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Google: to use, or not to use. What is the question?

Abstract: This article by Natasha Choolhun, with input from Emma Harris and colleagues, considers how the proliferation of freely available legal information has affected standards of information literacy and research capability in the current legal environment. Real life examples are given to illustrate how staff in law firms are using resources such as Google and Wikipedia in preference over authoritative legal material. The phrase "Google Generation" is explored and consideration is given to how law schools and commercial firms are attempting to instil in their lawyers principles of good information literacy and research skills.
Keywords: internet; professional conduct; legal research; law librarians

Introduction

This article takes as its starting point Rayner (2008) "Net-surfing lawyers warned of compliance risk", which reported on several instances of lawyers using unverified information found freely on the internet whilst carrying out legal work. The article focused on the need for professional conduct and outlined the possible risk and compliance issues for practising individuals and firms.

I will consider why lawyers and law students are increasingly favouring Google and Wikipedia as their starting point to carry out legal research, rather than heading straight for authoritative resources, such as the LexisLibrary and Westlaw databases and established works such as *Halsbury's Laws of England*. I will also consider how legal information professionals are tackling this trend by reinforcing information literacy skills in the academic and commercial sectors.

My first step in researching this topic was to meet Emma Harris, a librarian at the Law Society. Emma's career experience, both at the Law Society and formerly at a large corporate firm, places her in a good position to comment on the growing trend of lawyers, both qualified and prospective relying on Google and running into practical difficulties. She constantly encounters lawyers who are startled to learn that not all acts are "on the internet" and when it transpires that a National Archives request has to be made so the act can be photocopied by hand, there is even more surprise. As Emma stated, in a *Law Society Gazette* article. "Today's trainees despite the best efforts of law school librarians, don't know the world outside the internet."[1]

I would like to stress that this article does not intend to dismiss the online/digital/electronic revolution. There is a host of official information used daily by lawyers which can be retrieved successfully via Google. For example, Civil Procedure Forms, FSA and PACE updates. I hope the title of this article (cleverly coined by Emma) summarises succinctly my perspective and the whole "Google" issue, that yes it can be used for research in the legal sector, but only in the appropriate instance.

The "appropriate" instance?

> *I'm forever having to stop myself from ranting when a trainee has asked me for help and they haven't found the case or piece of legislation on Google.*
>
> *We regularly get phone calls starting with, 'I've had a look on Google but…*
>
> *When I ask where they've searched they look a bit shifty and mutter Google.*[2]

For readers of this journal, judging the "appropriate" instance is instinctive and we easily fulfil the CILIP definition of being information literate. "Information literacy is knowing when and why you need information, **where to find it**, and how to evaluate, use and communicate it in an ethical manner."

We know what Google is – an internet search engine with capabilities and drawbacks. Many of those of us who carry out legal research are not legally qualified, but we learn the correct terminology and effective techniques and do the job competently. However, from speaking to my associates still employed in commercial law firms it is evident that when the reverse occurs and trainees and paralegals carry out legal research this level of information literacy is missing. Google is being selected as the

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"where to find it" component and in the context of legal research this just is not the right place.

The Google Generation

The phrase "Google Generation" is a term widely used to refer to young people who are completely au fait with the internet and rely on Google for their information seeking.

In the report, *Information Behaviour of the Researcher of the Future* CIBER (2008)[3] commissioned by the British Library and the Joint Information Systems Committee, the working definition of the "Google Generation" is those born after 1993.

A key finding of the report is that it is a misconception to see the "Google Generation" as "young people". The "generation" component of the phrase is irrelevant. Instead the report focuses on the evolution of a "digital mindset" common to people of different ages. Characteristics of this new mindset include expecting online searching to be easy and effective, which Google does offer and, more crucially, accepting information at face value without any attempt at critical evaluation.

Wikipedia

Again LIM readers understand what Wikipedia is – a free online resource, comprised of user generated content, written by volunteers. It is not a static resource, information can be there one day and gone the next and the quality of its information depends on the quality of the contributors.

