DISRUPTION, INNOVATION AND CHANGE

THE FUTURE OF THE LEGAL PROFESSION

A perspective for current and future lawyers on innovation in the legal services market – what innovators are doing and what lawyers are doing about it.

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Legal innovators are found everywhere – they’re in small firms, large firms, mid-tier firms. They practise in all areas – commercial, property, workplace relations, privacy, family, migration. They serve all clients – large corporates, government, small to medium businesses, consumers, mums and dads, individuals.

Everyone has the potential to be an innovator. Will you become one?

Here are my findings:

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<th>WHAT LAWYERS CAN DO</th>
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<td>1. The innovators know what they do, for whom they do it and why they do it</td>
<td>• map the process for each legal service provided</td>
<td>• education and resources on process mapping, project management, change management</td>
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<td>• set up systems for each process</td>
<td>• connect lawyers with consultants</td>
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<td>• identify opportunities to improve steps in the process</td>
<td>• articulate the role of the LIV for non-technical lawyers</td>
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<td>• articulate your law firm’s values and purpose</td>
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<td>2. Innovators collaborate.</td>
<td>• develop your network</td>
<td>• develop greater connections between the legal sector and the technology sector</td>
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<td>• develop your ‘peripheral vision’ of other industries and sectors</td>
<td>• showcase and profile innovators</td>
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<td>• identify all of the skills required to deliver your legal services</td>
<td>• connect lawyers with communities of practice</td>
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<td>• share ideas, welcome feedback, listen, improve</td>
<td>• collaborate with innovators enhance and extend LIV services</td>
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<td>3. Innovators start and end with the client</td>
<td>• ask clients what they like and don’t like about your services</td>
<td>• education and resources on user design principles</td>
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<td>• identify how each of your services provides value to clients</td>
<td>• continue to provide ethical guidance on a solicitor’s duty to act in the client’s best interests</td>
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<td>• get to know your clients</td>
<td>• identify how lawyers can collect, use and analyse data from their practices</td>
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<td>• monitor how clients use your services</td>
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<td>• before acting, consider who will benefit – you or your client?</td>
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<td>4. Innovators provide access to justice</td>
<td>• try designing an app for FAQs</td>
<td>• support the legal assistance sector to navigate ethical and regulatory concerns regarding commercial services</td>
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<td>• CLCs – consider opportunities for providing commercial services to subsidise existing services</td>
<td>• curate a single source of legal information and referral apps</td>
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| 5. (Most) innovators are not using time based billing | • new practices – don’t use time based billing  
• existing practices – begin discussing a move to value based billing or fixed fees | • education to support a move to value based billing  
• education and resources for change management  
• connect lawyers with consultants |
|                      |                      | • provide guidance on legal platforms, including FAQs  
• provide opportunities for virtual and remote lawyers to connect with other lawyers  
• provide workspaces for virtual and remote lawyers  
• consider opportunities for LIV communications through legal platforms |
| 6. Innovators work virtually, remotely... and in interesting spaces. | • review whether your point of distinction is location  
• learn about legal platforms and consider how they can be used in your practice  
• ask clients how they want to engage and communicate with you  
• ask staff how and where they want to work  
• assess if your workspace is conducive or hostile to the behaviours you want to promote | • consider the LIV’s role in respect of lawyers working in non-legal roles and non-lawyers working in the legal services market;  
• explore opportunities to keep cultural lawyers connected to the legal profession  
• explore opportunities to provide support, education and resources to lawyers working in non-technical roles |
| 7. Innovators find opportunities that use their skills – legal and non-legal | • be clear about what you want from a role and what you can bring to it  
• be open to roles that are for ‘cultural’ lawyers, as well as ‘technical’ lawyers  
• continuously evolve and reinvent yourself | • provide education and resources for change management  
• provide opportunities to share their change experiences  
• connect lawyers with relevant consultants |
| 8. Innovators see opportunities – and failure is just another opportunity | • ask yourself if your practice is perfect  
• ask your clients and staff if your practice is perfect  
• identify one opportunity for change and try it | • provide information and reviews about technology products  
• develop resources for selecting technology products for legal practice  
• provide education on using technology and how it works |
| 9. (Most) innovators use technology | • become a sophisticated user of existing technology  
• learn from other sophisticated users and digital natives  
• understand how technology works at a basic level  
• try to design an app  
• review the sustainability of services that could be automated | • consider passing a resolution in support of innovation  
• work with legal educators to change legal education  
• advocate for regulatory reform, including the adoption of the national legal profession; simplifying and clarifying regulation; and removing regulation which inhibits innovation  
• provide resources and consultancy service for legal start ups to ensure compliance with regulation  
• work with insurance providers to develop new products for modern law firms and lawyers |
| 10. Innovators are changing the way we need to educate, train and regulate lawyers | | |
Introduction

Why read this report?

In 2008, Richard Susskind published his seminal text ‘The End of Lawyers?’ It envisioned two possible, but opposite, futures for the legal profession: one in which lawyers were replaced by technology and other service providers; and the other in which lawyers adapted to a changing world and became a different type of legal profession. Either way, Susskind predicted a future in which the legal profession as we know it no longer exists.

As President of the Law Institute of Victoria, I have spoken to many lawyers about what the future holds for us. Some still believe that the legal profession is sufficiently unique that we will survive the changes brought by technology – however, such people are increasingly in the minority. The vast majority of the people I have met are aware that change is coming – technology, economic pressures and the ever-widening access to justice gap are making their mark on the legal sector. Awareness of external pressures is not enough to produce change. Many lawyers I have met feel completely lost regarding what to do about the challenges facing the profession.

When I talk to lawyers about the future and the changes that are occurring, the conversations regularly end with a comment along the lines of ‘well, I’m glad I’m retiring in five years’. For individual lawyers, this may be an entirely appropriate and justified response. However, if the legal profession as a whole adopts this approach, then Susskind’s first future – the one in which lawyers no longer exist at all – will become true by default because we gave up and departed the field.

This report is an attempt to extend the conversation beyond a debate about whether change is happening to a conversation about how lawyers can change. I want lawyers to feel confident and empowered to change, rather than overwhelmed and defeated. This report seeks to empower lawyers by suggesting ways in which lawyers can practise change – because it turns out that, much like legal practice itself, change is something that is learned and developed with experience and time. We all have to start somewhere and this report provides an opportunity for all lawyers to develop their skills in change.

I want the legal profession to survive and thrive into the future – for the benefit of our clients and the justice system, and for the reasons we became lawyers in the first place. We have a duty to the court to facilitate the administration of justice. That duty requires lawyers to defend the fundamental principles of the rule of law and justice. In a changing world, it also means adapting and finding new ways to help clients access justice.

Who should read this report?

This report has been written for both anyone and everyone who is in the legal services market now or intends to be in the legal services market in the future – currently practising lawyers, lawyers who are about to retire, law students, law graduates, principals, employees.
If you are planning on retiring in the next few years, this report is relevant to your succession plan. In particular, you may be surprised to find that the changes you had hoped were many years away are in fact happening now.

If you are a law student or graduate, this report is relevant to your career planning and the skills you need to develop at university and after admission to the legal profession.

Anyone operating a legal practice needs to read this report – it is relevant to your business models, the areas of law in which you practice and how you employ staff. The report is relevant for big, small and medium firms. It is relevant for people who don’t want to practise anymore, but want to use their legal skills.

If you identify as a lawyer, past, current or future, it’s a report for you.

**How I developed this report**

I start this report with an assumption that the legal profession is changing. As discussed above, this report does not engage in the debate about whether the profession is changing; rather, my focus is on how lawyers can change.

I identified that the best way of learning how lawyers can change is to talk to the lawyers who have changed and the people who are changing the legal profession. I reached out to people working in the legal services market in Australia and America and asked them if I could visit to discuss what they are doing and how they are doing it. To my great surprise, people were not only prepared to meet with me, but they were keen to do so. The people who are doing law differently are excited by change and eager to share their journeys and insights with others.

I met 40 people spread across nine cities in Australia and America. I met with lawyers, technologists, marketers, academics and students. My approach was not a scientific or even a particularly legal one – I simply met with people and listened to their stories and insights. I asked everyone two questions: what do you think the average lawyer is doing in 2025? And what do lawyers need to do to get ready for that world?

From these conversations, a number of themes emerged which, after some reflection, have become the findings of this report. The findings are inherently subjective and are not intended as a critique or a collection of definitive answers. I seek to contribute to, and continue, a conversation that has been happening for years and will continue into the future.

For each of the ten findings made in this report, I will describe what the innovators are doing, with a particular focus on the approaches innovators take to change. The report is not a catalogue of everything innovators are doing. I am writing for lawyers, who are very good at distinguishing precedents. As such, focusing on specific innovations may invite the response of ‘it’s okay for firm XYZ, but that won’t work in my practice’. The form specific innovations take is less important than the thinking and approaches of the innovators in developing them – the how is more important than the what, as the how can be replicated and adapted by any lawyer or law firm.

