Transcript: Talking Tech - Episode 6 – Lisa Webley

DAVID FOWLIS: Hello and welcome to talking tech, a podcast from the legal services board that looks at the regulatory implications of new technologies for the legal services sector. I'm David Fowlis, a Regulatory Policy Manager at the Legal Services Board. Today I'm joined by Professor Lisa Webley, the Head of Birmingham Law School at the University of Birmingham and we'll be talking about the ethical and regulatory challenges presented by the use of technology to deliver legal services. Lisa, welcome to the podcast, and grateful if you could tell the listeners a little bit about yourself and your work.

LISA WEBLEY: Thank you David, so I'm Lisa Webley: as you said. I'm Chair in Legal Education and Research at the University of Birmingham. My research tends to be in the context of legal profession regulation, access to justice, legal ethics and dispute resolution and so I tend to look at the extent to which the legal profession is being educated and regulated in a way which best fits its professional values. That means increasingly I'm looking at the role of technology in legal services and the way in which legal professionals are making use of technology both in terms of their back-office work – the work they do in order to run their practices, but also in the context of the work that they do for their clients – whether that's work in the context of transactions or whether that's litigation.

DAVID FOWLIS: Thank you Lisa, I just wanted to first start off with a question about 'What actually are ethics' – what do we mean when we talk about ethics?

LISA WEBLEY: So, we could spend quite a long time talking through what ethics are and – in their broadest conception – I suppose when people use the phrase or the word ethics, they're usually touching upon one of maybe four different things. So sometimes when we hear the word ethics, we hear it in the context where people are talking about fundamental moral principles – where people are trying to work out what's right and wrong. Or some people might say what's moral or immoral. Sometimes when we hear the word ethics, what we're hearing is a discussion about more local, more sort of small scale or more contextualized use of those ethical values and so for example, what's the right thing to do to maximise access to justice for people or what's the right thing to do to make sure that the courts system is working in a fair way. So that's probably the second way. The third way we sometime use the word ethics is in the context of professional bodies and regulators making decisions about what is appropriate for a given group of people – a given group of professionals, so much of what we're talking about today is going to be – should legal professionals be asked or told to behave a little bit differently. So for example should the rules for apply to wider society apply in the same way when somebody's being a lawyer or should they be held to a different standard or be subject to different considerations, because of the nature of the work they're doing and the impact they may have on wider society. Then the fourth way we often use ethics – is this ethical – is more a discussion around liability. So, if something goes wrong, who should take responsibility and how should they take responsibility? And so, ethics means quite a lot of different things to different people in different contexts.

DAVID FOWLIS: Okay – if we look at it in the context of legal regulation and how legal regulators are dealing with their regulated communities., can we expand on that a little bit?

LISA WEBLEY: Yes of course. So, when it comes to professional regulation – and let's take lawyers specifically – regulators are there to ensure a number of different things. So, one is obviously that the people within their profession have the right education and training to be able to be professionals. The second thing is that those people are behaving in a way which is in keeping with professional rules. The third is that those they come into contact with as professionals are appropriately protected and served. And then there's usually something about the underpinning values of the profession – so when– lawyers have to choose between different courses of action – what values, what principles should they be weighing in order to come to decisions in very thorny contexts?

DAVID FOWLIS: Okay – So if we were just to think of any example of one of those incidents or a scenario – what would be a good ethical question?

LISA WEBLEY: So, one of the challenges – let's say in the context of increased use of technology is that – we as lawyers – we all will build up huge amounts of data about our clients. and we will necessary be storing that data in order to be able to serve them effectively because we need information from them to be able to work out what advice we should be giving them and not just what advice but also what actions we suggest they take or what things we should decide not to do in the circumstances. So, all of that data, because we can store it, will gradually over time be being pooled into data lakes – it's often referred to as data lakes within firms. Now in the past when things were on paper, of course all of that data would be stored in physical files and that would be kept separate from another client's file. Over time – when we started to digitize things – all of those pieces of information would be kept together – in maybe an electronic system. But increasingly that data can be pooled within this system and then we might be able to use tools to be able to drop into those large data lakes and try to come up with new and innovative ways to be able to serve clients. Now all of those things are possible, but there are some ethical issues associated with how we do that and whether we share that data with others to help us develop those tools. And we may talk about that a little bit later on in the podcast, but there are things that we can do which might be beneficial in some ways but maybe problematic in others. All of those can come under the umbrella of ethical decision making within a profession.