One of Emma's quotes in the *Law Society Gazette* concerned an incorrect Wikipedia entry on intestacy rules, 'Whoever wrote it got the rules mixed up with inheritance tax".[4]

However, to the user who arrives at Wikipedia via a Google search, its description as a "free encyclopaedia" with its hyperlinks to authoritative organisations may brand it as a reliable resource. Had the lawyer in Emma's example taken the time to read Wikipedia's own legal disclaimer surely the error would never have happened.

> "There is absolutely no assurance that any statement contained in an article touching on legal matters is true, correct or precise.
>
> Nothing on Wikipedia.org or of any project of Wikimedia Foundation Inc., should be construed as an attempt to offer or render a legal opinion or otherwise engage in the practice of law."

When searching for a description of *Halsbury's Laws of England*, "…the premier legal encyclopaedia … cover(ing) all areas of English law". I could not find any kind of equivalent disclaimer.

A lot of people, including the Wikipedia organisation itself, are aware of the errors in its content. Nevertheless it continues to be a successful enterprise and has become an established presence on the web. Something in my view has gone very wrong as, despite its failings, we have collectively bought into it.

"If Wikipedia is trying to catalogue the world, don't you want to be part of it?" White (2009).[5]

The CIBER report states that there is an "untested assumption" that the Google Generation has a different set of information literacies and that these will "somehow transfer to their use of libraries and information services as they enter higher education and research careers." The report does not present findings as to whether there has been a decline in information literacy. "Whether or not our young people really have lower levels of traditional information skills than before, we are simply not in a position to know."[6]

However, from speaking to my associates it is clear that such skills are weaker.

> *And I also think that the quality and authority of the data that trainees retrieve isn't as important to them … as it was in the past.*

More haste less speed?

A newly qualified lawyer used Google to search for the European Convention on Human Rights (she needed to print the text off to include in a court bundle). She went to the first entry which was from Wikipedia and scrolled down and then cut and pasted into a word document the articles listed not realising that this was not the actual text of the articles but a commentary on them. She came to the library asking for help as luckily it was caught by a partner who was checking through and noticed that the document did not have any title or reference etc and she was asked to find an authentic copy.

The example above demonstrates clearly why Google and Wikipedia are the research tool of choice – simply because they are easy to use. "Wiki" itself derives from the Hawaiian word "quick". With Wikipedia you can perform quick searches and gain "instant comprehension" from reading the entry on the screen. In minutes you can digest complex legal principles and retrieve complex legal literature and like the newly qualified lawyer above get it completely wrong.

Had the newly qualified lawyer begun her research on the European Convention on Human Rights with authoritative sources, problems would have arisen immediately – which legal database covers European legislation in full text? Does my firm have access to it? If it's on a database will it be the version in force? Do I have to use quote marks? And so on.

In my view it is this issue of "speed" that is causing problems for students who are growing up and being educated in an online environment. There is nothing wrong with having information at your fingertips, but there is a problem with what people are doing with the

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information. The online environment allows for a different experience, where users can view, use and generate.

The CIBER report has a section dedicated to how people currently behave in virtual libraries; such behaviour includes "skimming", "viewing" and "squirreling." Over 500 words are given to examining online techniques and to me it came as no surprise that the verb "read" is mentioned only four times. Real learning and comprehension involves reading and that takes time.

Taking time is also a factor when using authoritative legal databases. They may sit conveniently on the desktop but they are not intuitive to use. Unlike Google, you are presented with multiple search boxes on the screen. Once you have learnt the quirks of one database, you usually have to learn a new set to use another. I am sure that legal staff carrying out research do try and use the databases but, when that effort results in irrelevant results, the whole thing becomes a frustrating experience. It is no surprise that people turn to Google.

Competent research does involve finding information in a "timely manner", but in my opinion this is translating into people expecting instant success. It is commonplace to get zero results with a database such as LexisLibrary, but very rarely with Google and even if this does happen you are usually prompted with "Did you mean:?"

