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THE LEGAL RECORDS AT RISK PROJECT

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Case study: the records of Chadwick Lawrence Solicitors

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Contents

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Definitions

- Archives: in the traditional definition the term "archives" refers both to the repository where records of permanent value are stored and made available for research and to the records stored in it.
- Archiving: in Chadwick Lawrence and most businesses, the process of transferring records to cheaper storage to reduce costs.
- Records: information, in any form, created, received and maintained as evidence and information by an organisation in pursuance of legal obligations or in the transaction of business.
- Records disposal: the process of *either* destroying records once they no longer have any business or legal value *or* depositing them in an archives.
- Records store: in some large organisations (eg government departments) the records store, as distinct from the archives, is a secure repository for semi-current records pending their disposal as opposed to records of permanent value which are stored separately in an archives. In a number of organisations however, including Chadwick Lawrence, the two functions of semi-current records store and archives are combined for economy of effort and the term "archives" is used to refer to both.
- Semi-current records: records which are no longer needed for day to day use but are still required for occasional business reference.

Purpose of the case study

The Legal Records at Risk (LRAR) project is concerned with identifying, and rescuing for posterity, legal records of archival value in the private sector. Saving significant collections, stimulating changes of practice and raising awareness of the value of LRAR are prioritised. Our definition of legal records is wider than their traditional classification as court records or formal documents such as deeds; we include records of institutions and individuals specialized to law (eg law firms, arbitrators, barristers, legal executives, patent agents, licensed conveyancers, court interpreters and ancillary bodies such as legal stationers and law publishers). We also include legal records produced in the course of their business by private sector companies (such as policy and procedure records and the individual case files produced by legal, property and governance departments).

Undertaking case studies of selected institutions which create legal records and of particular categories of legal records of value which may hitherto have been overlooked by researchers forms a key platform of the project. Our case studies will demonstrate areas of best practice and community of practice (or lack thereof), identify key issues common to all or most institutions and recommend potential solutions, including liaison with archival repositories relating to the deposit of records of permanent value.

The case study which follows looks at the creation, management and disposal (by destruction or transfer to an archive) by a prominent law firm, Chadwick Lawrence LLP, based in the north of England and offering a wide range of legal services. The specific aims were as follows:

1. To survey the firm's records and recordkeeping practices.
2. To understand the business drivers behind the firm's management of its records.
3. To evaluate the business benefits of employing professionally qualified persons to manage records.
4. To demonstrate the benefits to law firms of maintaining an archives.

For a copy of the case study proposal made to the firm see **Appendix I.**

Methodology

1. Interviews and emails: face to face and email discussions were held between the LRAR project Director and the firm's Head Archivist. The purpose was to obtain an overview of the business reasons behind her appointment, the work she has done in streamlining Chadwick Lawrence's recordkeeping and the use by the business of the records held in the records store/archives.
2. Chadwick Lawrence's website was examined in detail to gain an insight into its core functions and values.
3. Questionnaire: two questionnaire were sent to the Archivist requesting details of the firm's records, its record-keeping practices, its disposal policy and the use (internal and external) of records in the archives. See **Appendix II** for the questionnaire.

Administrative background

The business context

Based in Yorkshire, the firm of Chadwick Lawrence LLP dates back to 1840s and offers a wide range of traditional legal services for both personal and business matters (including family law, conveyancing, employment, commercial property and dispute resolution). Chadwick Lawrence also has specialist medical negligence and sports law capabilities. It has seven offices throughout Yorkshire and the practice is one of the twenty largest firms in the region.

The community context

Chadwick Lawrence actively supports regional initiatives and is involved in the local community. It organises business and employment seminars, both in its own right and in partnership with other business organisations, taking a keen interest in promoting efforts to foster economic growth in the region. In recognition of this Chadwick Lawrence has received a number of awards, including 'Business of the Year' at the Wakefield District Business Awards, 'Employment Law Award' and 'Residential Property Award' at the

Yorkshire Legal Awards 2015 and 'Managing Partner of the Year 2016' at the Yorkshire Legal Awards 2016. In other words, the firm sees itself as part of, and contributing to, the local community.