DAVID FOWLIS: Given that regulation has moved from a prescriptive style to a more principles-based one in recent years, do you think that lawyers are better equipped than other professions to deal with this change because they're used to dealing with rules? Or do you think it's just as challenging for them as it is for everybody else?

LISA WEBLEY: I think a principle-based model is challenging for everybody because rules give a degree of apparent certainty even if in reality there are still an awful lot of grey edges around rules. what principle based regulation does is to require all of us professionals to think a bit more about what we're doing and reflect on whether or not our behavior or our

what we think we might do falls within the values of the profession as opposed to within the rules.

DAVID FOWLIS: so presumably though there's some benefits to principle-based regulation – particularly if you're thinking that what you're dealing with is a more flexible regulatory structure that can better respond to new developments?

LISA WEBLEY: so, principle-based regulation does give more flexibility – because it's about obviously the principles, the values underpinning the profession and those can be applied to novel situations in ways which rules may struggle to do. So that is of real benefit. In terms of technology one of the big challenges that we've got is that – obviously – things change so quickly and we're constantly trying to think about how particular technologies may or may not affect what we do as lawyers and how they may affect the client and wider society. Principle based regulation gives us a mechanism to have those conversations – the conversations themselves though are challenging regardless of the nature of the regulatory context.

DAVID FOWLIS: Okay I think that's probably a good point to sort of move on from ethics into technology. And in your paper, you noted that the legal profession has actually been dealing with technological change previously and it was really just to explore a bit about that and how and how the law has dealt with technology in the past.

LISA WEBLEY: so, the profession has always had to think through each new technological switch that it's been either subject or has chosen to embrace. One of the challenges I think for the legal profession is that it is – we are as lawyers trained to mitigate and minimize risk and to reduce harm. That's part of our core work. Often, we are employed by clients in order that we do advise them so that they may avoid legal problems or to minimize legal problems. And so, lawyers bring that practice to their own practice as well, and that tends to make lawyers relatively conservative in their approach to change because change is novel, and novelty is by definition quite difficult to address if you're constantly trying to mitigate or minimize risk. I think another thing that it's important to note is that lawyers are the foundation of the of the rule of law, the rule of law is basically the underpinning set of principles which keeps a health-healthy functioning legal system. Lawyers work to contribute in important ways to the stability and integrity not just of the legal system but of the political system, the financial system, the governance of organisations – so when we think about regulation of lawyers and when we think about regulation of lawyers work, we tend to take quite a precautionary principle approach, which is – if we are concerned that something we may do may harm either our clients or wider society by eroding confidence in the legal system, in the functioning of all the important components of the state, then we tend to be more inclined to say let's not do that or let's do that slowly. Having said that, obviously technology in its broad definition has been gradually changing legal practice since the point at which people were able to write. Then to be able to duplicate documents, then to be able to use those documents to distance through email, the internet, and the legal profession has responded to each of those changes and its done so on the whole slowly, but all of those changes have become a normal part of legal practice. And so the more recent technological developments with things like machine learning, things like artificial intelligence – which is a broader set of a technologies – are being used, are being looked at,

but we are wary of what that means – not just for us as lawyers but also for wider society, and I think that's where regulation is currently trying to grapple with some of these issues.

DAVID FOWLIS: Okay so I suppose the question maybe then is: are the changes that we're seeing that you've just talked about there, things like artificial intelligence, are they somehow very different from the types of technological changes that the law has had to cope with previously which were perhaps more along the lines of allowing lawyers to do their jobs quicker, faster or more conveniently?

