

Cognito Software

Wills, Trust and Probate Software - Providing a niche for your legal Practice



In this special report, award winning technology journalist and industry analyst Charles Christian - who has been named as one of the top 10 'movers and shakers in the legal IT world today' - looks at the Cognito Custodiens trust and probate system and considers its potential attraction to solicitors practices.

At a Law Society annual conference some years ago, the Society's then president warned in his speech that the stark choice facing many law firms was to either get a niche or get out. What continues to dumbfound me is the fact so many firms still ignore this advice and try to be generalists, with the result that other organisations, such as banks, accountants and insurance companies, start squeezing their way into areas of legal practice that were once the sole preserve of solicitors.

Probate work is a good example of this trend, where over the past decade High Street banks have been taken on as executors by legions of their customers, despite the fact the banks' fees are frequently substantially higher than those charged by solicitors' practices. Given that everybody dies sometime and the high property values mean more and more estates are being caught by inheritance tax, the area of trust and probate work is one niche that far more law firms should be looking at. And if you are looking at a niche area of practice, then you also need niche software to help you run that practice, which is where Custodiens trust and probate system from Cognito Software enters the picture.

Although sharing the same name as the original Custodiens product, which dates back to the early 1990s, the new Custodiens is not an update but a complete end-to-end redevelopment. I know, you have heard it all before - and there is certainly no shortage of other probate software systems available in the UK legal market, however where Custodiens stands out from the crowd is in both its scope and its wide applicability.

For example, with scope most of the current crop of probate systems is either case management product - which guide fee earners through a matter from start to finish via a series of workflows - or else systems that can perform IHT 400 calculations and, possibly, subsequently complete these forms. But, with one or two exceptions, few of these systems can handle the trusts side of the picture, despite the fact many more clients are now using trusts as part of their estate planning.

In complete contrast, Custodiens provides a comprehensive case management framework. Plus the ability to calculate and revise the IHT 400 suite of forms at a keystroke. Plus the facility to subsequently populate with data, fill in and print out these forms in their entirety - it should be noted that some other systems can only produce ready to use forms in an either an Adobe PDF format which then have to be completed manually, or as a Word or Excel file which then has to be transposed to the appropriate official forms. And a full trusts accounting system, including shares and investment portfolio management. In other words, you have in Custodiens a trust and probate system for all seasons and all reasons - and a product that lays down the benchmark for other systems to compete with.

As a system, Custodiens embraces the whole of the probate process, including pre-grant and post-grant work, but within the broader context of modern law firm business management methods. So,

for example, there are automatic conflict of interest searches. There is also a time recording system, either for client billing or internal cost monitoring purposes, with the option to either allocate time to a specific task or take the data from a real-time clock.

This inherent flexibility - as distinct from the enforced rigidity of some other probate case management system - can also be found in other aspects of Custodiens. Thus there is the option to process some aspects of a matter at the outset - or to defer it until a later date if immediate action is not required. In effect you only have to feed information into the system on a 'need to know' basis, whereas other systems require everything to be entered at the outset.

The integral document assembly system, which is based on the well-known HotDocs technology,

allows documents to be generated automatically from templates (including the facility to send one document to multiple addresses, which can be particularly useful when initially contacting banks and other financial institutions) but is also sufficiently flexible that blank documents can be created on an ad-hoc basis. I also like the fact (which also has a risk management value) that all documents can automatically be stored in the document management, complete with version control - so you can also see earlier versions of all documents and accounts reports and the facility to save external documents, including email messages and scanned-in documents, against that file.

What you are therefore getting in Custodiens is a comprehensive tool set that will support - rather than supplant - the individual fee earner as they work their way through a probate matter at their own pace and in their own preferred fashion.

What is also exciting about the Custodiens system is its potentially wide scale applicability to firms of different types and sizes. For instance, it will run by itself as a stand-alone application; it can be run as an integrated solution in conjunction with Cognito's own accounts and case management systems; and it will also operate as part of a 'best of breed' implementation, where it is integrated with third-party document and practice management systems.

In fact Birmingham-based top 100 law firm Martineau Johnson - a practice not in the traditional market sector associated with Cognito - is already running the Custodiens system to handle some large and complex estates and, as they put it: "the firm's reputation depends upon the effective and efficient handling of such cases". Add it altogether and you have in Custodiens a solution that is equally at home in High Street firms through to the specialist trust and probate departments of the largest practices in the country - and there are not many other systems that can make that claim.

So what about the perennial claim - or fear - that specialist case management systems have a deskilling impact of fee earners? This is always a concern of probate practitioners, particularly as the conventional benefits of case management and automation (such as the strong chronological workflows that are essential in heavily process-driven legal worktypes, including personal injury claims, debt recovery and residential conveyancing) are less relevant in probate work where fee earners tend to dip in and out of matters on a more ad-hoc basis.

What I would say here is that far from being a de-skilling tool the Custodiens system still leaves the key issues and decisions that require specialist legal knowledge to the lawyers. For example, although it can generate and complete standard letters and forms it remains the fee earner's decision as to which is used and where to allocate the assets.

Similarly, features such as the database on contacts - everything from banks and building societies to the addresses of local funeral directors - plus the associated document assembly system, which

allows personalised correspondence to be produced automatically, all help make life easier for the lawyer while in no way dumbing down or detracting from the quality and professionalism of the service being offered.

In the circumstances, it is far better to view Custodiens as a timesaver: as a tool to speed up the calculation and frequent recalculation - of estate accounts, reports and tax returns and to automatically complete IHT 400 and other documents, forms and correspondence. In this respect, Custodiens is no more de-skilling than using a calculator or typewriter to prepare reports manually. But it is a lot quicker and more efficient - and anything that improves efficiency has an immediate impact on a law firm's bottom line in terms of increased profitability.

Add to this the fact that as a case management system, its structure also provides a de facto risk management system, with reminders of pending or incomplete actions, a full archive of the documents associated with a matter and an automatic audit trail so you can see when decisions were made and who made them - all now 'must have' features for any firm wanting to keep professional indemnity premiums to a minimum.

The question of whether or not to invest in Custodiens therefore boils down to one very simple question. Namely, as a fee earner what would you rather be doing: endlessly fiddling about with the arithmetical and administrative aspects of handling probate and trust work - or focussing on the legal issues and, in the process, providing your clients with a better service?

Written by Charles Christian

For more information on Custodiens Trust & Probate software contact Cognito Software.