The records

In common with most large law firms, Chadwick Lawrence holds the following categories of business and client records:

- Governance: eg Board and committee papers, partners' papers, policy and strategy records, public relations records.
- Regulatory and statutory compliance: eg records relating to compliance with legislation (eg Courts and Legal Services Act, Data Protection Act) and with The Law Society and Solicitors Regulation Authority rules and regulations.
- Business: eg finance, human resources, office management, information management, facilities and premises records.
- Clients: eg matter files, complaints, deeds, leases, wills, grants of probate.

Records management

Chadwick Lawrence runs a hybrid records management system ie a combination of paper and electronic records.

1. Paper records: the firm is attempting to go paper-less, but legacy records are still in paper as are some current records; a digitisation programme is in the planning stages. Legacy paper records are covered by a records retention and disposal schedule, but the schedule's provisions have not as yet been extended to electronic records. The schedule is also used to weed paper records regularly.
2. Electronic records: the firm uses the Microsoft Office Management (OMS) suite and Proclaim Legal Case Management Software (endorsed by The Law Society) for its current and archived matter files. The Archivist worked with the IT department to develop catalogues on both systems; prior to this control records were held on access databases and index cards/ledger books. Proclaim will eventually replace OMS.

The Archives and Records Stores

In common with a number of private organisations, Chadwick Lawrence manages two combined off-site archives and semi-current records stores for its hard copy records and refers to these as its Archives.

The role of the Archivist

Until the appointment of a professional Archivist (now the Head Archivist) on the 31st October 2011, an archivist at the Huddersfield and Wakefield offices looked after the records, but found it more and more difficult to cope with the increasing work load. Each of the seven office sites also managed and stored its own records in a different way, making it difficult and frustrating to locate files and documents.

The Archivist's appointment resulted from the realisation by the Management Team that, with the regular increase in the size of the firm and consequent acquisition of more original documents and files to be managed, stored and located when needed, a more streamlined and consistent process for archiving records was required.

The Archivist's first task was to develop this new process by:

- Visiting each office site and establishing what was held where/what types of records were held.
- Creating an 'archives' inbox, so that all requests to retrieve items from storage were sent to a central email account, rather than to individual email addresses or written on post-it notes!
- Streamlining the archive process so that each office site archived documents in the same way.
- Creating a standardised procedure across the firm for sending new items to be archived, returning items to storage and requesting something from storage.
- Going through the huge back log of files that had been stored in various offices to establish what needed to be kept and archived and what could be shredded.

The role of the Archives

The Head Archivist is supported by a team of 3 archivists (based at Huddersfield, Leeds and Wakefield). They are responsible for archiving files and dealing with requests for retrieval at their individual offices. An office assistant/archives assistant retrieves items from the off-site storage units and weeds files. Front of house staff also archive files for one hour a day (5 staff members in total). The Archives, therefore also doubles as a semi-current records management facility, undertaking retrievals of records for business use by staff. There may be as many as 250 document requests per month.

The Archives itself controls the storage and management of the financial records of the organisation and its client files, including Wills, Deeds, Leases, Powers of Attorney, Grants of Probate and Accounts. It deals with a great many external enquiries about these records from former clients, but rarely receives any requests to look at material from the general public. This is no doubt due to lack of publicity; the Archives has not sent any details of its holdings to The National Archives, so there is no information about the firm in Discovery[1]. The Archives would be willing to publicise its holdings or to consider transferring non-confidential archival records such as pre-nineteenth century title deeds to a public repository where they could be more readily made available.

The archives catalogue of client files is detailed and comprehensive, listing documents by client, type (will, grant of probate, lease etc), date of creation, area created, storage location and whether checked in or out.

The Firm's business records (other than Finance) are archived separately from the client files and are managed by the Managing Partner and Human Resources.

[1] Discovery is a searchable archives database managed by The National Archives. It holds more than 32 million descriptions of records held by The National Archives and more than 2,500 archives across the country.

The role of the Archivist in strategic records management

From January 2015 the Head Archivist's role officially incorporated strategic records management duties in addition to managing the records stores; prior to this time she was unofficially carrying out these tasks. One of the strategic initiatives is the digitisation of all files going forward from a certain point in time. The digitisation will be carried out to BS 10008 standard[2] by a 3rd party scanning company. This, it is hoped, will eventually reduce the need to store paper files and therefore reduce costs.

The Head Archivist hopes in future to have, in collaboration with the IT department, input into developing information management rules for the document management systems, Sharepoint, shared network drives and email. She also intends to extend the retention and disposal schedule to cover digital records.