LISA WEBLEY: So, some of the changes are simply an extension of what's gone before but look a bit more whizzy at the moment because they're new technologies. So a good number of the technologies that law firms are starting to embrace in ever greater numbers are really about automating things which are relatively routine tasks, are things which are currently or have recently been done by lots and lots of people, but which a computer can do in a straightforward enough way and then those things can be reviewed by people at the end to double check them. Those technologies are making efficiency gains. They are in some respects more likely to be accurate because people get tired and machines do not. But they're not a fundamental challenge to legal practice and they're not a fundamental challenge for legal regulators. They are simply new ways of working. Having said that there are some technologies which have the potential to change the work of lawyers and change the way in which we think of decision making, and those are technologies where large amounts of data may be used to train algorithms, to train machines to predict outcomes or to suggest things that clients should do or shouldn't do or lawyers should do or shouldn't do. And those things are really quite different in my view from the technologies which enable more efficient working. And I think it's those – those that have an element of machine learning built into them, those that have an element of prediction built into them, which do pose the challenges.

DAVID FOWLIS: Okay that's really helpful so you've spoken about a common thread there. It's when its predictive or when it almost substitutes for a lawyer's brain in some ways – obviously we've just talked about if lawyers are using the technology, but presumably some of the technologies could also be used by legal consumers as well.

LISA WEBLEY: So, one of the interesting things for me about England and Wales as a jurisdiction is that it has a very liberal regime when it comes to the practice of law. Now some countries highly regulate the practice of law and the only people that are able to do anything classed as legal work are people who are members of the legal profession who have undertaken the training who have a practicing certificate, have an ongoing license to practice and are in good standing with their professional body or their professional regulator. In England and Wales, there are only a very narrow set of legal tasks that are reserved to to those official lawyers – to those lawyers who are in good standing with their profession and have a practicing certificate. Most other legal work can be done by anybody. And not just done by anybody, but done by anybody for money. And so when we're talking about regulation and technologies, we're not just talking about regulation of lawyers who are members of the legal profession and who are being regulated as individuals, and we're not just talking about legal service providers, law firms, legal entities which are also being regulated, we're talking about a whole spectrum of people and organisations that may be

making use of these technologies in order either to provide a service for money or to provide a service free – or simply because they are an individual who needs legal help and they found something on the internet which is technology enabled that will allow them to do some of this work themselves. And so when we're, when we're discussing risk, and when we're discussing regulation in this context, it's worth bearing in mind that in some cases we will be talking about lawyers who are already regulated using some of these technologies for their clients – and there's a mechanism in place already to regulate people who are legal professionals – and we might be talking about legal firms, entities, who are doing some of this reserved work and they too are regulated – so we've got a mechanism there. We don't currently have a particularly robust mechanism to regulate other people who are providing services other than standard contract law, tort law, where you can sue somebody because they've not done a good job, just as you could do for anybody else providing you a service for money. And then we've got circumstances where individuals themselves may be making use of products or services which they may have paid for or they may be getting for free – through technology, through the internet – and obviously different people in different contexts will have different levels of skills and knowledge to interpret what's coming out of those products, or interpret the services that they're being given. And they may be more or less protected as a result.

DAVID FOWLIS: Okay so there's obviously potential challenges for regulation in terms of how regulators should address technology and I think I'll want to come on to that just a little bit later on. The thing I wanted to explore just a little bit more at the moment is about some of the technologies that are most likely to give rise to some of the concerns here.   What ethical issues do those technologies actually raise themselves? I mean is it its things around data security. Are there other issues around transparency, perhaps also the public's willingness to accept the use of technology in the law?

LISA WEBLEY: so, the Law Society did some research looking at AI – and they had a whole commission looking at AI and ethics – and they found a number of challenges, not just in the context of the legal profession but more generally. So, one's obviously transparency – so transparency is multiple things. Its transparency of decision-making – so how did the person who used machine learning, a machine learning tool or something that's enabled with artificial intelligence – how did that thing reach its decision? So, what was used? What's the underpinning – the algorithm – the calculation – that was used in order to reach the decision that is now being communicated to the client? So if I give you an example of –one of the challenges: lawyers spend a lot of time saying that people have – which they do – the right to reasons for a decision so that people are able to challenge a decision. So, one of the fundamental principles of natural justice is that if you are subject to certain forms of decision, you should know why the decision-maker reached the decision, and how. And then that allows you with your lawyer to see whether or not that was a good decision – a robust decision – and that its been made in accordance with the law – or whether that decision was faulty and subject to challenge. One of the issues where we use large datasets with AI to reach decisions is that it's not always easy to know how the decision was made – what factors were taken into account in order for us to then look to see whether or not that's the good decision or a faulty decision – and so transparency of decision-making is one of the things that we're all going to work on, not just lawyers, in the context of some of these sophisticated AI systems. The other issue of transparency is also how our data is being

