doherty associates
IT SUPPORT. BEYOND THE CALL

# A guide to cloud

## for legal professionals

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# Introduction

The legal landscape is changing and many would argue that it is long overdue and ripe for disruption. As other industries set the standards for service expectations, clients now demand more work for less and they expect increased speed and the ability to communicate, transact and collaborate via mobile devices.

Whether solicitors and barristers are working together or in competition, technological innovation is a key competitive advantage in a landscape that now consists of one-stop shops, contract lawyers and online legal services. The case for IT investment has never been so compelling.

Cloud technology offers the opportunity for law firms and barristers to innovate and remain competitive in the on-demand generation, increasing client satisfaction whilst also reducing costs. Yet it also presents risks to client confidentiality and data protection, and leaves some legal businesses questioning whether it is right for them and how they can ensure regulatory compliance.

Our guide addresses these issues, covering:

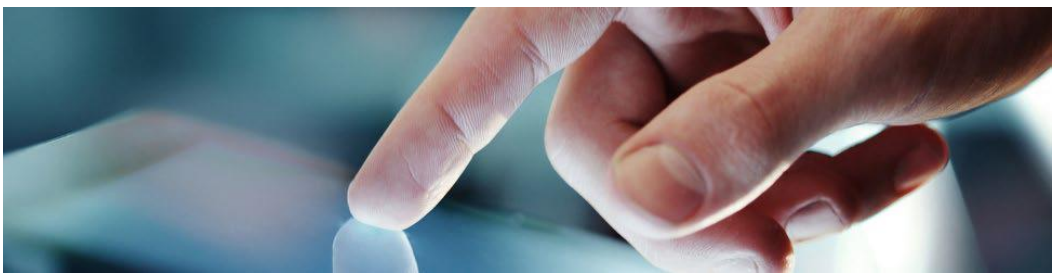
- Current industry trends and barriers in the adoption of cloud technology
- The benefits that cloud can bring to the legal profession
- The Solicitors Regulation Authority and Bar Council Codes of Conduct: how to meet regulatory compliance when using the cloud
- Ways in which cloud technology is typically utilised in the legal sector
- The benefits of Office 365 for legal professionals
- Whether your business needs an IT support company to implement the cloud

# In the cloud: industry trends

Cloud adoption in the UK now stands at 84% across industries and PwC Law Firms' Survey shows an increasing use of digital technologies to improve the client experience, operational efficiency, and branding and marketing. However, the legal sector is still trailing behind other industries, with few using cloud-based and mobile applications to collaborate and share information with clients.

There is still some resistance to the adoption of cloud in the legal sector, and with cybercrime on the rise and issues of client confidentiality of paramount importance to the profession, data security is likely to be the main issue preventing this adoption.

> "Law firms' top reasons for using digital technologies such as social, mobile analytics and the cloud are to improve client experience, operational efficiency and brand and marketing. However, the majority of firms outside of the Top 10 do not consider their IT function to be a "strength".
>
> PwC's Law Firms' Survey: Business support and tax summary



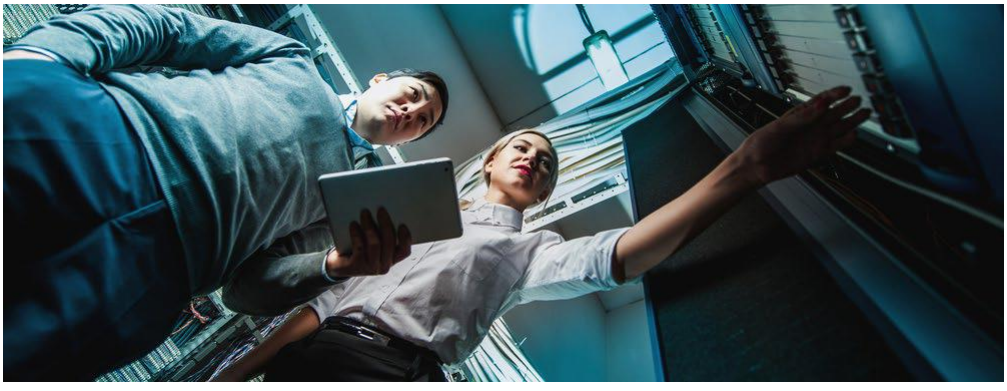
## Barriers to adoption

> Data security is the biggest concern for 70% of businesses when deciding whether to move to cloud-based services.
>
> Cloud Industry Forum 2016 Survey

In 2013 a Legal Week Benchmarker survey indicated that 80% of partners and IT directors in legal firms believe that they are likely to be the subject of a cyber-attack, but only a third believe that their systems could withstand such an attack. A more recent industry-wide survey conducted by the Cloud Industry Forum indicated that data security was the biggest concern for 70% of organisations when deciding whether to move to cloud-based services.

