"I think online courts offer huge potential. However, there are a couple of reasons why it is too early to tell. I have spent quite some time in the county courts (where presumably online courts will be most suited), a great deal of investment will need to be made into IT for this to work. Also, this will require a very user-friendly system that litigants in person can easily use."*

**Rebecca Keating, Barrister, 4 Pump Court, London**



*Do you think online courts will work?*

*"Removing some of the formality around courts, and the associated costs, will be beneficial to improving access to justice."*

**Head of Legal, Financial Services Firm, London**

*"It rather depends on the technology used, the way trials are presented, and the reactions of individuals involved in the trial process. A risk is that courts will descend to the level of reality TV."*

**Justin Dear, Head of Online News desk (Asia-Pacific), Agence France-Presse, Hong Kong**

*"I believe in the concept, so provided the execution is done well, I see no reason it won't help to streamline and reduce the burden on the court system, and on litigants themselves."* **Charlie Lyons-Rothbart, Associate, Wiggin LLP**

*"Definitely for the bigger cases. We have seen this work successfully historically with other online remote fora to date e.g. ICANN UDDRP. However, for smaller, consumer led action, I suspect we will need to see greater use of ombudsman services to facilitate and educate consumers on how to get redress with minimal cost to individuals."* **Patricia Shaw, SCL Trustee, CEO, Beyond Reach**

*"But in a highly differentiated and specialized way for a certain type of dispute resolution. For example, in a strict liability offence situation the issues are more related to the facts and data assessment and evaluation than they are to subjective discretion. Also, a high volume of disputes before the Courts are rather simple and more disposed to online determination. More work to do, but if done properly it could work very well in many situations."* **Senior Partner, Canadian law firm**

*"I think without greater investment in the court infrastructure online courts will not solve many problems, particularly at the County Court level. Further, the new online Particulars of Claim forms actually make it harder for lawyers to ascertain what a litigant in person's claim is, which may lead to more strike out applications, costs awards against litigants in person and wasting court time."* **Barrister, London Chambers**

*"In certain areas. Sadly, the MOJ in the UK has approached the problem in the wrong way - Online courts should have been established before Courts Estate rationalisations took place."* **David Harvey, Judge (Acting Warrant) at District Court New Zealand**

*"Depends on what you mean by it - there is a strong emotional content in much litigation and people want to be heard - a systematised, online process won't provide that so I think there will always be a need for personal appearances (even if that's via video)."*

**Gill Hunt, Owner, Hunt Lancaster Limited Reading**

*"The technology is sound but the effect on those involved, and the impact on the justice process and outcome is poorly understood."* **Stephen Wallace, Project Delivery - Central Government, Simplymoose Limited, London**

**Q** What do you think of the following statement: *“AI will threaten my job in the next 5 years”?*

*“AI correctly adopted and applied will help us all achieve better outcomes and hopefully work life balance.”* **Legal Director, IT and Telecommunication Services Firm, Hants**

*“It may change the way I work but I will adapt and hopefully become a better lawyer as a result. It will potentially free me up to do more interesting things like research, business development, client communications, thinking of creative solutions, etc.”* **Dianne Devlin, Associate, BPE Solicitors LLP**

*“People will still be required to negotiate and to understand the nuances of the relationships in a matter.”* **Amanda John, Associate, Katten Muchin Rosenman UK LLP, London**

*“I think it may streamline it, but I believe you will always need a human to interpret AI output, to explain it to management and to help people understand the legal sector and its application.”* **Head of Legal, Financial Services Firm, London**

*“AI will complement what I and my team are doing and change the nature and profile of legal and support roles.”* **Callum Sinclair, Partner, Head of Technology Sector, Burness Paull LLP, Glasgow**

*“AI will be a tool, not a replacement. We have seen the limits of AI from various AI demonstrations and working alongside our AI partner over past 6 months.”* **Craig Armstrong, Partner, Shoosmiths LLP, London**

