

# Modern Lawyer

Ideas for Legal Leaders

Editor: Catherine McGregor

January 2022 [www.globelawandbusiness.com](http://www.globelawandbusiness.com)



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# The magic of workflows – empowering your legal projects and processes

**Ignaz Fuesgen**

*Eventually everything connects – people, ideas, objects. The quality of the connections is the key to quality per se.*

This quote by Charles Eames, an important American designer of the 20th century, reminds us that when planning and delivering legal processes and projects, it can be easy to focus only on the task at hand and forget how things relate to one another. However, acknowledging and actively steering those connections between tasks and activities is the key to designing and ultimately delivering legal services of even higher quality, ie an improved user experience for all stakeholders.

**W**orkflow management – the combination of mindset, methodology and technology – has the capability to connect the people, tasks and matters Charles Eames talks about, no matter whether they are projects or processes. Leveraging the concept requires a thorough understanding of the contribution workflows can make to legal processes and project management.

### **How workflows relate to legal projects and legal processes – a comparison**

What are the underlying principles of project and process management and corresponding objectives? Clarity in terminology enables us to judge the applicability and relevance of workflow management.

First, let's look at the definition of 'legal projects'. According to the Project Management Institute (PMI), we shall concede that every legal matter is a 'legal project':

*All projects are a temporary effort to create value through a unique product, service or result. All projects have a beginning and an end. ... Each project is unique and differs from routine operations – the ongoing activities of an organization – because projects reach a conclusion once the goal is achieved.*

While any legal practitioner, in-house or in private practice, will immediately agree on the meaning of the attributes 'temporary' and 'unique', the delineation of 'routine' and 'non-routine' operations is not always clear. Routine operations – or processes – are characterised by their *repeatability* and *predictability* as opposed to projects. Although a sequence of tasks can vary, for example, from matter to matter, there are conditions and rules in place that are known in advance and predetermine the available options and corresponding next steps with respect to that matter.

Generally speaking, legal projects may contain process-based stages in the matter flow. For instance, larger M&A transactions can still be considered projects overall by the above-stated definition but demonstrate a high number of embedded routines or processes, such as setting up a data room and determining the method of analysing the documents during the due diligence phase. Considering the entire matter life cycle,

Karen Dunn Skinner (2021)<sup>1</sup> reminds us: “you find processes in the first and last stages [of the matter life cycle] that apply to every single matter that comes into your firm, no matter what the matter type”. She mentions processes for generating new business, onboarding new clients, conducting conflict checks and, at the end, file closing, billing and collections.

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Vice versa, highly process-driven legal matters, such as dismissals in the context of labour law, still incorporate a dynamic and unpredictable element with respect to the final negotiation of the settlement agreement, a potentially unique and temporary phase.

Irrespective of the matter being a project or process, we always deal with a series of activities and here's where the workflow philosophy comes into play. A workflow, the combined application of corresponding mindset, methodology and enabling technology (workflow system or platform), *connects those activities* in legal projects and processes, *acknowledges that activities affect each other* and, subsequently, attempts to find the best way to deliver the entire legal service.

Legal practitioners have been applying workflows on a daily basis but they have “often done it unknowingly and not in a structured and targeted manner” (Schumann and Weiler, 2021).<sup>2</sup> A workflow mindset formalises unconscious processes and provides structure. Technology is leveraged as an enabler, where appropriate, for a better user experience, implying improved efficiency and effectiveness.

**For some legal practitioners, workflows can be a set of simple linear steps for payment approval, for others a complex, multi-threaded legal process flow designed to massively reduce hours allocated to a matter.**

A comprehensive definition of workflows is presented by the Workflow Management Coalition, a non-profit organisation. It describes workflows as “the automation of a business process, in whole or part, during which documents, information or tasks are passed from one participant to another for action, according to a set of procedural rules”. Schumann and Weiler (2021)<sup>3</sup> draw a clear distinction between processes and workflows: “a process describes a sequence of tasks and a workflow is a way to improve the efficiency of this sequence; a workflow is focus on repeatability and leveraging the best way to deliver the intended result by applying technology”.