Even the .gov get it wrong

This blind faith in online information has also become evident in the courts. *R v Chambers* (2008)[7] which involved a revoked SI being used by the defence led Toulson LJ to declare that "… the information on the Office of Public Sector Information website is defective and has presumably been so for some considerable time."[8]

Other government bodies also get it wrong, as one of my associates pointed out.

> *One of our PSLs noticed the Equality and Human Rights Commission cited an incorrect Act throughout a recent report they did, (the Act did not exist).*

Time for action!

It is not just my own observations, or those of colleagues, which point to a decline in information literacy. One of the key findings of the "Higher Education in A Web 2.0 World" report (2009) states that whilst Web 2.0 technologies allow learners to develop "21st century employability skills" such as "communication, collaboration, creativity, leadership and technology proficiency" their last key finding is that information literacy has declined and is continuing to do so. "Information literacies, including searching, retrieving, critically evaluating information from a range of appropriate sources and also attributing it – represent a significant and growing deficit area."[9]

The academic sector

"I got an F on my paper because I used Wikipedia and the information turned out to be wrong."

At the College of Law, where I am employed as an information officer, every student is greeted with this chilling message when they log onto the Library services site. This is excellent in raising information literacy awareness, not just at the beginning of the academic year, but each time a student wants to access a database such as Westlaw throughout their academic course. However, whilst this warning is there, actually playing the attached video clip and watching the tutorial is optional. Again, whilst students receive time-tabled library services inductions, are offered further voluntary research training, and are given an in-house written legal research guide, we are at a loss to know whether what we offer is actually being put into practice. Students do complete a practical legal research exercise which involves paper-based research but as one colleague told me.

> *Someone recently told me about some of our students working through their paper research online. They didn't open a book if they could help it…*

When I informed Emma how legal courses at postgraduate level are regulated by the Joint Academic Studies Board, Solicitors Regulatory Authority and the Bar Standards Board, in regards to levels of legal research skills, (they stipulate that all students must be able to use paper sources), she suggested that as well as concentrating on teaching the tools i.e. the Halsbury 4 step, we should also set more concept-orientated tasks, where the answers involve looking at the pages of an authoritative textbook. As another associate reminded me, legal research often involves a combination of electronic and printed sources.

> *Most of the legal research we do involves this process: i) look at the books, ii) check the case law, iii) check the journals. This is the way to do legal research. Google is not.*

My switch from the commercial to the academic sector has shown me that law schools and colleges have a real duty to instil the principles of information literacy before they enter practice. I feel we need to offer greater support to students learning via web environments and not assume that students are inherently learning these skills.

Guidance is available to us in the form of skills textbooks such as *The Study Skills Handbook* Cottrell (2008). Exercises such as how to actively read and re-read may seem basic, but for the former Chemistry student, who may be now having to embrace difficult legal principles via an online workshop, we should offer the opportunity to have a refresher on the basics. Other useful exercises

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Cottrell offers are "spot the plagiarised paragraph", increasingly relevant in the online environment, where you can cut and paste, and making it crystal clear why referencing is so important. "People will have confidence in your work and assertions if they know where your information comes from".[10] Again anecdotes from colleagues demonstrate that this basic concept has been forgotten.

> *I know we had an incident here recently where one of the partners had spoken to the Library manager as a trainee had written a brief where all the sources listed were Google and Wikipedia.*
>
> *I know a number of our lawyers do get very annoyed if trainees rely on Wikipedia or unchecked sources from Google.*

We should take it upon ourselves to broadcast the insights from the three classics; *Using a law library Clinch* (2001), *Butterworths legal research guide* Holborn (2006) and my favourite, *How to use a law library* Dane & Thomas (2001). All of these texts, which teach legal research, fulfil the complementary task of teaching information literacy. They are full of practical examples which show how information literacy applies to all formats. All three texts illustrate how the trainee will encounter both printed and electronic material and, as a consequence, be able to use both. One of Emma's most memorable anecdotes is not a lawyer using Google, but a lawyer using a very outdated issue of *Atkins Court Forms* and being completely oblivious to a major act which had come into force since the new edition had been published.