used, and we have – obviously many people have concerns about how their data is being used more widely – what data is being pooled, what data is being added to what other data is known about us, who it is being shared with. Now that's obviously important in all contexts. It's particularly important in the context of the legal profession because we're not only held to confidentiality standards, we're also held to legal professional privilege standards – and legal professional privilege means that in two contexts – in the context of legal advice and in the context of litigation – it should be possible and it has to be possible for clients to share information with their lawyers and lawyers then to draw up their advice and share that advice back to their clients in a way that is entirely confidential – that cannot be breached except for some very very narrow circumstances in which we are required to breach that privilege. One of the challenges in this context is if lots of data is being collected and lots of data is potentially being shared by lawyers with for example technology companies who are going to assist them to develop more automated tools or even more sophisticated tools for their legal practice, to what extent does that offend against or fall within legal professional privilege. And I think that's something that's going to become a much more urgent issue for us to deal with as more and more law firms start to pool their data. There are ways of dealing with that so that clients are protected, but it's something that we're going to need to give urgent attention to. So that's transparency. There are others that we need to think about. There are other ethical issues – there are issues of liability…for harms. So, if a particular technology leads to problematic results, who's liable? Is it the lawyer that's using it – because they should be reviewing what comes out of the system before they make final decisions about what's the best course of action for their client – or is it the product or service that they're using which may have been developed by somebody else not within the law firm but without the law firm. So, liability is an issue, and is it possible for lawyers to shift that liability onto clients? Would that be ethical? In the end, should it be the lawyer that continues to be responsible? Then there are issues of public acceptance of technology – just because things can be done, does that mean that that clients and wider society are comfortable with the technology being used in that way? And then of course there are issues of the extent to which clients have control or whether or not in the end lawyers and law firms tell them how their data will be used, tell them which products or services the lawyers will be using, and don't give clients choice. So, all of those I think are important issues to consider.

DAVID FOWLIS: Are there things that regulators could be doing to improve the accessibility of data

LISA WEBLEY: data is challenging in a legal professional context, because when we talk about access to data, we're often talking about access to material that should not be accessed by anybody beyond the lawyer who is dealing with the client. In order for our legal system to work as it does, clients need to know that when they provide certain types of data to their lawyer for the purposes of legal advice or litigation, that data won't be shared. That's what legal professional privilege demands. And so when, while we are pushing to be able to pool data in order for us to develop our artificial intelligence for legal services, what we're also doing at the same time is pushing to erode those legal professional privileges – sorry legal professional privilege which is fundamental to our functioning legal system, and that that's a difficulty. So – increasingly it is possible to train algorithms on small scale data. So rather than pooling into one place into a data lake and putting an algorithm in and