At the end of each finding, I suggest some practical steps lawyers can take to change their legal practice. These suggestions are not intended as a prescriptive list; I invite you to pick and choose from the suggestions. I also suggest some ways in which the Law Institute of Victoria can support lawyers to change, either directly or in partnership with other organisations.

Some of the changes are small and can be tried today; others are significant and will require substantial planning. The effect of some of the changes may be small – so why bother, you may ask? It is because you can learn more from attempting a change than the effect of the change itself.

**Terminology**

This report is intended to be practical and accessible. I have ignored the subtle distinctions and interpretations that may be applied to some words and used them in a general sense. For example, I refer to all users of legal services as ‘clients’ even though it may be more appropriate to describe some as ‘consumers’ or ‘customers’. I will leave debate about linguistic distinctions for another place and time.

The people who are changing the legal services market have been described as ‘disrupters’. I think this label is misleading. Many of the people I met are bringing legal services to people who have not used legal services in the past. This seems to me to be a creative, not disruptive, process. As one person I met said:

*We’re like Southwestern [Airlines]. They didn’t disrupt established players like AA [American Airlines] or United. They disrupted Greyhound by bringing airline travel to people who couldn’t afford to fly.*

The people I met are lawyers (current and former), as well as technologists, marketers, designers and dispute resolvers. In this report, I will refer to them as ‘innovators’ and the things they are doing as ‘innovations’.

I refer to the space in which innovators are operating as the ‘legal services market’, ie the sector of our society and economy in which people are assisted with legal problems. Since many of the innovators are not practising lawyers, traditional concepts like ‘the legal profession’ and ‘legal practice’ are too narrow for this discussion. The word ‘market’ is used in the generic, not economic, sense and includes legal services that are provided pro bono or through legal aid or community legal services.
I have created language where existing legal nomenclature is insufficient to express my observations. I distinguish between “technical” lawyers and “cultural” lawyers. I consider the former to be people who are engaged in the direct application of legal skill and knowledge to work that is used in a legal service and is traditionally described as ‘legal work’ or ‘legal practice’. I will refer to the latter as people who have been educated and trained as lawyers, irrespective of whether they are currently practising as a lawyer or performing a ‘legal’ role.

**Who are the innovators?**

The innovators are found everywhere – they’re in small firms, large firms, mid-tier firms. They practise in all areas – commercial, property, workplace relations, privacy, family, migration. They serve all clients – large corporates, government, small to medium businesses, consumers, mums and dads, individuals.

They are lawyers, technologists, marketing and sales people. Most are legally trained and have practised as a lawyer – even if they are not working as “technical” lawyers now.

They are motivated by the things that have always motivated the legal profession – access to justice and acting in their client’s best interests.

Contrary to statements read in the media and heard at conferences, innovators are not coming to ‘eat your lunch’ or destroy justice as we know it. The innovators are here doing what lawyers have always done – changing clients’ circumstances for the better by providing them with information, assistance, advice and strategic guidance. They’re just doing it differently.

No one innovator has all of the answers, just as no one lawyer has ever had all of the answers.

The innovators are good people. They want to make the legal system a better place. They want to share their ideas and they want to help others change.
WHAT ARE THE INNOVATORS DOING AND HOW ARE THEY DOING IT?

1. Innovators know what they do, for whom they do it and why they do it
2. Innovators specialise and collaborate
3. Innovators start and end with the client
4. Innovators provide access to justice
5. (Most) innovators are not using time based billing
6. Innovators work virtually, remotely... and in interesting spaces
7. Innovators find opportunities that use their skills – legal and non-legal
8. Innovators see opportunities – and failure is just another opportunity
9. (Most) innovators use technology
10. Innovators are changing the way we need to educate, train and regulate lawyers
INNOVATORS KNOW WHAT THEY DO, FOR WHOM THEY DO IT AND WHY THEY DO IT

This first finding sounds deceptively simple and common sense. Yet things that are common sense are not always common. Knowing what you do, for whom and why are necessary for change.

Innovators know what they do in great detail.

**Innovators are specialists and focus on niches – whether that niche be an area of law, a way of practice or a particular client group.**

Innovators know in great detail how they provide legal services because they have mapped each service they provide. They have put systems in place to increase the efficiencies of those processes. Innovators have great clarity and understanding of who their clients are (ideal and current) and why the innovators are providing their services. One innovator I met specialised in commercial law for small to medium businesses. Another focused on start-ups. Several focused on working parents as a client group.

Innovators are not just applying this approach to individual legal practices – they are applying it to the justice system as a whole. Innovators are identifying processes and pathways for persons accessing the justice system (e.g. the process for a litigant in person seeking to recover a debt). The same logic applies – break the process into distinct stages; develop systems for the process as a whole or for individual
stages; and identify the most appropriate resources for each stage. In this context, the most appropriate resources include identifying the stages at which having access to a lawyer is most effective (and it may not be at the hearing!).

The benefits of innovators knowing in great detail what they do, how and why they do it and for whom they do it included:

1. Evaluating changes in the legal services market

Innovators focus more on the changes that will directly affect their practice. They remain interested in the other changes, but do not unnecessarily worry about them. Firms that provide unique legal services on an event-driven basis may be interested in how a highly commoditised legal practice is using technology to offer low fixed prices to small businesses – but they’re not losing sleep over it. One innovator providing unique legal services kept an eye on the practices of a highly commoditised legal practice – and saw opportunity and invested in it!

2. Improving a process by improving individual parts of the process

Innovators do not have to improve the whole process all at once; they can do it in stages. They focus on changes that have the most relevance and effect in their practice and build on those changes over time.

Innovators improved parts of their processes by:

- moving responsibility for that part to a separate role (e.g. separating client intake and legal work)
- outsourcing it all together (e.g. finance), or
- using technology to change the way it is delivered (e.g. automating the preparation of emails and letters).

Innovators use their detailed knowledge about their purpose to decide which parts of their process are integral to the practice and which are not. Some innovators identified marketing as an integral role to the legal practice and unsuitable for outsourcing; others had outsourced it because they preferred to focus on technical legal work.

Over time, small changes add up and can even change the whole business. In one extreme example, a company started as a technology company providing document assembly services for clients who could not afford a lawyer and is about to change into a law firm providing legal services directly to clients. In some cases, innovators used the skills they had developed in project planning, process mapping and designing systems to develop consultancy practices in areas such as dispute resolution, governance, strategy and marketing.

Some examples of things innovators are doing:

- using call centres, online forms (including smart or responsive forms) and apps for client intake.
- providing legal information and services on a ‘freemium’ basis, including providing suites of documents free of charge.
- developing ‘legal communities’, ie online platforms that provided lawyers and clients with reasons to regularly visit the platform, even where the client has no immediate legal need.
• triaging clients before they see a lawyer, so lawyers only see clients that fit with the practice’s business model and objectives and clients are served by an organisation that can meet their needs. Triage tools did not abandon clients, but provided them with legal information, limited assistance and referrals.

• using a technical lawyer only for those stages where it was effective or necessary and otherwise using people other than technical lawyers (including cultural lawyers).

• using smart templates, precedents, guided forms and checklists for every step of the process – even for something as ‘simple’ as an email. One small firm innovator had no fewer than 130 precedents – and added to them on a weekly basis.

• identifying common questions or queries and providing that information to clients up front through apps or the website, rather than waiting for contact with a technical lawyer.

• using a systems based approach to contracts, resulting in the number of contracts to be managed reducing to a handful, rather than hundreds of bespoke contracts.

3. Greater price certainty

Innovators know what resources are required to provide their legal services and so they have more certainty about the prices charged for those services. Innovators do not need to charge for everything they do because they know for which of their services their clients are willing to pay. Innovators charge where it is profitable for their practice to do so. Most of the innovators operated a ‘freemium’ model; that is, some (generally basic) services or products were provided free of charge and the more specialised and valuable work was provided for fees (generally fixed).

4. Distinguish between the means and the end

Innovators understand that how you provide a service is the means, not the end. Consequently, for innovators, ‘legal advice’ is no longer synonymous with ‘written A4 document’. Innovators can provide their services in a range of ways. Increasingly, services are delivered through technology, including web-based and mobile apps.
Innovators recognise that they are not perfect and do not have all of the skills needed to achieve their goals. So they work with others.

**Working with others**

It was clear to me that innovators do not want to replace lawyers – even the innovators who were not lawyers themselves. The innovators I met liked, respected, even ‘loved’ lawyers. Innovators want to work in the legal services market because of fundamental principles like access to justice and helping client with legal problems. Innovators recognise that these objectives can no longer be achieved by lawyers alone.

Innovators work with lawyers, technologists, sales people and marketers, writers, executives, mediators and clients. They work in teams that recognise the importance and value of each part of the process and the people performing those roles. In such teams, technologists and marketers rely on lawyers and vice versa – the whole is greater than the sum of its parts.

