

The Frugal Law Firm – Tech Essentials on a Budget

Microsoft 365, Clio, Amicus Cloud, NetDocs, Freshbooks and other cloud-based sites let legal professionals launch practices with minimal initial cash outlay. What are the risks and benefits of these new technologies? Are security and privacy and ethical risks real? What about data retention, storage and regulator requirements?

“Levelling the Playing Field”

Brian Mauch and Andre Coetzee

The proliferation of high-speed internet connections and web-based application development has opened the door to a new option for law firms: cloud-based applications. There is no shortage of websites that are offering pay-as-you-go online services to small law firms, which previously would have required significant capital investment in on-premise hardware, software, and ongoing maintenance. The effect of these cloud-based applications has been to “level the playing field” by giving small firms access to productivity tools which formerly only large firms could afford. However, there are potential drawbacks using cloud-based applications. Security, privacy, and ethical risks are often cited – as are concerns about data concerns, storage and regulator requirements. The paper will summarize some of the commonly-used cloud-based applications, as well as the risks and concerns.

The Applications

Microsoft Office 365 (office.microsoft.com)

Like all software vendors, Microsoft is seeking recurring, subscription-based revenue. Traditionally, law firms have purchased perpetual Office software licences for Word, Outlook, etc. and used them until there was a compelling need to upgrade to a newer version. Microsoft’s new Office 365 offering comes in many different options, but the common theme is a recurring subscription fee. Aside from Office software licenses, the primary cloud-based application that can be included is hosted Exchange-based email service. Most law firms use Exchange-based email, which is necessary to achieve the full capabilities of synchronizing Outlook data with smartphone, tablets, and legal software applications.

Previously, law firms would need to invest in their own on-premise Exchange server. Microsoft had made this easier to afford for small businesses by bundling Exchange with its Small Business Server software package. But with the release of Office 365’s hosted Exchange, Microsoft has discontinued the Small Business Server package – making it more difficult for small firms to afford an on-premise Exchange server, and forcing them towards a hosted Exchange service.

The hosted Exchange service bundled with Office 365 works well, but it has some caveats. Microsoft’s mail servers occasionally go down, the mailbox size limit is 50GB, and most importantly for Canadian law firms, the mail servers are located outside of Canada. This last caveat triggers concerns about confidential client data (in this case, emails sent to and received from clients) residing outside of BC. The price of Microsoft’s hosted exchange service is inexpensive when compared to BC-based

alternatives, so any firm considering hosted Exchange would need to decide if using the Microsoft offering is worth any additional risks.

Clio (www.goclio.com)

Clio is one of the better-known cloud-based practice management applications, since it was developed locally in North Vancouver. Clio provides the usual collection of practice management tools (task management, time and billing, collaboration, etc.) – all accessible via a website. Despite being a Canadian company, Clio has a large client base in the USA, and keeps their cloud servers outside of Canada. Clio users save their emails and documents on the Clio website, and can then access them again from any computer on that website. Like all web-based services, the data is secured by a username and password, which subscribers use to log into the website with. Lawyers using web-based services must be diligent in using strong passwords and changing them frequently, in order to prevent unauthorized access.

Amicus Cloud (www.amicus-cloud.com)

Amicus is another Canadian success story, with a large user base in the USA. They have recently released their Amicus Cloud service, as an alternative to their on-premise practice management products. Amicus Cloud does all the same things as Clio, and like Clio, Amicus has chosen to keep their cloud servers outside of Canada - in Microsoft's worldwide data centres.

NetDocuments (www.netdocuments.com)

Unlike a comprehensive practice management application, NetDocuments is focused solely on document management. It is a cloud-based document and email management service, which can integrate with some of the other cloud-based systems such as Clio. NetDocuments' servers are located outside of Canada.

Worldox GX3 Cloud (www.worldox.com)

Worldox is a popular on-premise document and email management program, and they have recently released a cloud-based service to compete with NetDocuments. The Worldox servers are located outside of Canada.

Freshbooks (www.freshbooks.com)

Freshbooks is an online invoicing, accounting, and billing software service. Instead of using an on-premise legal accounting package such as PCLaw or ESI-Law, Freshbooks users keep all of their accounting records on a website. Freshbooks provides generic small business accounting, and is not specifically designed for lawyers. Freshbooks' servers are located outside of Canada.

The Benefits

Access your data from anywhere, from any device. The appeal of cloud-based technology as is pervasive as the internet itself – as long as you have internet access, you can access your data. And with the

combination of ADSL, cable, fiber, 3G/4G and Wi-Fi options, there are very few places that lawyers don't have internet access. Further, almost all computing devices now have web browsers, whether they are PCs, Macs, tablets, smartphones, e-book readers or televisions. This makes cloud-based technology universally available and platform agnostic. It also allows lawyers to access their data on multiple devices, depending on the situation. They can use PCs or Macs while seated at the office, tablets while working from temporary locations (like court), or quickly check their smartphone while on the move.

The Risks

Data stored in cloud-based applications will reside on one more hard drives, located in one or more locations, conceivably anywhere in the world. By saving their client's confidential data to one of these services, lawyers have potentially exposed their client's data to access by unauthorized individuals.

The risks of cloud-based technology are well documented in the Law Society of BC's Report of the Cloud Computing Working Group (January 2012, available on the LSBC website), which poses a multitude of considerations that should be taken into account by a lawyer using cloud services. Generally speaking, the risks fall under the following categories:

1. Security: Have reasonable security arrangements been taken to guard against all risks of loss, destruction, and unauthorized access?
2. Privacy: Is the use of cloud services supported by any applicable privacy legislation?
3. Ethical: Was the cloud technology designed for lawyers, does it have the ethical requirements of lawyers in mind, and is its use consistent with lawyers' professional obligations?

All of these risks are real, and should be taken into account when a lawyer is considering using a cloud-based technology. To help lawyers assess these risks, and make the best decision for their practice and their clients, the LSBC has provided lawyers with due diligence guidelines and best practices.

Data Storage and Retention

Lawyers practicing in BC are regulated by the LSBC, and data stored in cloud services are subject to the same storage and retention requirements that apply to on-premise electronic storage. However, it is more difficult to ensure these storage and retention practices are being maintained, because they are outside of the lawyer's control.

Lawyers have record retention obligations, which are complex enough with paper, but are even more complex with digital online records. The LSBC has determined that "Lawyers have a positive obligation to ensure proper records management systems are in place. This obligation extends to ensuring that any third party record storage provider is keeping the data archived in an accessible format, available on demand."

For cloud services, this means that lawyers need to ensure that their data is being backed up, and can be restored. Not just a current version of the data, but also past iterations should be retrievable.

Conclusion

Cloud-based applications can “level the playing field” by allowing small law firms to utilize the same productivity tools that larger firms have on-premise, for a minimal initial investment. There are a variety of offerings available, from practice management to document management to accounting. Lawyers should be aware of the risks and requirements for using these services, and follow the due diligence guidelines and best practices published by the LSBC.