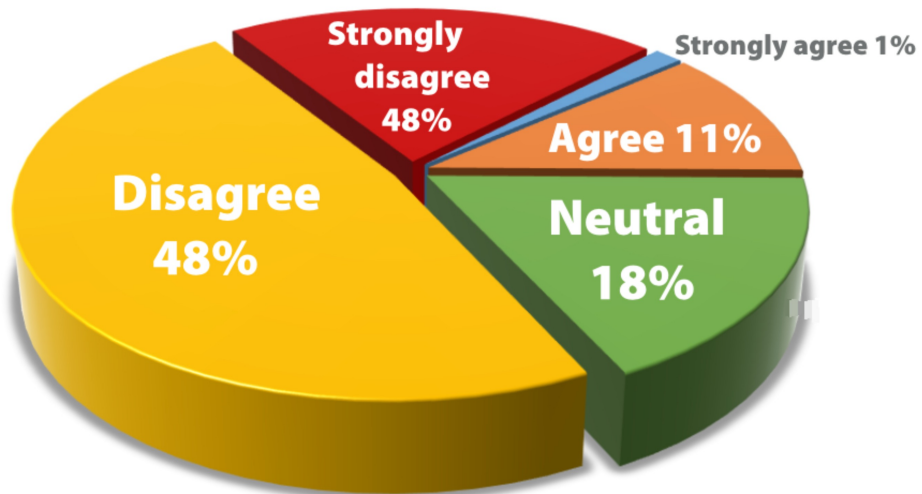
*“Firstly, although it is developing now it still has some way to go before it can offer sound business advice. Secondly, it is not good at judging a client and choosing the style and length of explanation to suit the client. Thirdly, where it is developed it will be either in the mass market side, or in the high end personalised sector. Many of my clients deal with large global clients and both the contract terms and the spec will be negotiated in detail, Smart contracts work on the basis of an agreed set of parameters with a set of standard trading terms behind them. If the parties want to negotiate the spec or the terms, the smart contract cannot cope. Thirdly, far from threatening my job, AI is likely to mean a greater amount of work getting the AI documentation right.”* **Nigel Craig, Director, Hentys Corporate Limited, Hants**

*“It will strongly affect what my current day to day work looks like, but it won’t threaten my future career. That’s because we are small enough to be early adopters and we are already looking at taking advantage of the opportunities to adapt to be more efficient using AI and understanding how we can provide legal services and what it means to be lawyers in that new legal space. It’s going to take a bit longer than 5 years for it to seriously affect the whole of the profession (and it will affect some areas far more significantly than others) but the ripples will have grown much larger by then.”* **Rob Cobley, Partner, Harper James, Sheffield**

*“It may threaten some of the low-level work, but I think it will make the job of a lawyer much more enjoyable by removing some of the hard slog. I do think there is however a threat to training of young lawyers which needs to be addressed as a result of AI work displacing some of the traditional work that a young lawyer cuts their teeth on.”* **Associate, London law firm**

*“Being a tech lawyer involves a complex skillset (details, strategy, intuition, etc.). I do not see AI as being able to provide this over next 5 years.”* **Guy Tritton, Barrister, Hogarth Chambers, London**

*“AI will take longer to take effect than people imagine, and will ultimately be more profoundly effective than people imagine. Those at the top of their game will continue to grow and adapt, using AI and other tools in novel ways to deliver greater value. Those at the bottom will find their market disappear.”* **William Hooper, Director, Oareborough Consulting, Newbury**



What do you think of the following statement: "AI will threaten my job in the next 5 years"?