Modern legal organisations (not all of them are law firms) remind me of AFL football clubs – they have a football department (legal department), membership department (client care team) and other departments for operational matters, such as finance, operations or communications. Each of the departments works together to win games for members (provide legal services to clients) and no one department can fulfil the club’s (firm’s) objective on their own.

Another innovator described the modern law firm as a ‘legal hospital’, with technical specialists working side by side with people responsible for other aspects of client care (such as communications and client intake) and supported by people responsible for the operational side of the organisation (finance, human resources, etc).

Having different people working on different parts of a legal service allows each person within a legal organisation to focus and specialise on the aspects of legal services that they enjoy or are good at. I visited a modern law firm where lawyers could effectively build their own role. Some enjoyed the freedom of being able to focus on providing technical legal services, without having to worry about marketing and business development. Other lawyers enjoyed the opportunity to work across departments, doing technical legal work one day and client communications the next.

Innovators acknowledged that working with several professions and skill sets in the one organisation has its challenges, including professional sub-cultures and languages. Innovators regularly discussed with their teams why they approached services in a particular way, including drawing upon concepts that are assumed or taken for granted in law firms, such as lawyers’ fiduciary and ethical duties. Innovators recognised differences in professional languages (especially legal and technology) and worked with each other to improve their literacy and understanding of those languages.

Some innovators found it easier than others to connect with people with the required skills. In particular, lawyers who did not already have connections with technologists found it difficult to find technologists suitable for their practices. Without established contacts and networks, it was a process of trial and error.

**Learning from others**

It is a rare innovator who thinks of the idea that no one else has thought of before. Most innovation is a process of identifying something that works well in one environment and trying it (or a variation of it) in another environment.
Traditionally, lawyers have looked only to other lawyers for ideas about providing legal services. The innovators still look to other lawyers, but they also look to other industries and sectors entirely.

Many of the innovators are doing things that are not particularly new or original, such as using marketplaces and platforms to connect clients with services. What they are doing is applying those ideas and models to the legal services market.

Legal innovators have adopted practices that originate in the technology sector, including:

- hackathons – bringing together a group of people to work on solutions for a single problem in a day
- test-driven development – developing tests to test your product/service along the way to ensure it is achieving the desired outcome
- scrums and sprint backlogs – methods of managing tasks required to develop a process or service.

As they develop their ideas, innovators ask their clients (current and prospective) and other innovators for feedback and critique, which they use to improve and implement their ideas. They use ‘product jams’ to test services and gain feedback before a product has even been launched. Innovators are open to being told when things are not working or wanted – and use that to ‘pivot’ the service to something that does work and is wanted.

Innovators use consultants to help with their innovations and changes. Start-ups used designers to design branding and logos and to identify target markets and organisational values. Innovators changing their business models relied on outside views and experience, seeking assistance and guidance from change consultants, costs consultants and HR consultants.

**MYTH: AN INCORPORATED LEGAL PRACTICE STRUCTURE IS ONLY USEFUL FOR PEOPLE WANTING TO WORK WITH ACCOUNTANTS**

**BUSTED:** Although the ILP structure is useful for people wanting to provide a range of professional services, legal innovators are also using it effectively to work with a range of people (including technologists, marketers and business executives) to provide legal services only. The ILP structure allows non-legal people to share in the ownership of the business.
Growing with others

Since innovators are specialised and focused on particular client markets and services, they recognise that they cannot serve all of their clients’ needs. As such, they have strong referral networks, through which clients are referred to them and they refer clients to others. Some innovators specialise in referrals and connecting clients to legal services, using both technology (LawPath, LawAdvisor, LegalZoom, Avvo, Crowd & Co) and existing people management systems (Orbit, Advent Balance).

Innovators know with whom they should collaborate because they know their own practices and clients very well. Innovators collaborate with people who supplement or complement their legal services, such as people working in different areas of law or servicing different client markets. One innovator received so many requests for family law services from existing clients that she developed a separate referral service as part of her practice.

Innovators are not averse to working with people who may previously been characterised as a ‘threat’ to lawyers, such as people not admitted as lawyers who are permitted to engage in legal work on a limited basis (e.g. conveyancers and Limited Liability Legal Technicians, who are not lawyers but are permitted to provide limited legal services in the American state of Washington). I met a lawyer who had built a successful referral relationship with a conveyancer. They each had the same target market – ‘mum and dad’ consumers – but offered different services (conveyancing vs wills and powers of attorney).

Innovators recognise that their true competitor is not other people providing legal services – it’s people not using legal services at all. Many clients do not recognise legal problems when they occur or are too scared to seek legal assistance because of their perception of legal services as expensive. People who provide legal information or commoditised or simple legal services help to build a referral network for lawyers more generally, by providing opportunities for people to understand the role of professional services in addressing legal problems at affordable prices.

Innovators create communities of practice to share ideas and support each other. They share resources (including staff), recommendations for service providers, marketing ideas, and successes and ‘failures’. Innovators do not fear sharing ideas because they recognise that their competitive advantage does not come from hoarding knowledge and information; rather, it is found in knowing what they do, why they do it and who their clients are. Innovators recognise that information sharing is not a zero sum game; helping another innovator does not come at the expense of the first innovator. Collaboration and information sharing opens up opportunities that innovators alone may not be able to access, such as providing a more complete range of services to a client or tendering for high value work.

WHAT LAWYERS CAN DO:

• Develop your network — reach out and meet with innovators, technologists, designers and clients. Learn about their services and processes. Consider how you can use these ideas to improve your services. Connect with lawyers who are providing legal services that are different to your services, but may complement them.

• Develop your ‘peripheral vision’ — look at what changes and innovations are working in other industries and think about how they could be used to improve your legal services. What do you like about the services offered by iTunes, Netflix, Uber or eBay? Could you incorporate those features (such as a ‘wish list’ or a star rating) into your legal services? Ask your clients what they like about non-legal services and which features they would like to see in legal services.

• Identify all of the skills needed to provide your legal services. If you don’t have those skills, work with people who do (whether as employees, partners, contractors or service providers).

• Share your innovations with clients, other lawyers and other professionals. Listen to questions and welcome feedback about your practice. Use this to improve your innovations.

HOW THE LIV CAN HELP:

• Develop opportunities for greater connections between the legal sector and the technology sector.

• Provide opportunities for lawyers to learn about innovators, such as through profiles and showcasing.

• Connect lawyers with communities of practice, such as through the use of LIV communication channels and by providing meeting spaces.

• Consider opportunities for the LIV to collaborate with innovators to provide services to LIV members and the public (such as the LIV Find Your Lawyer Referral Service and the LIV Accredited Specialisation Scheme).
Innovators start and end with the client

Innovators are motivated by what the client needs, not what the lawyer has to offer. Innovators put their clients first and design services for clients.

Innovators are highly specialised, both in respect of the services they provide and the clients to whom they provide them. Whether providing unique services to large clients or commoditised services at scale, innovators spend a long time learning about their clients’ problems and their clients’ objectives. They do it in different ways. Innovators providing unique services are more likely to spend time developing the relationship with the client and scoping out the legal project. Innovators providing commoditised services are more likely to spend time researching their target market, including by analysing data about previous services used by their clients – one innovator collected 200 data points during client intake alone.

Irrespective of the methods used, innovators know their clients well, including where their ‘pain points’ are, their priorities in a given context, their risk appetite and their sensitivity to price. Innovators start with the clients’ problem, identify possible ways of addressing that problem, and then adapt and develop solutions that address that problem while complying with the lawyer’s regulatory and ethical duties. In doing so, innovators develop services that solve clients’ problems and that clients are willing to use (and pay for).

Innovators within the court systems are using similar approaches, including user design (UX) principles, to create better systems for court and tribunal users.

Innovators identify innovation as consistent with a lawyer’s ethical obligation to act in the client's best interests.

For innovators, acting in a client’s best interests is not limited to the application of technical legal skills to a client’s problem; rather, acting in the client’s best interests extends to ensuring that the processes and systems within which the lawyers apply those technical skills are as efficient and effective as possible. Sometimes, that means considering how to improve the services provided to clients before the lawyer is even engaged (e.g. the provision of legal information).

A client’s interests will be varied – and innovators develop a range of services that respond to those interests in different ways. Innovators are transparent to clients about how those interests are addressed so clients can choose the best service for them. In doing so, innovators maximise a lawyer’s ability to act in the client’s best interests. A service that reflects a client’s interests is going to be better than a service that prioritises what the lawyer values (such as the legal problem) over what the client values (timeliness, cost, commerciality).

Designing legal services for the client is also good for business. Legal services designed to benefit clients were more likely to be successful. Innovators who have designed legal services for their clients have already identified how the lawyer can add value to the client’s situation – and are therefore better placed to explain that value to the client.

MYTH: AS A LAWYER, IT WOULD BE UNETHICAL TO SACRIFICE THE STANDARD OF SERVICE I PROVIDE TO CLIENTS BASED ON THEIR ABILITY TO PAY.