Firms and chambers can also hold the largely unfounded view that moving to the cloud is a long, complicated and costly process, which can be a barrier to adoption for those with limited resources.

However, legal businesses would be unwise to ignore the benefits that cloud can bring, and if legal professionals follow regulatory guidance in this area and put in place appropriate safeguards, many of these concerns can be addressed.



# The benefits that cloud can bring to the legal profession

Cloud adoption can offer a number of benefits to the legal profession by keeping client satisfaction high, employees engaged and costs low.

- **Cost savings**:
  - Cloud computing does not require hardware resources and can also reduce IT resource and computer equipment requirements.
  - Some legal practices are starting to embrace the concept of hot desking to drive down costs, recognizing that lawyers are often away from their desk in meetings or at court, and the cloud supports this.
- **Flexibility**: Cloud computing can scale up or down to meet requirements and offers easier access to the latest software.
- **Mobility increases client satisfaction and productivity**: The cloud enables mobile working, with resources accessible whilst on the move, improving client service and productivity.
- **Resilience**: The cloud can help guard against device system failure and cybercrime threats.
- **Employee engagement**: Employees can work from home with cloud access, enabling employers to offer flexible working and be deemed as a more attractive prospect to the brightest lawyers.

> “Nine in ten (90%) are satisfied with the results of using hosted and Cloud-based services, with over half (56%) seeing a competitive advantage from using Cloud and a further 22% anticipating seeing one.”
>
> Cloud Industry Forum 2016 Survey

# Cloud: the precautions the legal sector must take

The nature of legal work, and the profession's ethical and conduct responsibilities, make navigating the data privacy risks of cyber-attacks more complex. In addition to the usual financial and other data protection concerns faced by all businesses, the legal profession are privy to client information that could be damaging if made public and are professionally bound to keep this information confidential.

However, as we have seen, sticking with the status quo presents problems with maintaining a technological advantage. It also presents security issues. In a profession renowned for its cautious approach, ICO data in 2015 showed that the majority of security breaches in law firms were down to human error and not cybercrime. The most common cause was private data being sent to the wrong recipient by post, fax or email, followed closely by loss of confidential documents in hard copy format and failure to secure data stored on mobile devices.

A considered approach should therefore be taken for cloud adoption, by following general best-practice principles and guidance from the relevant regulatory authorities.

## The Codes of Conduct

In the areas of cyber security, the SRA's Code of Conduct Outcomes 4.1, 4.5, 7.4 and 7.10 and the Bar Council's Code of Conduct CD5, CD6, CD10 and Rc86 are of particular importance.

These include requirements to keep client affairs confidential, maintain public trust and confidence in the profession, and ensure that any outsourced activities do not affect the firm's ability to comply with obligations under the relevant Handbooks. Solicitors also have a specific duty to ensure that effective systems and controls are in place to safeguard against client confidentiality risks.

## Further guidance on the application of conduct rules

The SRA's guides, IT Security: Keeping information and money safe and Silver Linings: Cloud computing, law firms and risk, and the Bar Council's Cloud Computing: security issues to consider all provide further useful advice on ensuring conduct compliance in the area of cloud computing.

## The Data Protection Act

In order to comply with the Data Protection Act's Eight Data Protection Principle, both the SRA and Bar Council advise that personal data must not be sent out of the European Economic Area unless the country offers a sufficient level of protection. The European Commission provides a list of countries that meet these requirements, but other counties may qualify if the EU has an agreement with that country to provide adequate protection, or the data controller puts adequate safeguards in place.

The EC has not confirmed whether the US meets its adequacy requirements. The EU-US Privacy Shield agreement (which replaced the Safe Harbor framework in 2016) details the safeguards that must be in place and the SRA recommends that "firms may wish to use their own best judgement when choosing providers who use US servers, to be sure that they have the protection of the Privacy Shield". However, the Bar Council warns that a recent European Court of Justice ruling has concluded that businesses cannot rely on the Safe Harbor provisions between the US and UK to comply with European data protection laws, and so all businesses must carry out their own risk assessment

# Best practice for due diligence: other issues to consider

The SRA's risk resource Silver Linings: Cloud computing, law firms and risk recommends taking the following steps:

- Obtaining references from the provider's current customers
- Ensuring that the service level agreement can offer at least full Safe Harbour compliance if data is stored outside the EEA
- Checking that the service can provide audited information security that complies with ISO27001 2005 as a minimum
- Ensuring that a level of guaranteed uptime and continuity protection is offered that meets that meets the standards required by your firm
- Confirming that staff that will be working on the move have properly secured communication channels to protect security, and
- Ensuring that the contract includes the requirements of Outcome 7.10 of the SRA Code of Conduct.