*"We operate a trusted adviser model. Although AI will streamline what we do, it will not replace us; it will supplement us."*

**Mark Weston, Partner, Hill Dickinson LLP, London**

*"Jobs will change. People just need to diversify and think in a more multi-disciplinary and collaborative way."* **Patricia Shaw, SCL Trustee, CEO, Beyond Reach**

*"It will affect my job, but not threaten my job. If I ignored AI, then it would threaten my job. I welcome the chance to do things differently. The current mode of doing legal work is far from optimal."*

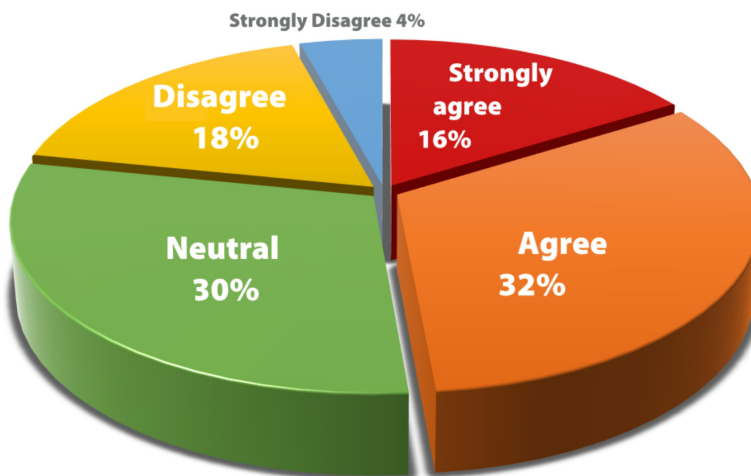
**Charles Drayson, Partner, HCR Legal LLP, Worcester**

*"Even if AI removes low-level drafting work, or shortens negotiations by setting parameters of acceptability, the process of risk assessment and advice, and the 'human' aspects of contractual negotiation, do not seem likely to be replaced within that time period (although longer-term AI is much more of a threat and my skillset would have to evolve to managing AI tools rather than competing with them)." **Founder, Legal consultancy firm, Oxford***

**Q** What do you think of the following statement: ***“Social media networks are publishers and should be subject to the same level of regulation and liability”?***

*“Social media networks should be subject to regulation and take more control over the content posted on their networks. The impacts on users’ mental health, online bullying, privacy and data protection issues with various networks should be properly policed and the networks should be held accountable for harm caused.”*

Associate, Cambridge law firm



What do you think of the following statement: “Social media networks are publishers and should be subject to the same level of regulation and liability”?

*“The issues caused in society by social media are not being dealt with. Someone has to be responsible to ‘clean it up’ and if the social media networks do not do it properly voluntarily, then they should be regulated. If the way to regulate them is to class them as publishers, then so be it (although personally I think they should have a sui generis status so as not to confuse a social media network with UGC and a ‘real’ publisher with curated pre-checked content).”*

**Mark Weston, Partner, Hill Dickinson LLP, London**

*“Social media networks should not be categorised into a designated field of publishers’ that has not been updated for the technology world. Social media networks require additional scrutiny and regulation, but I suspect a more nuanced approach is required so that we do not discourage new uses of technology.”*

**Associate, London law firm**

*“Social media is intended as a way for millions of people to communicate. The networks facilitate this by making it easy and cheap for people to exchange media. The very nature of social media means that it is difficult, if not impossible, for networks to monitor each and every post before it is published. Unlike a traditional publisher which will normally have a system of checks and balances in place. Social media networks can, and, to some extent, do, impose some restrictions and rules. They also actively monitor content once it has gone out and generally take down any infringing content. They may be slow to do this, and sometimes do so inadequately, but they usually get there in the end. Social networks have been a tremendous boon to society as a whole, in a great many ways. They have also allowed some of the worst sectors of society to promote their messages. Certainly, they should be subject to regulation and liability, but any such regulations need to be specific to these networks, not shoehorned in from elsewhere.”* **Justin Dear,**  
Head of Online News desk (Asia-Pacific),  
Agence France-Presse, Hong Kong

*“Social Media publishers need to take responsibility for the content which they make such fortunes out of - and not only by publishing it, but also by mining it, reselling associated insights etc., and otherwise monetising both the content and the associated user behaviour data.”*