BUSTED: Lawyers already adapt their legal services to comply with regulation and legislation, e.g. the Civil Procedure Act 2010 (Vic). Innovators further adapt their legal services to reflect matters personal to the client – including their budget, risk appetite and desired outcome. An obligation to act in the client’s best interests does not mean ignoring the client’s preferences.
Some innovators attempted to develop services that addressed the lawyers’ needs, which were generally about finding clients with matters in which the lawyer could act. These attempts were generally not successful, because they were services in search of a market. When the innovators started at the other end and developed services the market wanted, they attracted more clients.

Innovators are able to respond and ‘pivot’ to such issues because they collect from clients information about the innovators’ services. Such information may be in the form of feedback or reviews sought while the product is being developed or after the service is delivered; data such as ratings, financial data or trends in inquiries, leads and services purchased; or by developing a deeper relationship with the client.

Legal services designed for clients also benefited lawyers, in both the short and the long term. Providing free or low cost legal information helped to develop, for clients, an understanding of what legal problems are and how professional advice can help to solve those problems. Such services also break down the perception that seeing a lawyer is expensive or something to be avoided. Through developing reasons for clients to engage with lawyers, it becomes more likely that a client with a legal problem will identify that fact and know how a lawyer can assist and where to find and engage a lawyer.

Services designed for clients ultimately benefit the whole legal profession because they educate clients about using lawyers for legal services.

Expanding the services available to clients in turn expands demand for lawyers. Many clients want to use a lawyer, but can’t afford what is on offer. Providing services at prices that clients can afford brings new clients into the legal services.
market. The Justice Entrepreneurs Project has assisted lawyers to develop new practices by serving clients who were previously priced out of the legal services market. In doing so, it has created more employment opportunities for newly admitted lawyers by identifying services that clients need.

Platforms that connect lawyers and clients are generally designed to solve a problem for the client, e.g. how to find legal information and assistance. In doing so, they also benefit lawyers by providing opportunities for lawyers to connect with clients they may otherwise be unlikely to find. In essence, platforms aggregate many clients with legal needs in a single place, making it easier for lawyers to market to them.

Examples of services developed based on what clients wanted included:

- low fees by using technology wherever possible
- using fixed fees so clients feel comfortable calling the lawyer to discuss their matter
- using client care teams to communicate with clients about their matters
- fixed fee packages for divorces
- legal services provided after hours via Skype
- legal information, health checks, guides and documents provided free of charge
- legal advice that explains how the client’s objective can be achieved, rather than focusing on the risks (i.e. the reasons why the objective should not be pursued)
- apps that provide a single point of contact for a client with multiple matters or legal services;
- services that ‘fit the fight to the fuss’, such as low value services provided at fixed fees and processes for resolving disputes in a time proportionate to the value of the dispute (as one innovator put it, clients prefer to lose quickly than to win slowly)
- wrapping legal and non-legal services around clients, including providing contact with community members
- apps that provide connect clients with relevant resources and ensure that there is a ‘door’ (service) for each client.

**WHAT LAWYERS CAN DO:**

- Ask your clients what they like about your services and what they would like to see changed.
- For each legal service you provide, identify how it provides value to clients. If you can’t identify the value or the client does not agree that the service is valuable, consider discontinuing it.
- Get to know your clients. Ask them what keeps them up at night and consider how you could solve that problem.
- Monitor which services are used by clients. Use this data to prioritise the services you offer to clients.
- When learning about new practices or developing a new legal service, ask yourself: who does this service benefit – the client or the lawyer?

**HOW THE LIV CAN HELP:**

- Provide education and resources relevant to user design (UX) principles.
- Continue to provide ethical guidance and education on a lawyer’s obligation to act in a client’s best interests and how to discharge this duty for clients in different circumstances.
- Identify how lawyers can collect, use and analyse data about how clients use their services – including support to identify technological tools, and ethical and regulatory guidance on privacy and security obligations.
INNOVATORS PROVIDE ACCESS TO JUSTICE

In both Australia and America, there is a gap between the legal services offered by lawyers and the prices clients can or are willing to pay. Consequently, large numbers of individuals and small to medium enterprises do not use legal services. One innovator estimated that 84 per cent of individuals do not have affordable access to legal services in America; in Australia, the Law and Justice Foundation of New South Wales’ Legal Australia-Wide Survey on Legal Needs in Australia found only 51 per cent of respondents would seek legal advice for a legal problem. This is an access to justice crisis – but it is also a significant opportunity for innovation.

To date, proposed solutions to the access to justice crisis have been focused on how to provide clients with more resources to access legal services, e.g. alternative fee arrangements such as contingency fees (including no win, no fee); increased legal aid funding; and legal expense insurance.

Salvation Army founder General William Booth proposed a “poor man’s lawyer” legal service in 1890.

Innovators are now also providing solutions to the supply side, i.e. providing more legal services at a price that clients can afford.

The result is more access to justice and more clients using lawyers. Innovators fill the access to justice gap through a combination of business models and technology. They start with the objective of providing legal services at a cost clients can afford and then explore how technology and other processes can achieve this. Such services are lean and efficient – everything that can be delegated or automated is.

The multi-doored courtroom has been replaced by the idea of ‘a door for everyone’; there should be a door (a legal resource) for each person – but a lawyer may not be behind every door.

To help clients find the door that is right for them, innovators have developed apps, websites and platforms to provide:

- clients with information and resources relevant to their legal problem, including self-help tools and guided information

MYTH: ONLY BIG COMPANIES AND FIRMS WITH RESERVE CAPITAL AND OTHER REVENUE STREAMS CAN PROVIDE ‘LOW BONO’ SERVICES.

BUSTED: Technology and capital help – but they’re not the only way of filling the access to justice gap. Lawyers in the Justice Entrepreneurs Project are newly admitted lawyers, often with little reserve capital and no existing client base. During the Project, they learn how to develop business models to provide services to low income clients in a sustainable and profitable way. They do this by knowing their target market, their value proposition and having efficient processes and systems.
• non-lawyers (such as social workers or health workers) with resources to support people with legal issues
• eligibility assessments for legal assistance services
• referrals to other services.

Some ‘low bono’ business models use work charged at commercial rates to cross-subsidise work provided free of charge. For example, Salvos Legal provides legal services in leasing, property and contracts at commercial rates, the proceeds of which fund its humanitarian arm, which provides family law, migration and criminal law services to clients free of charge. Under this model, Salvos Legal is not reliant on external funding from government or supporters – and therefore enjoys relative independence.

Other innovators provide simple legal services free of charge, on the basis that clients are unlikely to pay profitable fees for those services, and clients accessing a free, standard legal service are better than those accessing no legal service at all. LawPath and Allens Accelerate both offer certain documents at no cost. In doing so, they recognise that access to justice is not a zero sum game; providing simple, standard documents is not a significant cost on lawyers, but can significantly improve a client’s circumstances. It can also change the way that clients see lawyers, potentially increasing the prospect that they will use paid legal services into the future.

WHAT LAWYERS CAN DO:
• Identify common questions and queries you receive during client intake. Try designing an app that would guide clients through these questions and answers. You don’t have to be a coder – you can use paper and pen and then create a prototype using an app such as Marvel.
• If you manage or are on the board of a CLC, discuss and consider with your board opportunities for using paid services to cross-subsidise your regular services. Consult widely (including with current funders); discuss concerns; and, if you decide to proceed, design a service that manages those concerns.

HOW THE LIV CAN HELP:
• Support participants in the legal assistance sector to navigate any ethical or regulatory concerns about using paid services to cross-subsidise free services.
• Link to legal apps through the LIV website so members of the public can access a variety of legal help apps through a single source.
Innovators eschewed time based billing because it is a form of costing that is the antithesis of a service designed for clients; it involves significant risks for clients (escalating legal costs and ‘bill shock’) and little to no risk for the lawyer, who gets paid irrespective of the relationship between the lawyer’s effort and the outcome for the client. Time based billing does little to help a lawyer’s marketing efforts, as it reduces lawyers to a cost, with little scope to demonstrate a lawyer’s value.

Innovators generally provide fixed prices, although the ways of calculating those fixed prices vary. Innovators providing commoditised services at scale tend to fix a price for a particular level of service and publish these prices on their websites. Innovators providing boutique services based on relationships and innovators who bid for work through legal platforms and marketplaces also provide fixed prices, but arrive at a price after exploring and defining the scope of work with the client.
Removing time based billing does not just affect the pricing model – it changes the entire business model.

As such, it is a significant change for practices that currently use time based billing – but it is not impossible to achieve. Moores is an example of a practice that has transformed from time based billing to value based billing. It has been a significant journey and not always an easy one. The process has not only changed how Moores charges fees, but other aspects of the practice, such as people and knowledge management. The result, however, is a practice that is positioned well and is optimistic for the future and the opportunities it presents.