The heavy workload at degree and postgraduate level means these books are sitting on shelves going unread. We need to read them and teach them. This is not spoon-feeding. Carrying out a basic legal journals search to find commentary on a current case for the trainee during their first seat is.

Google warning: handle with care

Some law firms are being proactive on the Google issue, hosting dedicated training to show when Google could be used and when it most certainly should not. However, of my 12 law firm contacts, only three firms have done this. Twenty-five per cent is not enough. Not when you consider all staff in each of those 12 firms have access to Google and are probably using it to some degree for legal research.

One of my long term associates, Mark Haines, who designed such a session, kindly provided some details of how he chose to structure his Google training. He ran a 30 minute session made up of two parts, "Five things you should know about Google" and "Ten things you might not know about Google". Techniques he taught included:

- The functions of the Google "advanced search"
- Why not to select the "I'm feeling lucky" option
- Where to look for the copyright disclaimer
- Differences between the .co.uk and .com sites
- Assessing the currency and authority of pages

The training, attended by all levels of staff including secretaries, paralegals, trainees, lawyers and partners was the most popular ever hosted. Mark ran the session a further two times and indeed the comments he received after the training were, "I had no idea you could do that on Google."

This feedback shows that fostering information literacy skills is a continual process. As new tools become available, we have to train people on how to use them. Refreshing minds will only ever yield benefits.

Another associate made the wise observation that, while legal information professionals carry out research on a daily basis, law students and lawyers do not. Training has to be continually offered, as research skills are only honed after time and it is only through conducting research that real information literacy awareness and comprehension sets in. It is not just Google training that has to be on offer, but also how to use the legal databases, the printed citators and so on.

A one-hour induction at the start of the academic term or intake is not enough. If legal research forms the bulk of a two year training contract, then two year's worth of support has to be offered. An overview of the products is not acceptable, we have to understand where our users are falling down and offer our assistance. If we fail our students and staff, then we are failing ourselves.

The bottom line

As an associate in the field explained to me:

> *Law firms are commercial organisations and their job is to provide legal advice. If you are in a law firm or law school and are using the same tools that your client could look at for himself for free then you are falling at the first hurdle. Your client is paying you good money for a reason, for years of insight, expertise and getting it right.*

The CIBER report ends with a challenge to the information profession and accuses us of being complacent and not engaging with our Web 2.0 generation users. From my contacts in practice, I can report that, in this sector at least, we are making some effort but it isn't enough. The anecdotes I have provided clearly show this. As information professionals we do have the expertise to solve the problem. It is time to get senior management on board and show how our unique skills can change the fortunes of the colleges and companies we work for.

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Footnotes

[1]Rayner (Jonathan) (2008). Net-surfing lawyers warned of compliance risk. *Law Society Gazette* 105(23), 1
[2]Italicised quotes are from law librarians
[3]Centre for Information Behaviour and the Evaluation of Research (2008a). Information Behaviour of the Researcher of the Future
[4]Rayner op. cit.
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Biography

Natasha Choolhun has been employed as an Information Officer at the College of Law, (Moorgate site) since February 2009. Prior to this she spent four years as an Information Officer at a large national firm. Natasha has built up a good peer network in the City and enjoys socialising with former colleagues and other professionals in the field. Rather predictably Natasha enjoys reading.

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Law Publishing at the Crossroads

Abstract: In the current climate of rapid technological change, upheavals in the legal profession and global recession, Nick Holmes asks "What does the future hold for law publishing?"
Keyword: legal publishing

The publishing revolution

I have been fortunate to have been involved at first hand in the entire modern publishing revolution. When I first started out in law publishing, authors produced copy on manual typewriters, editors used pens and literal cut and paste to hack it into shape, typesetters set the copy in movable lead type or "slugs" and made it up to page in print trays, and then the presses rolled. So there had not been much progress in 500 years!

Today, as an author and publisher myself, I mostly write in "the cloud" and when I hit "Publish" my articles are automatically styled, made up to page and published instantly on the web, potentially to a global audience (blush!); they are distributed automatically to subscribers via RSS and some of those subscribers will perhaps (automatically again) repurpose and republish them

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