**Director, Legal consultancy firm,  
Surrey**

*“While they may argue they are merely a notice board for their users. I think they need to shoulder more responsibility for what’s taking place on their networks. Unfortunately, regulation is required to establish some ground rules for the virtual space. However, this is a slippery slope.”*

**Paul Murrin, Solicitor, Peter  
O’Connor & Sons,  
Waterford**

*“If we make social media networks liable for the content of its users, I think this will strongly inhibit freedom of speech and freedom of expression as networks will put in place risk management policies that minimise risk impact to them. Result: even more filtered content for individuals. That said, some content of the networks where it is generated by them is genuinely published and controllable by them and therefore for that they should be liable.”*

**Patricia Shaw, SCL Trustee,  
CEO, Beyond Reach**

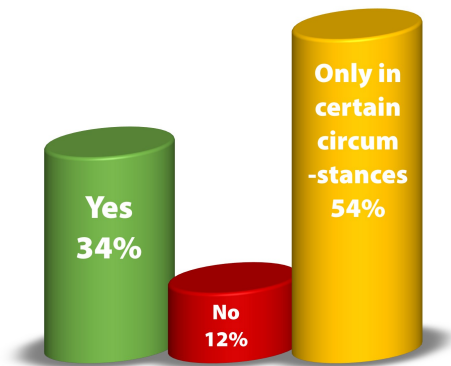
*“Something must be done to ensure that there is still a good grasp and understanding of ‘truth’ and ‘reality checking’. As it would be impossible to police all posters of information then it must be down to the disseminators to be policed (they also have the money to put in place proper and appropriate safeguards.)”*

**Sarah Staines, Solicitor,  
Principal, Touchstone Legal  
Services, Herts**

*“Social media no longer deserves the safe zone for early innovative technologies that it had the last decade. It is now much clearer what it is good at and what its risks are and hence needs to be regulated. It was an understandable choice to let new technology grow in relative peace from a regulatory stand point while these were young fledgling companies and there was tough competition. These markets have matured very quickly and produced powerful monopolies that are doing much harm to society if not regulated properly.”* In-house General Counsel, London

*“That is a very ‘traditionalist’ type of question and fails to recognise the paradigmatic differences between digital and pre-digital technologies. To apply regulatory structures applicable to pre-digital publishers, and the rules that were developed in the pre-digital paradigm can only be backward looking and retrograde.”* **David Harvey, Judge (Acting Warrant) at District Court New Zealand**

## Q Are smart contracts really contracts?



*Are smart contracts really contracts?*

*I think that question is very much open for debate. If you define a smart contract as one that is self-executing then there are definitely some issues to consider around whether intention, completeness etc. are all there however in practice I think that perhaps smart contracts should be contracts. (This will obviously depend on the context of its use and how complex the matter is - and also how much we trust the systems underpinning smart contracts).”* Associate, London law firm

*“Yes in most cases, but very simplistic ones (and won’t necessarily always be upheld as such in the courts in my view).”*  
**Callum Sinclair, Partner, Burness Paull, Glasgow**



*“Smart contracts are analogous with framework arrangements where the parameters of the contract are agreed prior to the call-off occurring. The contract is not really ‘smart’ but enables optimisation of actuation.”* **Stewart James, Director, Agillex Ltd, Bristol**

*“If they reflect what the parties have agreed, it doesn’t matter how they are assembled.”* **Peter Stevens, Partner, TWM Solicitors LLP, Guildford**

*“There needs to be an understanding around the relationship that there is an intention to create legal relationships, the point at which the legal relationship is created and upon what terms the agreement is made. Basics of contract law must still be relevant unless/until there is a different understanding/convention. This may happen but I don’t think we are there yet.”* **Caroline Redhead, Partner, Burnetts Solicitors, Penrith**

*“Offer, acceptance, intent to create legal relations, etc - difficult to see what they miss out on the requirement to constitute a contract.”* **Solicitor, Bristol law firm**