training it on that – it's possible to train by putting it into one law firm's data and training and pulling the algorithm out. It will have learnt things – it won't be taking the data with it; it will just be taking the learning with it. It's a bit like when you learn in school, you don't take the books with you afterwards and you don't take the things on the whiteboard with you. You've just got the knowledge of what you've learnt in your head. So, the algorithm can come out of the law firm and into the next law firm and learn and then come out and move into the next one. Now that would allow us to protect legal professional privilege for clients, and legal professional privilege is there for clients, it's not there for lawyers to waive, it's there for clients. And they can waive it if they wish but they need to understand what it means if they do, and lawyers need to be very upfront about what it means if they do, because once its waived, it's waived. So, it is possible for us to train algorithms that way and protect privilege. Having said that, algorithms learn through the data and the quality of the data is key, and most of the data that law firms hold, they hold in ways which make it very difficult to train an algorithm, so it's held in lots and lots of different systems, it's held in non-standardized formats, and much of its unstructured – meaning its text, it's not numeric. And so, it's quite difficult as things stand at the moment to train algorithms in a way that's robust. And training algorithms on faulty data is really quite dangerous. Now I'll give you an illustration of what I mean by that: so there were a couple of pilots in the US that have been using algorithms to make a prediction about whether somebody who's been convicted is likely to re-offend in the future – and that's been used as the basis for sentencing decisions – decisions about how long somebody should stay in prison. So, the sentencing decision is partly about the nature of the crime and how serious it was, and then partly about and whether or not they've committed a crime like this before, and then how likely they are to commit the crime in the future as well. Now those algorithms have been trained on historic data – on data which gives an indication of how likely it is for certain types of people to re-offend. so it's based on actual data, not on people's assumptions, and so many people would say that sounds very objective because there is data on how frequently people re-offend, and how frequently men re-offend as opposed to women, how frequently older people and younger people re-offend, how frequently people of different ethnic backgrounds re-offend, and that can be used as the basis of a robust decision in the context of sentencing. Now the challenge is that when these algorithms were trained on this historic data, what hadn't been taken into account was the nature of the data and the extent to which the data itself is skewed – meaning faulty. So it became apparent that whilst the data indicated that young black men were much more likely to re-offend than young white men or young white women in some of these areas in the US, that data was developed as a result of people having been stopped and searched and questioned and young black men were much more likely to be stopped, searched, and questioned and therefore found to have committed a crime than were young white women for example. And so the data reflects society's decisions about who's stopped and who isn't and that has a degree of unconscious and some conscious bias built into it and therefore the tool has that same bias built into it and therefore the sentencing also has that same bias built into it. And whilst it might appear like an objective assessment of recidivism, in reality it's a product of the discriminatory approaches that we adopt as a society. So when we're talking about data, we're not just talking about something which is neutral, we're talking about something which may well be skewed, which may be poor quality, which may be quite difficult to turn into a form which can be used to train an algorithm - and then on top of that we've got issues of access to data and protecting legal professional privilege. And all of those things

need to be taken into account when we're trying to work out how to manage a move towards increased use of AI in the legal profession.

DAVID FOWLIS: to sort of bring this back together, do you think that all of the things you've discussed there – the issues around transparency, data security, potential bias and how algorithms and AIs are developed – do you think it's going to be more difficult for the legal sector to really use technology than it is say for ex ample medicine or finance or other professional sectors, because there are these series of concerns that -and are they particular to law?

LISA WEBLEY: So, I think in terms of automation of tasks the legal profession will will adapt to technology that speeds up automates scrutinizes transactional work relatively effectively. I think that the legal profession will be able to deal with that relatively straightforwardly. The challenge is going to be when it comes to expert analysis and prediction, because there is a difference for example between medicine and law in this context. When we use AI to look through mammograms or other forms of biopsy – we can gradually train an algorithm to spot in more and more sophisticated ways changes within those scans, within those biopsies, that in the end we can verify as right or wrong. We will over time know whether or not that person did have breast cancer or didn't. and that can be fed back into the algorithm, so it learns, and it gets more and more sophisticated over time. But a lot of what we do as lawyers looks a little bit more like surgery than it looks like reviewing scans or mammograms. So if we divide legal work into those things that are very bespoke and those things that are very routine, just as medicine does the same – for the routine work, technology enhanced, technology enabled, I'm sure we can manage to do very effectively with some safeguards in place. When it comes to the bespoke work which looks more like in medicine the surgery end, it's going to be more challenging. And the extent to which in the end the technology is there to enhance lawyer decision making just as it's there to enhance surgeons' decision making as opposed to replace it, I think is is a live issue. At the moment, we don't have technology that would allow us to remove lawyers from the picture, and it may be entirely undesirable that we do anyway for those kinds of situations. Technology can enhance what we do, but a lot of what lawyers do – just as a lot of what certain kinds of doctor do – is actually about dealing with people. It's about a human element. It's hearing, it's empathizing, it's thinking through things not just from the point of view of technical legal or technical medical concerns, it's also about reviewing a range of things to try and make sure that whatever we advise in the end is fit for that particular individual. Now, that is time consuming and its costly, and we know from the legal profession because its largely a private practice profession that there are many people who would like to have that legal service who can't currently get any access to legal services because they can't afford to pay for them. We don't have that problem in medicine in the UK because of the NHS and people can access a service regardless of their financial means. And it may be that some of the more blunt and routine products and services that can be provided to clients in a legal context are better than them having no access at all – but when it comes to making use of the more sophisticated machine learning, not for the routine areas but for the bespoke areas and the litigation-related areas, it is going to be a challenge to be able to use that effectively and to develop it effectively for lawyers, and that may also be the case in some other professions like medicine where there are bespoke decisions and bespoke actions that need to be taken.