**Security can also be improved by**

- Using a private cloud, or private area of a hybrid cloud, for client confidential material
- Use of software that automatically encrypts documents at the law firm's end, and using security keys that are not known to the cloud provider, and
- Only using EEA based providers or those based in countries offering equivalent or greater data protection laws, and ensuring that data is guaranteed to not be held in jurisdictions that do not offer such protections.

## The Bar Council recommends the following precautions be taken:

**Data security encryption.** As cloud providers will still be able to access data extra precautions will be required. Applications exist that allow encryption folders on the cloud computing space and are suitable for mobile and tablet devices. They recommend a 'zero knowledge' encryption services, where the provider does not store the password for you.

**Back-ups.** Caution is recommended against reliance on cloud computing in replacement of a good back up system. Instead, automated back-ups are best as "any system that requires the user to remember to do something is probably doomed to fail eventually".

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**Further resources**

The SRA directs larger law firms to the CESG / GCHQ's Ten Steps to Reduce Your Cyber Risk and smaller firms towards the Department of Business Innovation and Skills's Small businesses: what you need to know about cyber security.

# Utilising cloud technology in the legal sector

Migration to the cloud can often be seen as largescale project, but law firms and chambers are often utilising the cloud already via email servers, case management systems and more. Below are the main ways in which cloud technology is being utilised in the legal sector.

## Email

Email is one of the oldest kinds of cloud computing and, in our personal lives, many of us place our trust in services such as Hotmail or Gmail. For law firms and chambers wishing to provide access on-the-go, email is easily one of the first applications they consider moving over to the cloud. It reduces costs by removing server upkeep costs, offers more reliable data centres than your average in-house server room and offers scalability as there is no limit on storage space.

## Office applications

Applications such as Word and Excel enable lawyers to remotely draft letters, legal documents and more in any location with an internet connection from any device – meaning documents can be drafted whilst travelling to and from meetings, waiting in court and more.

## Document management

A paperless document management cloud system allows lawyers to access the documents they need in one place and at speed, whenever they need to. As we have already outlined, the legal profession's over-reliance on paper-based file systems can lead to all manner of data breaches, whereas a cloud-based document management system will typically feature password protection and encryption for complete security. Cloud will also make it easier and faster to share up-to-date documents with clients, and collaborate on any required changes.

## Managed backup

As The Bar Council stresses, the backing-up of documents is an essential part of any data security risk strategy and automation removes the possibility of such an important step being overlooked. Instead of manually backing up all files onto tapes or devices and then transporting them to a safe location, law firms in the cloud can back-up easily and at very low cost.

# Office 365: the logical step for law firms and barristers chambers and FAQs

The Microsoft Office suite is already the de facto choice for legal professionals who utilise applications such as Word, Excel, Outlook and PowerPoint. Office 365 takes this one step further, offering the same functionality, performance and reliability in the cloud for these applications as well as document storage, management and collaboration through OneDrive and SharePoint.

The Microsoft Trust Centre offers comprehensive answers to many of the frequently asked questions of legal professionals but below is a helpful summary.

## Is Office 365 secure enough?

Office 365 adheres to world-class industry standards, including ISO 27001, EU Model clauses, HIPAA BAA, and FISMA. It includes essential features such as permissions, versioning control, eDiscovery, and records management.

Like all cloud software, it is also kept up-to-date – and protected against newly discovered security vulnerabilities – automatically, giving it an edge over locally installed software.

However, it cannot solve some human-error security gaps, such as the use of email to send documents as unsecure attachments. This is where your cloud provider should ensure that full training and safeguards are put in place.

## Will my data stay in the UK?

Microsoft now have UK data centres and so comply with The Data Protection Act's Eight Data Protection Principle that personal data must not be sent out of the European Economic Area unless the country offers a sufficient level of protection.

## Is Office 365 compatible with our existing documents?

Yes, as it is still Microsoft Office you will still be able to access and edit existing documents.

## Who owns and controls the data?

Office 365 customers maintain control and ownership of their own data and it is not used by Office 365 for anything other than the service subscribed for. Further information on how data is used can be found here.

## Can I take it out of the cloud again?

You own your data and retain all right, title, and interest in the data stored with Office 365. After cancellation, you can download a copy of all data at any time and for any reason, all without needing any assistance from Microsoft. Further information on this issue can be found here.