Benefits of fixed prices reported by innovators included:

- less time spent policing time recording
- better people management
- better relationships with clients, including clients appreciating that lawyers are sharing risk with them, and reduction in client complaints
- increased ease in complying with cost disclosure obligations under the Uniform Law
- increased payment certainty as lawyers can require fixed costs to be paid upfront, especially for low value matters.

Time based billing is intuitively simple and was still attractive for some new practices. However, innovators generally agree that it is not sustainable as a pricing model. The Justice Entrepreneurs Project encourages participants to develop business models without the billable hour, or to at least reserve time based costing as the exception, rather than the rule. The Project supports participants in these approaches by providing education on value propositions, project planning and pricing.

Innovators have found that some of the infrastructure and services supporting legal practices are generally not well equipped for fixed fees. A practice management system that handled fixed fees well was elusive; those who had one had generally engaged technologists to build one for the practice. Regulations around release of funds from office to trust accounts were seen as designed for time based billing and making little sense for fixed fees.

**WHAT LAWYERS CAN DO:**

- If starting a new practice, don’t use time based billing.
- If you have an existing practice, begin discussing with your partners/directors the possibility of moving to value based billing or fixed costs. Start now, because the process takes time, collaboration, commitment and leadership. Don’t try and do it on your own – talk to consultants and people who have already made the change.

**HOW THE LIV CAN HELP:**

- Provide education on value based billing, project management, value propositions and other skills necessary for developing pricing models that do not rely on time based billing.
- Provide education and resources on change management.
- Connect lawyers with consultants who can assist in developing alternative pricing models and the change process, including costs consultants, project managers, accountants, business analysts, etc.

**MYTH: WITHOUT TIME BASED BILLING, STAFF WILL NOT BE MOTIVATED TO PERFORM.**

**BUSTED:** Innovators found that their staff members were more motivated to work when freed from time based billing. The lawyers found motivation from things other than the amount of the time spent working, such as their relationship with their client, pride in the quality of their work or interest in access to justice. However, removing time based billing did require changes in how people are managed, such as increasing contact and communication with employees about their work. This shift was seen as a positive development overall for both staff and employer.
INNOVATORS WORK VIRTUALLY, REMOTELY... AND IN INTERESTING SPACES.

The internet has made it possible for innovators to provide services to clients who are anywhere in Australia. Many innovators, especially small legal start-ups, do not have a bricks and mortar presence; instead, they are operating virtually with marketing, client intake and client communications digitally through email, video chat (e.g. Skype), online forms and live chat.

Innovators still had premises from which they worked, but they also worked remotely from the offices of clients, cafes and even the State Library of Victoria.

The benefits of operating virtually and remotely include:

- saving on office costs, especially in the early life of a legal start-up
- working from home so more time can be spent with family, including children (from infants to teenagers)
- freedom from the 9-5 working day, with hours worked when it suits the client and/or lawyer
- lower costs and increased convenience for clients who could meet with lawyers where it suited them (in person or online), rather than having to travel to the lawyer’s office.

The innovator who operates virtually is not limited to clients who live or work near a bricks and mortar office or are prepared to travel to it. Instead, the innovator’s target market is people with specific legal needs that can be met by the innovator.

Since innovators specialise on particular areas of law, legal needs and legal services, their clients could be anywhere in Australia – and indeed are.

The challenge for the innovator then becomes how to find their target market; or, more accurately, how the innovator’s target market can find them. Innovators use traditional and internet based marketing, including social media, blogs, billboards, distributing flyers and networking events. Just as innovators are finding different ways of delivering services to clients, they are also embracing different ways of attracting and finding clients.

Legal platforms & market places

Platforms are another way in which clients can find lawyers. Platforms are essentially websites that allow two sets of users (clients and lawyers) to find and connect with each other. Different platforms have different target markets, such as ‘mum and dad’ consumers, in-house counsel, or start-ups or small businesses.

Most platforms require lawyers to apply to join and assess applications against criteria, such as experience, holding relevant insurance and agreement to provide fixed fees. One platform I saw has future plans to include law graduates as users, providing them with an opportunity to source practical legal training through the platform.
At its most basic level, platforms allow clients (also described as ‘buyers’) to post ‘jobs’ (ie legal tasks or work). Lawyers (also described as ‘sellers’) then submit quotes or bids on the jobs. To avoid a ‘race to the bottom’ on price, clients are generally given more information than just the price quoted, such as the profile of the lawyer, information they have previously posted on the platform (such as blogs, answers to questions, etc) and an opportunity to video chat with the lawyer. The client selects a winning bid and, at that point, engages the lawyer to perform the work contained in the bid for the price quoted, and the client is provided with a cost agreement.

The client generally pays the fee into escrow, which is released to the lawyer after the work is completed. The platform will generally charge the lawyer a fee and may also charge the client a fee. The basis for the fee differs across platforms, such as subscription fees or transaction fees.

Some platforms have no further involvement after the client engages the lawyer. Others provide a case management feature, through which:

- the lawyer can manage the matter
- the lawyer and client can communicate through email, instant chat or video chat
- the lawyer and the client can share and collaborate on documents
- the lawyer can issue invoices and collect fees.

Since the lawyer controls the matter, the lawyer can choose who to invite to what parts of the matter, including the client, other lawyers and other service providers.

After the work is completed, most platforms provide opportunities for the client to rate or review the lawyer. These ratings and reviews can then be used by future clients to assess whether to engage the lawyer. They can also be used as part of the platforms’ search algorithms (ie the set of rules used to find and sort the information on the platform).

Most platforms endeavour to be more than ‘job boards’ and seek to create communities wherein users post content regularly and engage with each other. Such content may take the form of questions asked by clients and answered by lawyers; blogs and articles published by lawyers; and free legal help resources, such as guides and health checks. Others provide support for lawyers in the form of continuing professional development or opportunities to ask questions of other lawyers.

Most operators of platforms are clear that they are not law firms and do not provide legal services; rather, the lawyers bidding for the work on the platforms are the ones providing the legal services.

The companies providing the platforms generally identify as ‘legal technology companies’; that is, they are technology companies but with a legal culture, understanding and background.

Legal platforms are delivered by the joint efforts of technologists, lawyers and marketing/sales people. Legal platforms require scale and generate and analyse copious amounts of data about the activities on the platform, including inquiries made, services used, documents downloaded, etc (the exception being case management services, the security and privacy of which is controlled by the lawyer managing the matter). This assists the platform operators to identify demands for services and recruit legal users accordingly.
The platforms generally do not employ the lawyers who provide the legal services; rather, the lawyers are independent contractors. Generally, the lawyers/sellers are sole practitioners, but some are small or even large firms. Platforms provide lawyers with opportunities to bid for work as and when it suits their practice. Some may choose to use the platform exclusively; others bid for work on platforms when they have spare capacity; others use a blend of direct marketing and bidding on platforms.

Platforms not only connect clients to lawyers, but also lawyers to other lawyers. Platforms provide law firms with the option of engaging another lawyer as a sub-contractor to work on particular matters or for a particular period (e.g. during a holiday period when staff are on leave). Lawyers can form virtual referral networks through platforms. Over time, it may become possible for law firms to not only connect virtually with clients, but also connect with other lawyers forming virtual law firms – with clients, principals and employee lawyers potentially in different places around the country.

A variation on this approach of connecting lawyers with clients is found in the secondment models developed by Advent Balance and Orbit (part of the Corrs Group). These models may be characterised as platforms without the platforms; that is, they still connect clients with lawyers for specific projects, but do so from a basis of people management systems, rather than technology systems. Again, the approaches vary between innovators, with some secondment models employing the lawyers and others retaining them as independent contractors.

Interesting spaces

Although the innovators are working remotely and virtually, they are nevertheless found in interesting spaces. Every human being has to work from somewhere, if only to find a surface on which to put a laptop or tablet.

The innovators with whom I met were working in spaces that encouraged collaboration and team work. The spaces were regularly adorned with Post-it notes mapping out projects, tasks and ideas, as well as whiteboards and blank walls for workshops. Many of the start-ups are in shared workspaces, the benefits of which include shared services and proximity to other start-ups and innovators who may have skills that a legal start-up needs, such as design or app development.

The innovators working in law firms were not an exception. They were working in interesting, open spaces that had little resemblance to a traditional law firm office. Some spaces combined offices with open plan and collaboration spaces; others had moved to primarily open plan and shared desks with only a few offices or ‘quiet spaces’. Often, the cost and design of such spaces was not necessarily cheaper than the traditional office and corridor approach.

Innovators invested in these interesting spaces in order to achieve their various outcomes, such as:

- providing spaces in which young people would like to work
- creating spaces that mimicked a family home and reflected the firm’s values;
- encouraging communication, collaboration, sharing, teamwork, learning and flexibility
- maximising small spaces or small budgets.