For some legal practitioners, workflows can be a set of simple linear steps for payment approval, for

others a complex, multi-threaded legal process flow designed to massively reduce hours allocated to a matter. The many forms of workflows and their multifaceted appearance is best described by the nine fundamental building blocks depicted in figure 1.

Any legal project or process incorporates one or more of those building blocks for further reference and design of the future workflows.

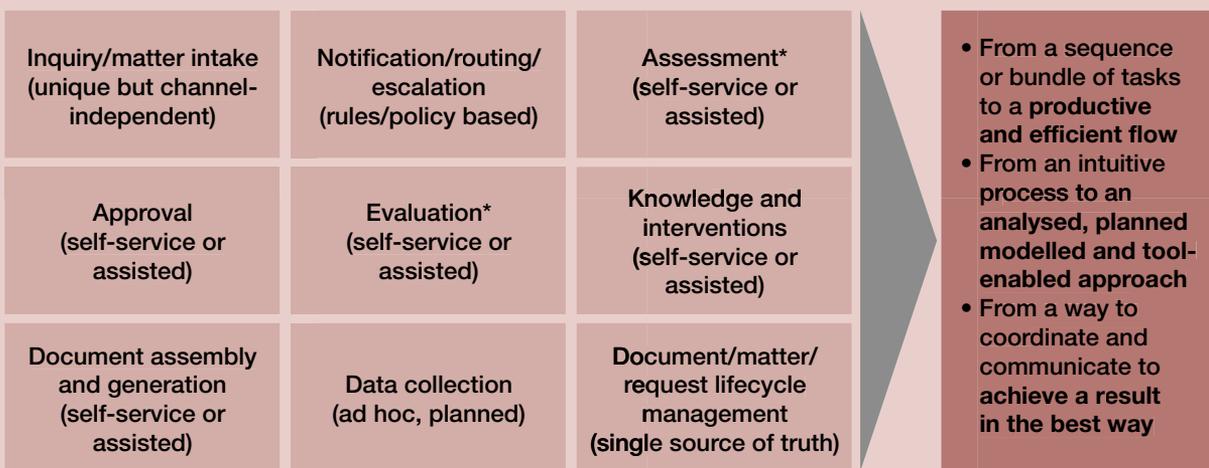
**Time, cost and quality – a workflow perspective**

In essence, management of legal matters (projects and processes) shares the same three objectives, that is, time, cost and quality. The strategies and priorities to achieve those objectives differ by the delivery approach relevant to each matter. In general, process management focuses on cost and time aspects at a given acceptable level of quality whereas project management emphasises the achievement of a certain meaningful and valuable result at an intended level of quality.

Workflow management is not only a means to deliver against those objectives but may in many instances be the only way to achieve them (compare Schuman and Weiler, 2021):<sup>4</sup>

- *Cost and time savings* are driven by standardisation, task automation and a general framework of operational rules enforced and assisted by technology.
- *Risk reduction*, usually the result of a lack in

**Figure 1: Building blocks of a workflow approach (source: smartvokat)**



transparency, oversight or knowledge, is achieved by automating highly repetitive, high-volume activities and tasks while offering full transparency across the entire matter lifecycle in a meaningful and organised manner.

- *Improved user experience (quality)* is achieved by offering numerous self-service processes 24/7, managing enterprise governance and making legal services accessible to employees and clients.
- *Data analytics and insights* promote early trend detection (eg, do many requests for a specific area indicate the need for training interventions or policy change?), general risk monitoring and, last but not least, user experience improvement (eg, by continuous data-driven process modelling).
- *Knowledge sharing* happens around collaboration within a team and across teams or even functions and full transparency across all activities.
- *Keeping pace with the business* is enabled by the way knowledge related to tasks and activities is kept in one workflow platform and can be called upon at any given point in time. Necessary changes to sequences of tasks or dependencies between different tasks can be implemented in real-time mode.