# Do we need an IT support company in the cloud?

One of the many lauded benefits of cloud technology is that you do not need significant IT expertise or resources to implement and use cloud services. However, the out-of-the-box cloud usually requires additional layers of security, such as email document encryption and a remote mobile device wipe in the event that phones or laptops are lost, which an IT support company can install.

An  IT service provider can also help ensure that you maximise your return on investment, by providing the training and processes required to capitalise your cloud's many features effectively, as well as ensuring that the transition to cloud is phased in a manner that works for your business. Cyber security training is also a must if you wish to protect against the biggest risk to your legal businesses' security – your workers.

Here is a checklist of what to look for in an IT support company, which matches and betters the minimum requirements required under the Handbooks:

- ❑ Application of a cloud service that adheres to ISO27001 2005 as a minimum;
- ❑ UK based data centres or at least full Safe Harbour compliance if data is stored outside the EEA;
- ❑ A strong track history, with excellent references;
- ❑ Process and user training on-boarding;
- ❑ Thorough security risk training to protect against human error, the biggest threat to legal businesses' security;
- ❑ Comprehensive IT support, so that you can focus on your business, confident that all your company's IT support needs are covered;
- ❑ Additional security services to maximise security, such as private cloud, mobile device wiping and zero knowledge' encryption services, where the provider does not store the password for you;
- ❑ A high Service Level Agreement standard which a guaranteed uptime and continuity protection that meets the needs of your business;
- ❑ Critical device monitoring, so that a proactive and timely approach is taken in the event that there is a breach; and
- ❑ The ability to integrate your cloud hosting platform with leading legal applications such as ProClaim, Lex, Quillennium, Solicitor Case Manager, and Laserforms.

# How Doherty Associates can help your move into the cloud

Doherty Associates has a proven track record in providing flexible, secure cloud solutions to law firms and barristers chambers, based on established Microsoft technologies. We understand the vital importance of ensuring security and regulatory compliance and ensure that our solutions meet these requirements and bridge any gaps left by Microsoft Office 365.

Time is precious to lawyers and every unit of billable time counts. Our in-depth knowledge of the legal sector means we can also provide you with the tools to save time and enhance productivity. We are also on hand to help you day and night, with a dedicated team to monitor your system 24/7 to ensure business continuity.

Trust and confidentiality is an important requirement for legal businesses and mirrored in how Doherty Associates build our relationships. Just ask any of our customers, who would be only too happy to provide a reference.

> “Doherty’s offers fast response times delivered to Service Level Agreements (over 95% within 1 hour) – so you can get on with the legal business at hand.”

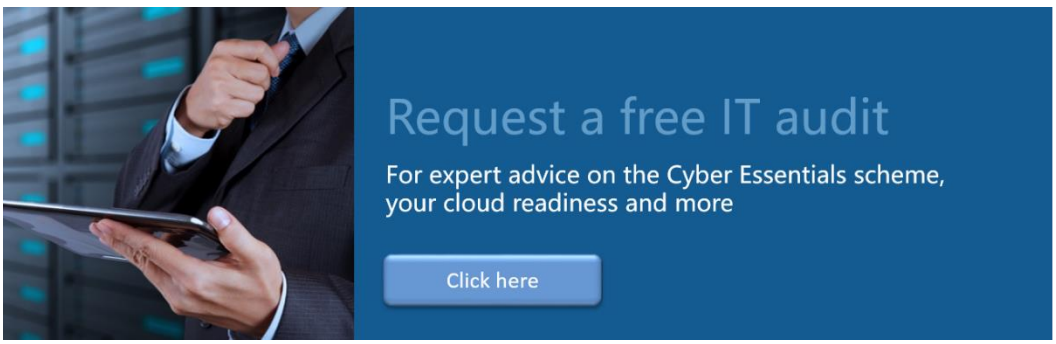
## Key services we offer include:

**Comprehensive IT support**

- 24x7 fully managed service desk
- Log and track tickets with Doherty support app
- Unlimited service desk access – no hidden costs
- Remote diagnostics for quicker resolution
- Fully managed desktop Anti-malware included
- Regular patching to keep you sage
- Mobile device support, including remote wipe technologies

**Critical device monitoring**

- 24x7 proactive server monitoring
- Office 365 and Azure services monitoring
- Fully managed server patching
- Firewall & ISP monitoring and management
- 3rd party vendor liaison
- Emergency on-site support for priority one incidents
- Malware monitoring and alert response

**Deskside training clinic**

- On ramp education sessions to get you started
- Tips and advice for safer computing
- Power use sessions going beyond the basics
- Smarter working tips, so that you know what to use and when
- Ask Me sessions