The schedule was recently re-drafted to include a more streamlined process for managing destructions, including requiring fee earners to record the proposed destruction date for each file when it is sent to be archived; this will then be recorded on a central system by the Archivists with a flag set up that will alert them when the file is ready to be destroyed. The schedule specifies minimum retention periods for business records and each category of client files. The schedule is still in draft form at the time of writing.

Case study conclusions and recommendations

Chadwick Lawrence provides an excellent model for the management of both current and non-current client files by law firms through the following activities:

- It has invested in a professional archivist/records manager to rationalise and streamline its recordkeeping processes for the bulk of its records. The business and financial benefits of this appointment are already obvious in the improved efficiency of the records management and retrieval processes.
- In undertaking the above it is recognising the importance of good records management when seeking to provide an excellent service to clients. It is already better able to manage external enquiries from former clients and to provide them with assurances that their information is held securely and can be accessed by them as needed.
- In recognising the need to involve the Archivist in strategic decisions around the management of current records the firm will soon see further efficiency benefits eg in the systematic disposal of unneeded records and in forward scanning. It has made the sensible decision not to invest in back-scanning, which most organisations quickly discover not to be cost-effective.3
- For economies of scale it would be logical in future for the archiving process for all business records to be managed by the Archivist/Records Manager rather than having split responsibilities.

[2] BS 10008: "Evidential weight and legal admissibility of **electronic information:** specification"

[3] Scanning itself may be relatively cheap but the business effort involved in the sorting and prepping files, indexing each item, quality assurance, purchase and on-going management of a document management system in which to store scanned images and digital migration is expensive.

- The Archivist already intends to extend the records retention and disposal schedule to electronic records. If Chadwick Lawrence decides to retain some records permanently to preserve its corporate history then this requirement should also be added to the schedule. It could also consider providing greater external access to its historical records. Although the first duty of a business archive is always to service its organisation, LRAR considers that by demonstrating greater transparency through making non-confidential historical material available for research, Chadwick Lawrence would enhance its already strong reputation for providing an excellent service to its clients and for community involvement. LRAR would be happy to help facilitate any such efforts by, for example, liaison with The National Archives in relation to putting links on Discovery.
- Going forward, Chadwick Lawrence may, however, prefer to consider making its non-confidential historical records more readily available to the general public by depositing them in a local archive repository. Although the first duty of a business archive is always to service its organisation, LRAR considers that by demonstrating greater transparency through making its history accessible, Chadwick Lawrence would enhance its reputation for providing an excellent service to its clients and for community involvement. LRAR would be happy to help facilitate this process by brokering an agreement to transfer archival records to a local archive repository to enhance accessibility. Such an activity would of course reduce Chadwick Lawrence's own records storage and management costs, since local archives do not charge organisations for storing and caring for historical material, though a one-off donation towards physical transfer expenses would be welcomed.
- Confidentiality was not raised as a major issue in the case study, since the primary purpose of the Chadwick Lawrence Archives is to serve the business. If, however, the firm decides to enhance its profile as described above then it may wish to set rules for the opening of its records to the public. Most business records held in archives, for example, are open for research after 20 years, while records containing personal data are closed for up to 100 years. Client records are usually seen as confidential for as long as the family or firm has a relationship with the solicitor and for some years afterwards or indeed in perpetuity, but in practice this is not always observed, as evidenced by the existence in local county archives of client documents deposited by solicitors such as deeds and wills and even historical case files of named clients. If Chadwick Lawrence does decide to transfer any of its records to a public sector archives then The Law Society's guidance[4] should be followed.

[4] The Law Society Practice Note: Depositing records and documents with public sector archives

Appendix I: Case study proposal to Chadwick Lawrence

The Legal Records at Risk (LRAR) project: case studies

The project is concerned with identifying records of archival value in the private sector created by institutions specialised to law (ISLs). Saving significant collections, stimulating changes of practice, avoiding duplication, and raising awareness of the value of LRAR are prioritised. We will not collect records but will be a conduit through which legal records of value (in all formats and media) are identified, preserved and made available for research.

Undertaking case studies of selected ISLs will form a key platform of the project. Case studies will demonstrate areas of best practice and community of practice, identify key issues common to all or most ISLs and suggest potential solutions, including liaison with archival repositories on the deposit of records of permanent value.