*“Contracts exist in the context of legal code; smart contracts are just a set of operations which happen inside a certain technological context. If the smart contract fails to work as expected, it will either fail to generate liability (because the code acting as the infrastructure is, in effect, the law), or liability and the effects of the failure will arise as a result of an externally-existing (express or implied) contract. In neither case is the smart contract itself a contract.”* **Andrew Katz, CEO & Head of Technology, Moorcofts LLP**

*“Smart contracts are a process rather than a contract. They have many features of contracts, but those features aren’t essential to their operation.”* **Charles Drayson, Partner, HCR Legal LLP, Worcester**

*“They are a method of automatically executing a contract, which is a legal construct, in the same way that a written contract is merely evidence of what has been agreed.”* **Legal Director, global software company, London**

*“A contract is what the parties intend to be the contract.”* **Solicitor, Cheltenham law firm**

**Q What do you think of the following statement: “Fines under GDPR should not be capped as they are currently an insufficient deterrent to big business”?**

*“The time and effort that business is expending on GDPR shows that they are taking this more seriously than ever before.”* **Paul Maclennan, Partner, Anderson Law LLP**

*“GDPR needs to be taken seriously, but mistakes can happen and we need to keep a sense of proportion. Of course, data protection is important, but not more important than many other legal obligations where fines are not uncapped.”* **Peter Stevens, Partner, TWM Solicitors LLP, Guildford**

*“GDPR fines need to be significant enough to work but they are high enough to be a deterrent. It’s up to the regulators to use them effectively.”* **In-house General Counsel, London**

*“What’s the equivalent of a ‘life sentence’ for a corporate entity? How many jobs are we willing to put at risk (e.g. if we fine a company 100% of its assets) in pursuit of a fine?”* **Neil Brown, Managing Director, decoded:legal, Newbury**

*“Fines in themselves are not a deterrent, whatever the size, but fines combined with adverse publicity or other international sanctions might be.”* **Sarah Staines, Solicitor, Principal, Touchstone Legal Services, Herts**

*“Big business is aware of the potential fines today, which reflect the similar exposures which have been a feature of EU competition (anti-trust) law for decades. Those potential fines \*have\* assuredly influenced the behaviour of ‘big business’. Also, why is this couched in ‘big business terms’? For the individual whose data / privacy is violated, why should the perpetrator(s) be allowed to benefit from different capping mechanisms, depending on their stature?”* **Director, Legal consultancy firm, Surrey**

*“GDPR is too prescriptive and will need to evolve over time as cyber and data use evolves.”* **Legal Director, IT and Telecommunication Services Firm, Hants**

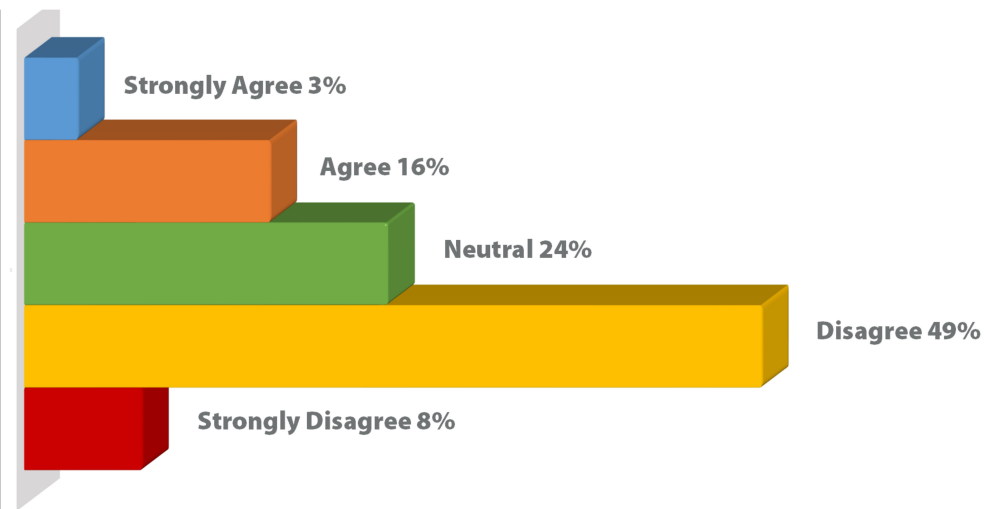
*“The fines have the potential to be pretty huge if the regulators are prepared to go that far. I think the panicked response to GDPR from businesses in the run up to its implementation says it all. There are still some sites which refuse to serve EU-based IP addresses for fear of not being GDPR compliant.”* **Alex Smith, Trainee Solicitor, Taylor Vinters LLP, London**