DAVID FOWLIS: So Lisa, just thinking about what challenges the increased use of technology presents to reg…to legal services regulators, and I wanted to think about a couple of things here – one was about the actual regulatory model we currently have where we obviously we have some activities that are reserved to some kinds of providers, some activities that aren't, unregulated providers – and obviously you'll have technology developers wanting to enter the market, do you think that the current regulatory model can accommodate all of that?

LISA WEBLEY: So, the current model regulates people, and it regulates some organisations which are often referred to as entities. But it only regulates a subset of people that do legal work and a subset of organsiations that that have those people within them and do legal work. So, most people who may be doing legal work and all products that they use as well as the organisations that they are in are not currently regulated by legal professional regulators. They're simply regulated in the normal way through contract law and tort law, so law that allows you to sue somebody for breach of a contract or to sue them for example for being negligent in providing the services. And that is challenging in this context because technology allows lots of different kinds of people who aren't within that special regulated legal professional category to provide legal services and it also allows lots of types of organisations which aren't being specially regulated to provide either services or products that clients may use, and we don't have a mechanism at the moment which allows us either effectively to alert members of the public to the difference between those people and those organisations that are specially regulated because they are lawyers who are undertaking or could – are authorized to undertake reserved work – or are entities that are authorized to undertake reserved work. So, we can't easily let members of the public know who is regulated and who isn't, and then on top of that, the products – these technology products which are increasingly available and could simply be made available to clients through the internet, they're not regulated at all. And so, the issue in in this context is that on the whole, we've tended to do is to say to consumers: please use a regulated professional, please use a regulated organisation. It's not easy for them to know who is and who isn't regulated, and so they may fall back on what looks like quicker or cheaper opportunities which aren't regulated, or they may themselves make use of a product and without another person assisting them, and whether that product is going to lead to positive or negative results for them, they won't be able to necessarily judge, and that product wont have been regulated by a regulator.

DAVID FOWLIS: it's sort of interesting because one of the arguments about the advantages of our regulatory system here in England and wales is that it is relaxed, it's relatively liberal, it allows lawyers to cooperate with non-lawyers. It allows for alternative business structures, it should be a very positive environment but I just wonder if it's almost too liberal in some ways?

LISA WEBLEY: yes, and that's possibly the case. Us having a liberal system has allowed us to be more innovative in legal practice terms than many other common law jurisdictions. It allowed law firms and law tech developers and legal publishers to be able to come up with a range of products and services that just would not be permissible in many other

jurisdictions and that means that we are at the forefront of many of the law and technology developments when it comes to legal practice. So, there are real benefits to our regulatory regime in that regard. It also allows others to be able to provide legal help to clients who wouldn't be able in some other jurisdictions because they wouldn't be classed as authorized professionals. So, there are real advantages to our system. The downsides however are that it puts the onus on clients to work out whether or not the people that they are employing to give them legal help or to provide a product or service to them are regulated, and it makes it difficult for anybody to be able to judge the quality of these goods and services which are being developed quite quickly in a market that is very open, but is very relatively unregulated outside of these authorized professionals and entities. And so, the positives of the innovation and therefore potentially providing more services to more people quicker and cheaper on the one side also leads to the potential for those things and those people to be doing that without a regulatory environment to protect clients. And that's the challenge.

