

## **Inculcating Law Graduates into the Profession: The Perfect Storm of LawTech, COVID, WFH**

Kate Galloway<sup>1</sup>

For over more than a decade, the growth in open access to legal information and enhanced legal technologies have generated debate about the future of legal work. While this debate has receded somewhat with assurances that interpersonal skills and creative thinking will ensure ongoing demand for lawyers, there is less discussion about the effect on enhanced technological efficiencies on the professional development of law graduates.

Inevitably, it is legal work considered to be routine that is easiest to automate—work done by trainee and graduate lawyers. At the same time, in Australian jurisdictions without a fused profession, solicitors are taking on more advocacy and there is less work for junior barristers in the lower courts. Even where firms undertake bespoke legal work, trainees and graduate lawyers would traditionally work on routine matters to hone their legal skills and to develop their understanding of the processes involved in legal matters.

Aspects of professional training have been delegated to university law schools through clinics and work integrated learning, as well as practical legal training providers. But as legal work undergoes its own transformation the types of tasks and projects undertaken by students and junior lawyers will either not bear a relationship to those undertaken in practice (due to the absence of lawtech, for example, in many law schools) or will involve students in lawtech without necessarily addressing the mechanics of transactions and court procedures—the ‘stuff’ of legal practice.

There is nothing inherently wrong with law students learning to code, learning to build an app to address legal service provision or to pitch a legal service concept. But this creates a kind of lawyer who does not necessarily have experience in the underlying processes of the law and legal practice that give rise to the technology in the first place. Where these graduates enter a practice environment requiring ‘the basics’ of legal practice knowledge, there may be a mismatch of experience and employer expectation. And this is before analysing the enhanced skill set of the so-called T-shaped lawyer.

To make matters more complex, for those graduates who commence practice where entry level tasks are routinised there is a question of how they build their skills to become capable of providing higher level, bespoke legal services. Law firms have traditionally provided an apprenticeship style model of what I have so far called training, but which is more properly described as ‘inculcation into the profession’. This is achieved through interpersonal interaction with more experienced lawyers, clients, and other advisers. It requires active and careful supervision, constructive feedback by the supervisor, and that the graduate have a growth mindset with the capability of reflection. This latter disposition is the hallmark of professionalism.

But even this aspect of professional development has been thrown to the wind with the sudden shift to working from home (‘WFH’) during COVID lockdowns globally. Information communication technologies have certainly facilitated connection and have allowed the legal profession, including the courts, to carry on business while society has shut down. The effect, however, on the experience of graduates—and the pipeline of interns—has not been so positive.

---

<sup>1</sup> Associate Professor, Griffith Law School, Brisbane, Australia.

In the first place, internships have been deferred or cancelled, and some graduate programs have been delayed.<sup>2</sup> Additionally, graduates and junior lawyers are reporting concern at how they are connecting with their supervisors. This is echoed by partners in some of the major firms in Australia, who have now set limits on WFH to enhance interpersonal (face to face) interaction between supervisors and junior lawyers.<sup>3</sup>

While this is one approach, of note there is reportedly also a reassessment of the role, extent, and design of office space.<sup>4</sup> Where space is reduced, and both junior and senior staff work partly on site and partly WFH, there will inevitably be a change in the way junior lawyers learn. Without introducing some form of deliberately designed compensation for the loss of incidental interaction, junior lawyers are likely to miss out on the best chance of inculcation into the profession.

If this is the case, I suggest that the effects of lost opportunities for learning not only the skills of legal practice but the ethos of being a lawyer, will disproportionately affect those from under-represented groups. For graduates whose families already have connections in the professional world, including in the law, those opportunities are likely already to exist. The knock-on effect of isolation from the community of the profession may further entrench those who are already the norm of legal practice.

With a perfect storm of automated routine tasks (digitalisation of the legal industry) and loss of human contact with senior members of the profession (post COVID), we run the risk of failing a new generation of lawyers. A tech-enhanced legal education, or an adapted law curriculum, is unlikely to 'fix' the underlying issue. Universities can only produce an entry threshold of knowledge, skills and attributes. It is then up to the profession itself to *inculcate* graduates and junior lawyers into the profession. This will take acknowledgement of the threshold level of skills, commitment to mentoring, training, and supporting new lawyers, clarifying the skills required for that practice context, and providing the opportunity to engage personally with junior lawyers.

The post-COVID environment provides the perfect opportunity to re-establish the commitment of the profession to bringing up the next generation—intentionally, consciously, and conscientiously.

---

<sup>2</sup> Hannah Wootton, 'Graduate programs stall as virus hits lawyers' *Australian Financial Review* (30 April 2020) <https://www.afr.com/companies/professional-services/law-firms-grapple-with-graduate-hiring-amid-covid-19-downturn-20200424-p54n3q>; Naomi Nielson, 'What the future of a soon-to-be graduate now looks like' *Lawyers Weekly* (20 April 2020) <https://www.lawyersweekly.com.au/newlaw/28026-what-the-future-of-a-soon-to-be-graduate-now-looks-like>.

<sup>3</sup> Michael Pelly, 'Work at home, collaborate in the office' *Australian Financial Review* (26 June 2020) <https://www.afr.com/companies/professional-services/work-at-home-collaborate-in-the-office-20200622-p554xg>; Michael Pelly and Hannah Wootton, 'Law firms set work from home limits' *Australian Financial Review* (3 December 2020) <https://www.afr.com/companies/professional-services/lawyers-to-be-in-the-office-more-often-than-not-20201130-p56izz>.

<sup>4</sup> Dan Packel, 'The Law Firm Office Isn't Dead, And Neither Is Open Space' *The American Lawyer* (24 November 2020) <https://www.law.com/americanlawyer/2020/11/24/the-law-firm-office-isnt-dead-and-neither-is-open-space/>; Jack Needham, 'Has the COVID-19 crisis dragged the legal office into the 21st century?' *Commercial Real Estate* (12 November 2020) <https://www.commercialrealestate.com.au/news/has-the-covid-19-crisis-dragged-the-legal-office-into-the-21st-century-1004936/>; 'The Law Firm Workplace of the Future' CB Richard Ellis <https://www.cbre.com/thewayforward/the-law-firm-workplace-of-the-future?article=%7B9bca5704-d1e2-4971-b864-be7e6d0cc75f%7D>; 'Do you even need traditional office space?' *Lexology* (6 February 2021) <https://www.lexology.com/library/detail.aspx?g=247e8d86-11c3-46ad-81e1-838174441263>; 'Trends in the Legal Workplace: Substance over Status: Justifying Change' (Gensler Research & Insight, 2012).