**WHAT LAWYERS CAN DO:**

- Assess whether you rely on clients choosing your service because of where you are located, rather than what you do. If your location is your point of distinction, consider whether it is a sustainable distinction as more legal services move online.
- Learn about the platforms available and consider whether such platforms can be used to complement, supplement or otherwise improve your business.
- Ask your clients how they want to engage with you, including whether they want more opportunities to engage with you virtually or online.
- Ask your staff how they want to work and consider opportunities for working remotely.
- Consider how your space is conducive or hostile to work behaviours you wish to encourage. Consider ways you can improve your space and use of that space, such as finding collaboration space; removing offices to create more flexible spaces; or creating shared spaces for books, files and other resources.

**HOW THE LIV CAN HELP:**

- Provide guides and FAQs on matters that lawyers should consider before choosing a platform, such as fees, confidentiality, exclusivity, etc.
- Provide opportunities for lawyers working virtually and independently to meet and connect with other lawyers.
- Provide work spaces for lawyers working virtually or remotely, including meeting rooms.
- Consider opportunities for the LIV to communicate and deliver services to members and the public through platforms, including the effect of platforms on the LIV’s Find Your Lawyer Referral Service.
Many of the innovators I met were legally trained and had practised as lawyers. Those who were not practising as lawyers were still keenly interested in justice and legal issues. However, they did not see technical legal work (or legal practice) as the only way to use their skills. Rather, they were working in roles that used a range of their skills, both legal and non-legal.

Innovators were using their legal skills in marketing and business development roles, technology roles and executive roles. Some lawyers were combining legal and non-legal roles, e.g. working three days a week in a technical legal role and the other two days a week in a marketing and business development role.

Some innovators had careers that weaved in and out of the legal services market. Such a career may involve periods of legal practice interspersed with roles that used legal skills such as negotiation and contract management, but are not strictly ‘legal’. Alternatively, a career may involve a ‘portfolio of careers’, with legal and non-legal roles performed at the same time. One innovator I met was developing a career that combined film and law to educate people about human rights through visual stories (ie TV series and films).

The careers of innovators were rarely linear and it is unlikely they were envisioned when the innovators were at school and university – they certainly did not fall within the traditional categories of ‘solicitor, barrister, in-house’. When looking for the next stage of their career, the innovator does not limit themselves to the title of the role; rather, they are clear about what they want from their next role (such as the nature and amount of the work and opportunities; flexibility in working hours, location and frequency; and the clients) and the skills, experience and knowledge they can bring to the role. The innovator then looks for roles that fulfil these preferences and use their skills, experience and knowledge, without being too concerned about whether the role is technically a ‘legal’ role or not.

Even when working in roles that are not technical legal roles (or traditional legal practice), the innovators who have been legally trained tended to identify as ‘lawyers’. Those who did not identify as ‘lawyers’ nevertheless recognised that they had legal ‘culture’ or ‘heritage’, such that they understood the values, norms and language of lawyers. This knowledge and understanding informed their innovations for the legal services market.
Just as innovators specialise within the legal services market, they also specialise within their legal organisations. 

**Innovators do not try to perform all of the roles necessary to deliver legal services, such as technical legal operations and strategy.**

Many innovators focus on those roles and tasks that suit their skills and preferences. Some innovators recognise that they do not enjoy doing business development and focus on technical legal roles in which they just do the legal work and client communications are left to another part of the team. Other innovators are moving away from technical legal work to focus on managing platforms, staff, clients, operations or strategy.

**MYTH: THE LEGAL PROFESSION HAS A PROBLEM BECAUSE PEOPLE LEAVE IT TO WORK IN NON-LEGAL ROLES.**

**BUSTED:** Just because a person studied a law degree doesn’t mean that they want to, or must, work in a technical legal role for their whole career. We should ensure that people who want to work in technical legal roles are not prevented from doing so by unconscious bias, or systemic or structural discrimination. However, if someone finds a role that suits their work preferences, uses their skills and interests them, it is a cause for celebration, not mourning – even if the role takes them out of the formal ‘legal profession’ temporarily or permanently.

**WHAT LAWYERS CAN DO:**

- When planning your career, be clear about what you want from a role and the skills, experience and knowledge you bring.
- Keep an open mind to roles that use your legal skills but may not involve technical legal practice.
- Don’t assume that performing a non-legal role means you are a ‘former lawyer’ or a ‘failed lawyer’. By virtue of your experience, you will continue to be a ‘cultural’ lawyer.
- Continuously evolve and reinvent yourself. Learn new skills, legal and non-legal (such as mediation, negotiation, coding and marketing); expand your knowledge and experience; and match those skills, knowledge and experience to specialist, niche roles.

**HOW THE LIV CAN HELP:**

- Consider the LIV’s target market and, in particular, whether it should be expanded to include lawyers working in non-legal roles (within and outside the legal services market); lawyers working in non-technical roles within the legal services market; and non-lawyers working in the legal services market (e.g. technologists, employees of legal technology companies, etc).
- Explore opportunities for lawyers who are performing non-legal roles to maintain their connection to the legal profession.
- Explore opportunities to provide support, education and resources to lawyers working in non-technical roles within the legal services market.
The legal profession has traditionally been slow to change – lawyers tend to focus on risks and many of us are perfectionists who hate ‘failing’. The innovators have a different mindset – they focus on opportunities. They are still perfectionists, but they do not have to get it right first time. For an innovator, a ‘failure’ is just a step along the way to success.

When innovators identify a problem, they find solutions for them – and they do not limit themselves to a single possible solution. They start by generating a range of ideas for fixing the problem. They ask their clients, staff and suppliers for ideas on how to fix the problem. They look to other industries and sectors and identify ideas that can be adapted and transplanted to the legal services market.

Innovators test ideas, through trials, prototypes, consultation and feedback. They often implement ideas before they are perfect; as one innovator said,

‘Done is better than perfect’.

Changes do not have to be perfect the first time, because they can be changed and adjusted over time; change is an incremental, iterative and ongoing process.

Innovators approach change in stages, which allows adjustments to be made and investments and risks to be spread out over time. One innovator’s move from time based billing to value based billing was implemented over many years and through many stages, including:

- trial of value based billing in one part of the practice
- 12-month trial across the entire practice
- two-year transition period when time recording was permitted, but not mandated
- ongoing review and refinement of methods for calculating fixed fees.

During each of these stages, the changes implemented were tested and evaluated to monitor if the changes were achieving the objectives of value based billing. If the new practices were not working as expected, adjustments were made.

Innovators accept that change will not always be easy, successful or smooth. Staff may leave, revenues may drop.

For innovators changing existing organisations, the challenge is, as Microsoft expressed it, ‘performing while transforming’.
Disruption, Innovation and Change

Innovators do not get spooked by challenges along the way, but remain focused on the ultimate goal.

Innovators identified communication as important for change – explaining to staff, clients and suppliers why change was occurring and where the organisation was heading. Staff, clients and suppliers were seen as integral sources of ideas for, and feedback about, change. Regular discussions about the purpose and progress of the changes helped to keep expectations realistic about what could be achieved and how long it would take.

Sometimes innovators tried things that either didn’t work or didn’t work as anticipated. For example, one innovator tried legal process outsourcing; another offered court coaching, which was not taken up by clients. The innovators did not abandon the project at the first sign of it not succeeding; but they also recognised when it was no longer worth pursuing the project. Having a clear idea of how the project would add value to clients and the extent of that value assisted innovators to decide when it was time to stop. Some innovators abandoned the project altogether; others ‘parked’ the project, waiting until circumstances or the environment changed. In each case, the innovators reviewed the project and identified what worked well, what didn’t work well and what they had learned from the project. These lessons were then used in developing the next change or innovation.

Innovators are not afraid of ‘failure’.

They accept that some things will not work, but know that trying something that may not work is better than doing nothing.

MYTH: I DON’T HAVE THE TIME OR MONEY TO TRY THINGS THAT MIGHT NOT WORK.

BUSTED: Not all changes take long periods of time and not all changes require capital investment. Sometimes, the best changes can be achieved by investing your time. One innovator suggested that each lawyer should use 10 per cent of their working week to improve the business. Start small and build from there.

Consequently, innovators are not afraid to share their experiences and be honest about their mistakes. The innovators I met were open about mistakes they had made in the past and changes that still needed to happen.

Change becomes a habit. Innovators continue to look for opportunities to change, grow, improve or extend. Innovators do not change just for the sake of it, but because they recognise that the legal services market and their own practices are not perfect. Most of the innovators I met had plans or ideas for future innovations and were optimistic for what lay ahead.

The ability to see opportunities does not mean that innovators are ignorant or dismissive of risks. However, innovators do not start with risks and reasons why a change may not work. Instead, they start with the idea and consider ways in which it can be made possible – which includes ways of managing the risks involved. Risk is just part of business and legal practice – and most innovators agreed that the biggest risk is doing nothing.

WHAT LAWYERS CAN DO:

• Ask yourself honestly – is your practice perfect? Is there honestly nothing about your practice that you don’t like? If the answer is no, then you have an opportunity for change.

• Ask your clients and staff if there is anything about your services that they would like to see done differently.