DAVID FOWLIS: Okay I think maybe just to bring it back to ethics, technology regulation overall: what would you say if you had to – if you were a regulator – what would be the factors you would look at to assess if technology is likely to give rise to ethical concerns and then how you might go about addressing those concerns?

LISA WEBLEY: that's a really difficult one, and I'm very pleased I don't have to make these decisions. I think when it comes to the legal profession, we're thinking about protection of clients, we're also thinking about protection of the legal system and the rule of law, because that protects wider society. So, it's not just about focusing on how could this technology benefit or harm these clients, but what does this mean for trust in lawyers and the legal system? And that's fundamentally important. So, there are many technologies that lawyers could use, and it may be desirable for them to use for individual clients. The question is not just that – and how to minimize harm and mitigate harm and mitigate risk – but it is also: What does that mean for the legal system more generally? What does that mean in the context of transparency of decision making? What does that mean in the context of not just data security but legal professional privilege? What does that mean in terms of public acceptance of the use of this technology not just for individual clients but for wider society? And what does that mean for liability? And in the end, liability usually has to rest with the professionals that make use of technologies. We usually say in the end that the expert – the person who is there as the professional – must bear the risks. If they are going to make use of a technology then they judge its quality and they ultimately make the decision which leads on to the – to the advice to the client or the strategy that's developed in the context of litigation. When it comes to technologies which are being direct to the public without that expert in the middle there, there may need to be more thought about whether we can continue to operate in this system where we have authorized regulated professionals and entities and then we have everybody else and everybody else operates in a world where the risk is shoved toward the client as opposed to being held by either the company that's developed the technology or the non-authorised professional who is using it. And I think that's probably the arena that legal professionals are going to need to walk into sooner rather than later.

DAVID FOWLIS: Do you also think there's a role for legal services regulators to reach out to say the technology community and people in unregulated legal sector – even if they can't regulate them – to say look these are issues you ought to be thinking about. There are ethical issues with this, there are challenges with this. We'd be grateful if you thought about it even if at the moment, we don't really have any regulatory jurisdiction over you.

LISA WEBLEY: Possibly. I. I think that one of the – issues however is the extent to which the regulator is able to provide a framework to assist those organisations in their own decisions. Because ethical decision making requires a framework, and the framework will either be a philosophical framework, regulators are not well placed to be able to engage there – or it's going to be a legislative framework, where we don't have one at the moment which allows a regulator to say: just make sure that you do this or that, because if you don't you will be breaking the law. And in any event, there are other regulators like the Information Commissioner that would do some of that in the context of data. That wouldn't be legal profession specific. Then there are the professional conduct ethical issues, and those issues are based on people and entities being regulated. Now, legal regulators could reach out to others and say: these are the principles that we expect, and we require those who are regulated by us to adhere to, and we would be grateful if you did the same. But of course, those people and those organisations won't necessarily have had the training and the education in the context of law and the legal profession that leads them to engage with those principles in a similar way to legal professionals. And they will also be subject to their own regulatory frameworks. And then of course there are issues of liability which – which tend to be addressed on the whole in the context of legislation or via professional regulators saying: even if the law allows you to transfer liability from you to a client, we're not going to let you. We don't think that's appropriate. So, do legal professional regulators have a role to play in having conversations with LawTech startups, with those who provide legal services but aren't currently regulated? Yes, I'm sure that would be beneficial. Can they provide the framework to guide decision making and action? I'm not sure about that, because the framework is very much about the context in which you operate. And whilst some startups will be very much focused on tools for law firms and may see themselves as being part of the legal community, an awful lot of those technology houses will not just be providing tools for lawyers, they'll be doing the same for any number of other professional service providers. They may not see themselves as part of a community that could or should be thinking about things through the lens of legal professional ethics.

DAVID FOWLIS: Lisa, thank you very much for joining us today and discussing all of those issues with us. It's been really helpful.

LISA WEBLEY: Thank you very much. I've really enjoyed reflecting on the issues in the context of a – of an ethical discussion.

DAVID FOWLIS: thank you very much Lisa. This is the last in our current series of podcasts, but please look out for further materials, information and events in due course.