Methodology: each case study will differ, but the methodology is essentially as follows:

- Initial contact with key persons in selected ISLs.
- Management agreement to collaborate in the project (ie to allocate the time of key personnel – there will be no other costs to the ISLs).
- A survey of the records (both paper and digital) created and managed by the ISL.
- Creation of a records retention and disposal schedule for the ISL where one does not already exist.
- Identification of records of permanent research value and interested repositories.
- A report to the ISL on findings and, if relevant, recommendations for more cost-effective recordkeeping practices. The report will be published with permission of the ISL, anonymised if required.

There are numerous benefits for ISLs to participating in a LRAR case study:

- A survey of its records and recordkeeping by a qualified archivist/records manager.
- Production of a retention and disposal schedule for immediate use, adaptable for future needs. This will identify existing records and recommend how long each category needs to be kept, with those of archival value highlighted for permanent preservation. Electronic records will also be surveyed and included.
- Advice on recordkeeping, which assists efficient business practice and compliance.
- Reduced need for storage space as records are systematically disposed of.
- Identification of a possible repository for records of permanent value **or** expert advice on how to manage one in-house so as to unlock the potential of the ISL's records for both internal business reference and external research use.
- Identification of ISLs with similar practices and issues, developing a community of practice.
- An enhanced reputation for openness and transparency plus a better understanding of importance of the ISL in the development of the United Kingdom's legal framework.

Proposed case study: records of Chadwick Lawrence Solicitors

Summary note: dating back to 1840s and specialising in medical negligence and sports law, Chadwick Lawrence employs a records manager/archivist to care for its records, many of which are clearly of long-term business value to the firm and some of which may be of potential value to external researchers.

Objective: the Legal Records at Risk project wishes to survey the firm's records and recordkeeping practices. From preliminary discussions with Chadwick Lawrence's archivist, we anticipate that this exercise will confirm our thesis that the firm is a model of good practice which could and should be followed by other law firms to reduce costs, enhance efficiency and protect records of value.

Scope: the project will seek to briefly identify the main categories of Chadwick Lawrence's records and their management, particularly the benefits gained by employing a professionally qualified person to undertake the task and manage the records. It will ask for information concerning a) the initial programme to rationalise records and recordkeeping processes and b) the on-going management of the firm's information.

Methodology: the LRAR archivist will undertake a series of discussions, primarily via email and using questionnaire, with the Chadwick Lawrence archivist. The discussions will include questions about the firm's initial project to sort, list and preserve its records, on the establishment of the archive, on the business use of archived records by the firm and on current records management guidelines and practices. The firm's archivist will be asked to provide a list of the main categories of records held by the firm and their anticipated retention periods. On-going issues such as digital continuity and storage constraints for paper records will be identified. It may be necessary for the LRAR archivist to pay one visit.

Quality: the survey will be carried out by the LRAR's qualified archivist/records manager. The archivist will give an undertaking (in writing if required) to abide by the firm's own conditions of confidentiality and to comply with the provisions of the Data Protection Act when surveying the records and making her report.

Resources and costs: there will be no costs to the firm other than in the allocation of time to assist the LRAR archivist.

Constraints: agreement of the firm to permit the LRAR archivist to discuss current procedures and processes with key members of staff, primarily the Chadwick Lawrence archivist.

Issues and risks: not being allowed access to the required information or to publish the findings.

Projected outcomes: a report to Chadwick Lawrence on its records and recordkeeping (the report will be published with the permission of the firm); enhanced publicity for the firm as a model of good practice; following publication of the report, a better understanding by law firms generally of the potential value of their records both to their own organisations and to the external research community; beginnings of a community of practice in the management of information by law firms.

Appendix II: Legal Records at Risk questionnaire

Two questionnaire were sent to Chadwick Lawrence. The first was a preliminary set of questions to gain an overview of the firm. The second was a more detailed number of questions directed specifically to the Archivist/Records Manager to identify historical, current and planned information management practice and procedure.