• Identify one opportunity for change in your practice. Identify what you want to achieve from the change and a plan for doing so. Have a go and review what happens. If it doesn’t work as you planned, consider why – do you need to change your expectations? Do you need to change how you are attempting to implement the change? Are there lessons for how you approach change in the future?

HOW THE LIV CAN HELP:

• Provide education and resources for change management.

• Provide opportunities for lawyers to share their change experiences, either in person or through the LIV’s communications channels.

• Support lawyers to connect with consultants who can assist with change.
Much of the innovation occurring in the legal services market has been made possible by advances in technology. Technology is assisting innovators to improve the efficiency of their services, including through automation, work flows, smart templates and guided online forms, as well as changing the way in which services are delivered. Technology is (obviously) at the core of legal technology companies that are providing platforms, automated document assembly and applications.

Innovators are using a range of technologies, each of which involve varying degrees of technological competence and skill. Some technologies are mature in their use within the legal sector; others are mature in other sectors but their use in law is relatively new; others are new technologies that present opportunities for lawyers to do things that previously were unimaginable.

Examples of technologies that have been available for some time but are increasingly being used in the legal services market include:

- **Cloud computing** has become a standard part of legal practice. There is a wide range of cloud providers available, both as standalone products and integrated into practice management systems. Providers are building security and privacy into their products by design, so that security and privacy are core features of the cloud product, rather than add-ons. Security is improved continuously through the use of in-house teams dedicated to trying to ‘hack’ (or break) the product’s security, as well as feedback from clients. It’s not just innovators within the legal services market who are using the cloud – governments, law enforcement and large corporations have also moved to the cloud.

- **Apps for lawyers** – it’s not just the legal sector that is changing – so too is the software industry. Large software companies no longer seek to lock customers into a single product that attempts to do everything; software and applications are specialised to particular tasks and user groups. Institutional companies focus on providing the platform for which software developers can then develop particular niche apps; for example, Microsoft has developed the Office 365 platform which incorporates cloud computing, Microsoft Office products and a platform for developers to develop apps that integrate with Office. A broad range of apps combined with low user licence fees means that lawyers can experiment and trial new software without large upfront investments of time, money and changes to business processes.

- **Smart forms and templates** – innovators are creating smart forms and templates, which guide the user to provide information that is relevant to the legal matter. Such forms and templates can be incorporated into websites or law firm workflows and processes, thereby automating some tasks within a legal service.

- **Legal research tools** – lawyers have been using technology to assist with legal research since before LexisNexis launched CaseBase. Innovators are creating new legal research products informed by visual and
design principles and artificial intelligence. ‘Advanced searches’ are becoming more advanced, with searches revealing the relationships between cases and finding relevant cases, even where they do not contain the search terms (e.g. FastCase).

• **Video screens** are getting bigger and their resolution is increasing. Using six video screens (each of which was about 1m in height) connected to Google Earth, I was able to take a tour of the Melbourne Legal Precinct from San Jose, California. It felt as though I was in Melbourne (although without the vagaries in weather!). Advances in this technology will continue to improve the experience of remote court hearings and client interviews.

Examples of technology that are not as well known but are being used by innovators within the legal services market include:

• **Legal expert systems** – computer programs and applications (web or mobile based) that provide legal information and documents without direct input from a lawyer. These systems are generally programmed and developed by lawyers, either directly by coding or through authoring tools such as Neota Logic. The lawyers embed their legal information or knowledge into the program, which is then presented to the end user (who may be a client or could be a non-legal person assisting the client) through the app. The information presented is dynamic, i.e. it changes depending on answers given by the user throughout the app so that the information is relevant to the user’s needs and interests.

• **Artificial intelligence** – everyone is talking about IBM Watson. It’s one of several artificial intelligence systems available for commercial use, with several universities developing AI which is being used to create new legal products and enhance existing products.

At its most basic, artificial intelligence involves large, sophisticated computers that can absorb seemingly infinite amounts of information and then search that information in context, i.e. the computer can understand and recognise the context of words, as well as the words themselves. Artificial intelligence needs to be trained and applied to specific contexts to be useful; an AI system for cancer doctors will produce very different results and assistance than a similar system developed for property lawyers. AI systems use ‘machine learning’, i.e. the system improves its understanding of the relevant context and environment each time it is used; as such, it gets better with age (like so many of us).

At this stage, it is not envisaged that it will replace lawyers anytime soon; AI helps to find and produce relevant information, but the end user still needs legal knowledge and skills to interpret and use it.

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**AI in the context of law is like having a library card to a law library – access to the information alone is not enough; you have to know how to use it.**

Elements of artificial intelligence and machine learning can already be seen in e-discovery tools, which are relatively mature in the legal services market. Artificial intelligence is now being used to develop document review applications, which are used to manage contracts and improve the efficiency of due diligence and contract review (e.g. eBrevia). Any legal service involving the processing of large amounts of documents and information can be assisted by the use of AI.

AI can also be used by lawyers to manage their workflows and documents better. Apps are being developed which would recognise the task a lawyer
is doing and suggest precedents, templates and prior examples based on documents contained within the lawyer's document management or workflow systems. For example, a lawyer beginning a contract for employment services for client X may be provided with a contract template; information about client X's preferences derived from analysing previous emails sent by the client; and a summary of industry standards in contracts based on contracts obtained from the law firm, client X and publicly available. All of this information would be available for the lawyer to use in developing the contract, meaning that the lawyer's task is focused more on assembling and curating the content, rather than creating the contract from scratch.

- **Online dispute resolution systems** (e.g. Modria) use algorithms, legal expert systems and AI to guide disputants through the various stages of disputes, i.e. diagnosis of the problem, negotiation, mediation and arbitration.

The systems help the disputants to reach agreement through guided information, identifying areas of dispute and referral to experts where appropriate. If the disputants cannot agree, the system can refer the matter to a human being to resolve the dispute. The system can assist the human being in this task by suggesting an outcome based on knowledge of previous similar disputes and how they were settled (i.e. what is a 'fair' outcome).

The accuracy of the system is continuously improved through data analysis and user feedback. One such system improved its settlement rate from approximately 60–65 per cent of cases resolved without the intervention of a human being to 90 percent of cases.

Online dispute resolution systems are being used by government departments to process tax objections; by private parties to family law matters; and for low value, high volume disputes.

Some of these technologies are available off the shelf and for limited fees. Others involve licensing arrangements with the technology providers and investment in terms of fees and training. Some of these technologies require only limited previous experience with technology; others require the skills of coders and technologists.

There is no one technology solution that suits, or is used by, every innovator.

Each innovator has assessed their needs, processes, systems, clients and staff – and selected technology that meets those needs. Innovators try different technologies until they find the ones that suit them.

Innovators are flexible in their approach to technology and do not limit themselves to one type of technology. Innovators work with technologists to help them understand what technologies are available and how they can enhance their services. Innovators who can't find what they want engage technologists to build and design bespoke systems.

**WHAT LAWYERS CAN DO:**

- Become a sophisticated user of your current technology. Learn about features you are not currently using and consider whether they can improve your current practices.
- Surround yourself with people who are comfortable with technology. Expand your network to include technologists. Learn from law grads and ‘digital natives’.
- Understand how technology works at a basic level, i.e. how does the internet or computers work, what is the cloud and code, how is a computer program developed and what does it actually do? Reading software agreements can help you to learn in a legal context. You don't need to know how to program a computer yourself, but knowing how technology works will reduce fear of the unknown, help you to identify which technologies can assist you and your practice, and help you communicate your needs to technologists.
- Try to design an app. Start by storyboarding the app and seeing how it would work using Marvel. Take it to the next stage by working with a technologist, using authoring tools such as Neota Logic, or learning to code yourself using Coding for Lawyers.
- Regularly review your services and consider how they could be delivered using technology – either by you or someone else. If your services could be automated by technology, consider whether those services are sustainable.

**HOW THE LIV CAN HELP:**

- Provide lawyers with information and reviews about available technology products.
- Develop resources to assist lawyers to select technology products and providers, including checklists of frequently asked questions regarding security and compliance with regulatory and ethical obligations.
- Provide education to lawyers to learn how to use technology and how it works.
INNOVATORS ARE CHANGING THE WAY WE NEED TO EDUCATE, TRAIN AND REGULATE LAWYERS

The innovations and developments that I observed have implications for the way we educate, train and regulate lawyers. The innovators I met had preliminary thoughts on these issues, but few had identified any finished solutions. As such, these issues require further consideration by legal educators, regulators and government.

Legal education

Currently, legal education in Australia is dominated by the ‘Priestley 11’, which are the 11 prescribed areas of knowledge for admission to the legal profession. The focus on knowledge, rather than skills, may need to be reconsidered in light of developments in technology. If artificial intelligence systems such as IBM Watson can store, find and extract legal knowledge, and if legal information and knowledge can be conveyed to clients through apps, then legal education may become less focused on the accumulation of knowledge and more about the development of skills.