*“I think that the way in which the GDPR is enforced will need first to be understood. If the privacy compliance bar is not raised over the next few years, then potentially consider removing the cap. I think consumer confidence and reputation will change the game just as powerfully (if not more so) than monetary penalties as privacy issues become more mainstream and better understood.”*

**Caroline Redhead, Partner,  
Burnetts Solicitors,  
Penrith**

*“Before deciding to raise or remove a cap you would need a period where the regulators were actually using the full penalties available to them. At present they are not doing so. It would be much more relevant to apply some personal liability to those in charge of the cause of the data breaches if the breaches were clear misfeasance as opposed to mistake.”*

**Nigel Craig, Director, Hentys Corporate Limited, Hants**



What do you think of the following statement: *“Fines under GDPR should not be capped as they are currently an insufficient deterrent to big business?”*

*“I see clients grapple this daily. In practice, I see little direct link between the quantum of risk and the steps they take to comply. Most of them are driven to comply because they fear reputation risk and customer fallout. They fear big fines when dealing with areas of uncertainty. It’s the uncertainty that’s the root cause of the fears. Where uncertainty exists, deterrence is not the critical success factor for compliance. The current fines are sufficiently high that they would be regarded as catastrophic for most clients if they received a big fine. If the fines were higher or uncapped, they would recognise they can only go bust once, and then it doesn’t matter whether the fine was big or uncapped.”* **Charles Drayson, Partner, HCR Legal LLP, Worcester**

*“GDPR fines now have the potential to be significant and therefore I believe are sufficient to be a deterrent. Whether the ICO will utilize them in this manner remains to be seen. There is also a commercial risk here or making our marketplace too challenging to do business in. Having unlimited fines will affect how businesses view the UK”* **Partner, Bristol law firm**

*“Capped fines are rarely a deterrent to big business. There are too many ways to offset the costs. At the same time, it would be equally unhelpful to allow fines to be too free-ranging as this can quickly lead to a situation where penalties are based more on fantasy than a realistic and proportionate examination of the facts of a case.”* **Justin Dear, Head of Online News desk (Asia-Pacific), Agence France-Presse, Hong Kong**

*“GDPR fines have the potential to be enormous, and act as a strong deterrent. I’m not sure what the justification is for using a % of global turnover as a limit. Hopefully this will be avoided in all but the most serious cases where you have a top to bottom global disregard for privacy.”*

**Head of Legal, Financial Services Firm, London**

*“For some organisations the cap does ‘put a price’ on the risk, which for less scrupulous businesses may be a risk worth taking. However, for most organisations still coming to terms with the higher fines and acutely aware of the impact on reputation, the new regime (for now) holds sufficient deterrent factor. Ironically reputation and the impact on ‘trust’ holds more weight in some instances than the monetary value of the fine.”* **Patricia Shaw, SCL Trustee, CEO, Beyond Reach**

*“The eye watering fines which received heavy media coverage have created more awareness of GDPR compliance even amongst small start-ups but the fines may be a drop in the ocean for very big businesses monopolies who can afford to flout the regulation and take the hit but the reputational damage and loss of consumer trust which might flow from a breach are a bigger deterrent.”* **Mary Traynor, Senior Solicitor, Forde Campbell LLC**