The above-stated benefits correspond fully to the challenges legal departments frequently stated in recent surveys. Blickstein Group's Annual Law Department Operations Survey 2021, published in December 2021, noted the three top challenges of legal departments to be business process improvements (59.7%), cost containment and savings/managing the budget (49.3%) and staying abreast of law department technology/managing and handling IT issues (35.8%).

Although many recent workflow implementations flag the enormous improvements after go-live, legal departments have just started exploring and leveraging the massive data volumes compiled in workflow platforms. First public results include statistics, such as an 80% reduction in instruction emails by US company ServiceNow or an automation rate as high as 80% for some processes

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of a global multinational pharma company for their recently implemented legal management platform, considering nearly 10,000 users of that platform with a rapidly growing adoption rate within the organisation of 100,000+ employees.

### **Turning a workflow mindset into reality**

Up to this point, many readers, most of the legal practitioners, legal COOs or practice managers will have most likely bought into the concept and benefits of workflows but wonder about a suitable starting point for implementation.

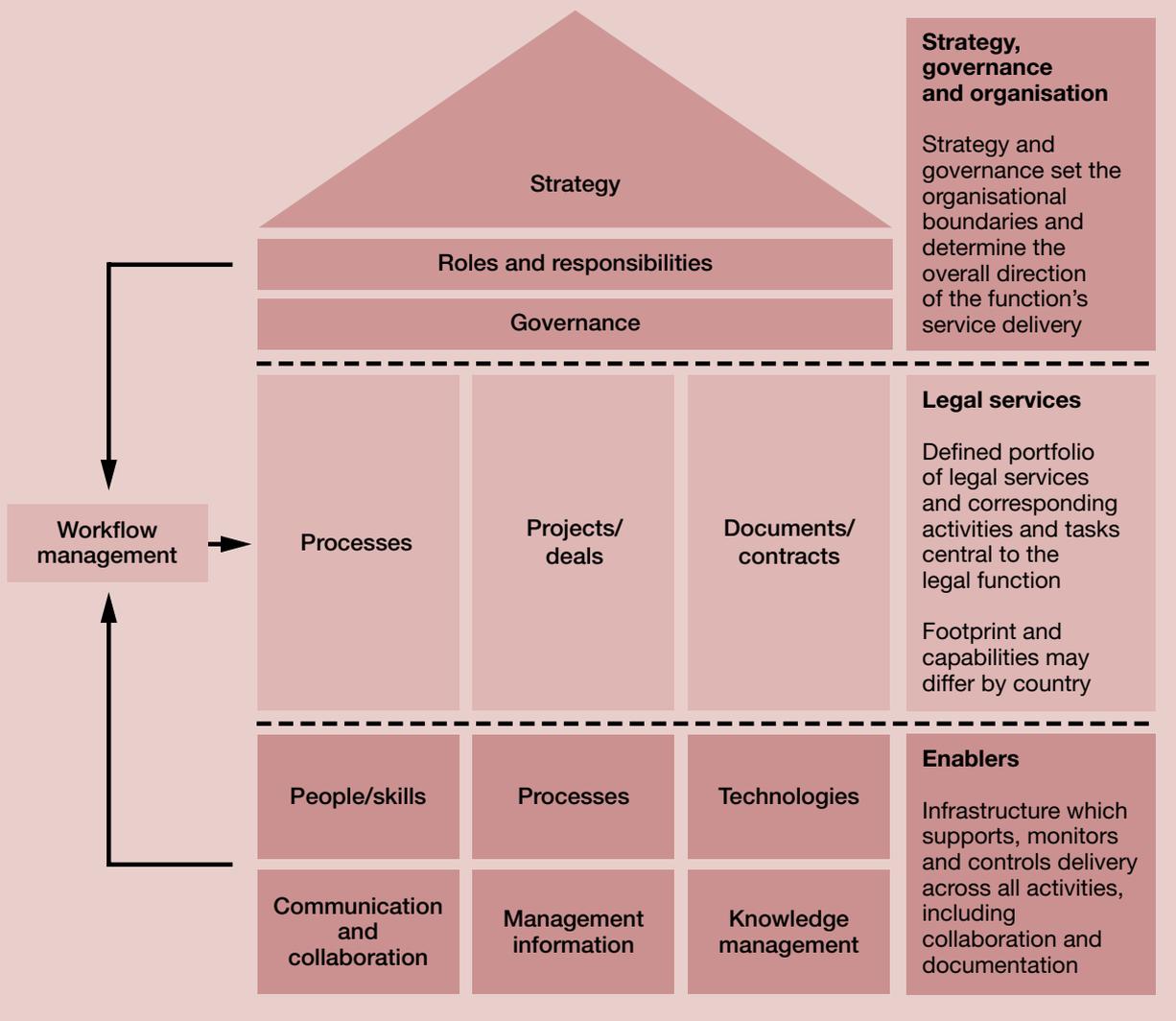
Two aspects may help with a successful implementation:

- understanding the nature of the workflow to be built; and
- considering workflows in the bigger picture of the target legal operation

For a better understanding of the nature of envisaged workflows, we must make a distinction between the following scenarios of legal service delivery:

- Matters with a clear, most likely linear sequence of activities and a varying number and types of tasks. The sequence of activities is fully predictable and potentially prescribed by policies and guidelines. Typical examples include drafting of commercial contracts or general legal enquiries in an in-house legal environment. The latter follow the routine sequence of matter intake, matter analysis,

**Figure 2: Contributions to workflow management (source: smartvokat)**



matter resolution and matter completion. This scenario is best described as a combination of process and project management.

- Matters with linear or non-linear sequences of activities and a fully predetermined set of tasks for each activity. Typical examples include approval, assessment and evaluation processes, eg antitrust reviews with respect to memberships, or data collection procedures, such as GDPR audits. This scenario is typical for a legal process.
- Matters with activities and tasks whose sequence, type and number may change dynamically with scope and progress. At best,

phases combining bundles of activities may be predictable but all other elements are dynamic in nature. Project management is best suited to govern this bespoke approach.

For the first two scenarios, implementing a single workflow appears to be reasonable. However, for the third scenario, a single workflow may not be desirable or feasible. In such a case, only modelling 'static' phases may be advisable.

Finally, considering workflows in the bigger picture of the entire target legal operation reminds us of the impact and contributions made by the legal function's strategy, governance, organisation and corresponding 'enablers' as depicted in figure 2.

To reap the full benefit from workflow management, any implementor needs to pay attention to each element of the target operation. A canvas such as the one freely available for download at <https://www.legalworkflowcanvas.com/> will assist legal teams to structure the workflow design process with respect to the target operating model.

## Conclusion

The October 2020 Briefing/HSBC law firm strategy and investment survey found that 56% of respondents prioritised investments in process automation technologies (eg, business

intake/compliance tools) followed by 36% with respect to automated document production and templating.

Workflow management as an element in a legal function's strategy going forward is no longer optional. As cost pressures, business velocity and agility increase, workflows offer a suitable tool to address efficiency objectives while improving the overall user experience for lawyers and their (internal) clients.

Embedding workflow management in the overall target operation model of legal departments will be crucial to realise the full potential of such an approach.



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- 1 Ignaz Fuesgen, *Next Stage Legal Project Management: Future-proof Your Matter Management*, Globe Law and Business, 2021, p24.
- 2 *Id*, p157.
- 3 *Id*, p156.
- 4 *Id*, p157.

*This article 'The magic of workflows – empowering your legal projects and processes' by Ignaz Fuesgen is from the January 2022 edition of Modern Lawyer, published by Globe Law and Business.*

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