Questionnaire 1: (answers removed to protect confidentiality)

Organisation details: questions asked
• Organisation name
• Organisation address
• Governing/parent body (if relevant)
• Email
• Telephone
• Function/purpose of organisation
Organisation's records
• Main categories of records
• Do you have a retention/disposal policy for your records?
• Who is responsible for managing your records?
• % paper records
• % digital records
Paper records storage:
• On-site in offices (current records)
• In-house records store (for non-current records)
• 3rd party records store (for non-current records)
Digital records storage:
• Document management system (current records)
• Sharepoint/shared drives/email (current records)
• On premise lower-tier storage (non-current records)
• Cloud storage (non-current records)
Archival storage (paper records of permanent historical value)
• In-house archives
• Deposited with a 3rd party archives repository (give name of repository)
• List/inventory sent to The National Archives
• No paper archives have survived
Archival storage (born-digital records of permanent historical value)
• In-house digital archive
• 3rd party digital archive
• List/inventory sent to The National Archives
• No plans for a digital archive

Questionnaire 2 (answers removed to protect confidentiality):

No.	Question	Explanatory notes
	1. The role of the archivist/records manager	
1.1	Why did the firm decide to employ a records manager/ archivist? Is it possible to see a summary of the business case?	
1.2	Prior to this appointment, how and by whom were the records managed?	
1.3	For how long has the firm had a records manager/archivist? Have you been in post long enough to show a clear cost benefit or is it too soon?	The immediate benefit is usually a reduction in the quantity of paper stored. Other business benefits include increased efficiency and speed of information retrieval, but these are harder to quantify.
1.4	Do you have support staff? If yes, how many and what are their roles?	
1.5	What was the first thing you did when appointed?	Such as compiling a records survey; drafting a retention schedule; destroying redundant records, creating a location list, archival value records
1.8	Does management see your role as primarily that of archivist or records manager or both?	In other words, is your role seen as primarily dealing with records *after* they cease to be current or are you involved in current and forward information management planning?
	2. Hard copy records management	
2.1	Does the firm have a records retention and disposal schedule?	
2.2	Are you able to monitor/control when and whether paper records are destroyed or archived according to the schedule?	
2.3	How frequently are semi-current records referred to by CL staff?	"Semi-current" records are records no longer needed for day to day business but which must be kept for a certain time for legal reasons or occasional business reference. Once they are no longer needed for either purpose they could be either destroyed or added to the archives. In many businesses the line is very blurred and semi-current records are often stored in the Archives in a hybrid mix of permanent and semi-current material.
2.4	Can staff retrieve semi-current records from the store? If yes, how do you manage this process?	

No.	Question	Explanatory notes
2.5	Is the semi-current records store in the same location as the archives or are they physically separate?	
3. Digital records management		
3.1	What document management system does the firm use? Were you able to have input into its selection?	Such as an electronic document and records management system (EDRMS); legal case management system; shared network drives; Sharepoint; email used as a case management system
3.2	Have you had input into management and disposal rules (if any) for the DMS, Sharepoint, email, shared drives? If yes, is it possible to have copies of your guidance?	
3.3	If you have a retention schedule, does it cover digital records? If no, are you intending to extend it to cover them?	
3.4	If you have on premise lower-tier storage for non-current digital records can you provide details?	
3.5	Are you able to monitor/control when and whether digital records are destroyed or archived or is this work done by the IT department?	
4. Archives		
4.1	Who decides what records go into the archives?	
4.2	What are the primary categories of records in the archives?	Examples: • Governance records: eg Board and committee papers, partners' papers, policy and strategy records, public relations records. • Regulatory and statutory compliance records: eg records relating to compliance with legislation (eg Courts and Legal Services Act, Data Protection Act) and with The Law Society and Solicitors Regulation Authority rules and regulations. • Business records: eg finance, human resources, office management, information management, facilities and premises records. • Client records: eg matter files, complaints, deeds, leases, wills, grants of probate.
4.3	How frequently is the archives used by staff?	

No.	Question	Explanatory notes
4.4	Is it used by external researchers? How do they know about it?	
4.5	Is the firm worried about the confidentiality of records in the archives?	In other words, how long does it think some material such as client files should remain confidential?
4.6	Would you be interested in a reference to the firm's archives being included in TNA's register of business archives?	
4.7	Do you have an archives catalogue?	
4.8	If yes, do you intend to put your archival catalogue on-line at some future date?	
4.9	If yes, would you be interested in providing a link to your catalogue to The National A?	
4.10	Would you like LRAR to broker an arrangement with a public archive repository for depositing your historical records to make them more readily accessible?	