Although legal education has had an increasing focus on skills since the 1970s, the skills incorporated into legal education have largely been related to traditional practice – skills such as client interviewing, negotiation and mediation. Although currently taught in the context of traditional practice, such ‘people skills’ have relevance in jobs and roles outside of the legal profession. As such, they may continue to be relevant in legal education, even though technology may replace the traditional applications of those skills (e.g. client intake will be by way of automated forms and apps, rather than initial client interviews).

Many innovators reflected that skills that were integral to their innovative practices were not taught in legal education – skills such as accounting, finance, business development and entrepreneurialism. Legal educators will need to consider whether such skills should be brought within legal education.

Some legal educators have developed courses which teach students to develop apps using authoring tools (e.g. Georgetown University’s Iron Tech Lawyer and Melbourne University’s App Bake Off). Again, legal educators will need to consider further the extent to which technology skills are incorporated into legal education.

To the extent that areas of law continue to be taught, consideration may need to be given to how many are taught.

If the future of legal services is to be characterised by specialisation, is it still necessary for law students to learn 11 areas of law, ranging from criminal law to corporations law; evidence to equity; civil procedure to constitutional law?

Should there be more focus on legal principles, rather than their application in specific areas of law?

If legal education is to be changed, should it change now, when the shape of the future legal services market is still unclear and could move in very different directions? If we delay changes to legal education until such matters are more clearly known, do we risk condemning a generation of law students to a legal education that is insufficient to equip them to operate in the legal services market into which they are likely to graduate?
Law graduates

Many of the innovators expressed concern about how law graduates will be trained as the business models of law firms change and the traditional work of law graduates and early career lawyers is performed by technology.

The Justice Entrepreneur Project is one innovation which seeks to address both access to justice issues and the decline in jobs for law graduates. It does so by expanding the market for legal services by teaching law graduates to build practices that provide legal services to people who are currently unable to afford legal services. It develops the participants’ legal and non-legal skills; in particular, the JEP supports lawyers to learn business skills, such as accounting, finance, value proposition, pricing and business development. A program such as the JEP may be more useful to a lawyer of the future than the current combination of practical legal training followed by a two-year supervision period, both of which focus on legal skills.

One of the legal technology companies that provides a platform for lawyers and clients to connect intends to extend its service to law graduates. The intention is that law graduates will be able to use the platform to develop a portfolio of work placement to satisfy the PLT requirements and/or the two-year supervision period.

As the legal services market develops, careful consideration will need to be given to the ongoing relevance of PLT and the two-year supervision period.

These requirements currently take up to three years to complete, which is in addition to tertiary education of up to five years. If technical legal skills will be only a small part of the skills used by lawyers in the future, is this amount of skill development proportionate or necessary? Indeed, given that training lawyers through ‘on the job’ training is expensive for the employer and/or the client, the sustainability of these requirements must also be scrutinised.

Regulation

Innovators identified a range of current regulations that are unclear in their application to innovative legal practice, including:

- Regulations regarding the payment and receipt by lawyers of referral fees.

  Rules limiting referral fees may need to be revisited, especially given that specialisation increases the importance of referral networks and lawyers are investing more time and money into their marketing and client intake processes.

  Furthermore, if legal technology companies providing platforms to connect lawyers and clients can charge lawyers transaction or service fees, is there a valid reason why lawyers shouldn’t be able to charge other lawyers similar fees?

- Consent to a costs agreement.

  The regulations are unclear as to whether conduct by a client is sufficient to constitute consent to a costs agreement. Is signing a costs agreement a necessary part of the regulatory model? Can a client demonstrate consent to a fixed fee by continuing to instruct the lawyer or paying the fee into a trust account?

- Regulation of trust accounts.

  The complexity of regulation of trust accounts may be deterring lawyers from holding them. This may, in turn, be hampering the ability of lawyers to offer low fixed prices. Innovators identified upfront payment as necessary for a business model involving low fixed fees, as the cost of pursuing outstanding debts would generally exceed the fees charged.

  Furthermore, innovators who are using fixed fees or value based billing queried the relevance of rules restricting when monies can be transferred from trust accounts to office accounts.

- Regulations which do not take into account the rise of virtual firms.

  For example, verification of identity requirements for conveyancing transactions do not address whether verification via technology such as Skype or other video conferencing is permissible.

The burden of regulation

The cost and complexity of legal regulation also needs to be considered. Innovators are increasing access to justice by providing legal services to clients as cost effectively as possible. These efforts would be undermined if the costs of complying with legal regulation lead to an increase in costs and, consequently, clients again being priced out of the legal services market.

The effect of regulation on innovation should also be considered. Lawyers are often risk averse and may be deterred from adopting new ways of practice if it is unclear whether the innovation complies with the regulations.

In America, there has been considerable debate about whether guided legal information provided through technology constitutes ‘legal practice’. This needs to be clarified. Furthermore, some regulations should be reviewed if the problems they seek to address are solved through innovations and market forces, e.g. fixed fees may address the risks currently sought to be addressed through prescriptive cost disclosure obligations.
As the legal services market continues to change, consideration should be given to whether a different approach to regulation is needed.

Currently, the system is a rules based system that is the product of decades of case law about traditional legal practice. A principles or outcomes based regulatory system may provide a more appropriate environment for innovators to pursue innovations that uphold the public interests sought to be protected by regulation without inflexible prescriptions as to the manner and form of legal practice.

Regulators and insurers

Innovators also reported challenges involving insurance. Professional indemnity insurance for legal services generally does not take account of the rise of the legal contractor or the platform approach to providing legal services. As such, many innovators reported a need to obtain separate top-up insurance.

The attitude of regulators can also significantly influence lawyers’ approaches to innovation. In America, some regulators and bar associations pursued innovators (unsuccessfully) for unlicensed legal practice, rather than engaging with innovators about their approaches and whether they in fact posed a risk to clients.

Innovation is more likely to be pursued where regulators take into account whether an innovation is consistent with the purpose and objectives of the regulation, even where it fails to comply with the letter of the regulatory rules. Given the benefits to clients of continued innovation in the legal services market, regulators (and law societies involved in regulation) may wish to consider issuing statements of regulatory intent in respect of innovative practices.

Regulators could also be proactive and develop more regulations containing ‘safe harbour’ provisions, as well as identify regulations that may inhibit innovation and/or no longer be relevant in a modern legal services market.

The need for a national legal profession

Lawyers working remotely and in virtual law firms also underline the need for national regulation of the legal services market. A single legal service may involve several lawyers working in different states and a client in yet another state. In the circumstances, which state’s regulation would apply: the state where the client is or the state where the lawyer is? What if legal services are provided by a combination of lawyers working across state borders? Such regulatory issues may have already been navigated by national and international firms; however, the rise of internet based firms means that these issues are now relevant to firms of any size.

Legal platforms raise further complications. Platforms provide opportunities for clients in one state to engage lawyers in another state. If regulatory jurisdiction is based on the location of the lawyer, then a client engaging a lawyer in Queensland to prepare a will and a different lawyer in New South Wales to prepare a power of attorney may have different rights and protections in respect of each legal service. The public interest for such a distinction is unclear.

In essence, the regulatory framework which currently regulates legal services and lawyers is largely based on a model of legal practice that predates the internet, which has freed lawyers and clients from geographical boundaries. Although it could be applied or interpreted to fit innovative practices and law firms, there is a risk that innovative practices will be shoe-horned into the existing regulatory framework.

HOW THE LIV CAN SUPPORT INNOVATION:

• Consider passing a resolution by the LIV Council committing to support innovation in the legal services market.
• Monitor legal innovations to identify skills required for the new legal services market.
• Work with legal educators to expand legal education to incorporate these skills.
• Advocate for regulatory reform, including the adoption of national regulation to legal services; simplification and clarification of regulation; and removal of regulation that is redundant in light of innovative legal practices and/or unduly inhibits innovation.
• Support legal start-ups and innovators to comply with regulation through resources, education, advice and consultancy services.
• Work with insurance providers to develop insurance products for lawyers working in non-traditional practices, including independent contractors operating through platforms and law firms working as sub-contractors to other law firms.
Conclusion

Meeting with innovators and preparing this report persuaded me that law is changing and that, overwhelmingly, that change is a positive development for clients and lawyers. I am not naive about the challenges involved in lawyers changing their practices – change is difficult and it disturbs people and practices along the way. However, having seen lawyers who have changed, I am now more confident that change is possible – and not just for people with advanced technology skills or people of a certain age.

I encourage you to ponder, for yourself, the questions I asked the innovators:

1. What do you think you will be doing in 2025?
2. What do you need to prepare yourself for that world?

You don’t need to change overnight. Change is an ongoing, iterative process. Start with a few ideas from this report and just have a go. Talk about your experiments, both the successful ones and the ‘not yet successful’ ones. Share your ideas and work with other people.

See you in 2025.
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Thank you to everyone who made this report possible – especially the innovators. You are leaders in the legal profession and I thank you for sharing your journeys, experiences and wisdom.

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