

30 November 2017

Digital Economy Strategy team
Department of Industry, Innovation and Science
GPO Box 2013
Canberra ACT 2601

Dear Digital Economy Strategy team

Digital Economy Strategy Consultation Paper

Thank you for the opportunity to comment on your Digital Economy Strategy Consultation Paper (**Consultation Paper**).

Our response focuses on the following questions posed by the Consultation Paper, which we have answered in combination as follows:

- Questions 1 and 16; and
- Questions 2, 3, 4 and 6.

In this response, we set out our vision for a digital future. Where access to justice is facilitated by nimble and digitally linked up legal organisations. Where significant improvements in navigability of the legal system have been achieved driven by user-centred design. With a generation of digitally savvy lawyers, accompanied by growth in digital inclusion in all cohorts of the Australian community.

We also set out Justice Connect's significant digital transformation work, our concerns about the current shortcomings of our legal system including its impenetrability for non-lawyers and the lack of access to justice. We make recommendations about the role for Government in helping realise a digital and accessible legal system for the benefit of all Australians.

RECOMMENDATIONS

- Encourage innovation in legal institutions and reward legal institutions that are rising to the challenge of better service delivery and user-centred design.
- Ensure that the adoption of innovative technology in the legal sector is driven by a user-centred design imperative, aiming to meet the needs of the key users of the system.
- Fund digital innovation in the community sector (including legal organisations) as well as in business, and expand the types of organisations eligible for various government innovation and incubation funding programs.
- Modernise (and keep modernising) the education of lawyers so that they have relevant skills for the future and can support the important work that will make access to justice more achievable via digital technology.

About Justice Connect

Justice Connect aims to help build a world that is just and fair — where systems are more accessible and accountable, rights are respected and advanced and laws are fairer.

We provide free legal and social work support for people experiencing disadvantage and the community organisations that support them. For 25 years, Justice Connect has been working to improve legal and life outcomes for vulnerable people and community groups through our specialist services and pro bono referral network of over 10,000 lawyers. As well as our direct client work, we conduct community education and undertake law and policy reform aimed at improving social justice outcomes.

Justice Connect is a registered charity and accredited specialist community centre.

Public Interest Law

Justice Connect's Public Interest Law team harnesses the skill and generosity of Australian lawyers who are prepared to address unmet legal need through the provision of pro bono legal help. Adopting the principle that access to justice is a public interest concern, we help people experiencing disadvantage as they face an almost endless variety of legal matters big and small. This broad practice has also given rise to the development of targeted programs, including:

- Self Representation Service, which provides free advice to people who are without legal representation in the Federal Court and Federal Circuit Courts in the ACT, NSW, Tasmania and Victoria in the areas of bankruptcy, fair work (employment), human rights/discrimination and judicial review;
- Stage 2 Access Program, which is a free service to assist transgender and gender-diverse youth to access Stage 2 hormone treatment; and
- Domestic Building Legal Service, which provides free assistance to Victorian homeowners who are involved in, or considering commencing legal proceedings against a builder, and who are unable to afford a lawyer.

Specialist Legal Services

Justice Connect also provides a range of specialist legal services targeting the needs of particular client groups, including:

- Seniors Law, which participates in four Health Justice Partnerships, where a lawyer is incorporated into a health care team that aims to improve legal and health outcomes for older clients by minimising the incidence and impact of elder abuse; and
- Homeless Law, which operates a specialist out-reach based service for clients experiencing or at risk of homelessness, as well as the Women's Homelessness Prevention Project and a homelessness prevention project for Victorian prisoners. Through free legal representation, combined with in-house social work support, and targeted evidence-based advocacy, Homeless Law works to prevent homelessness and reduce the negative impact of the law on people experiencing homelessness in Victoria.

Not-for-profit Law

Justice Connect's Not-for-profit Law service provides free information, training, advice and pro bono referrals for not-for-profit community organisations across Australia. By helping those involved in running not-for-profits and social enterprises to navigate the full range of legal issues that arise during the lifecycle of their organisation, Not-for-profit Law saves their time and resources, thereby allowing them to focus on achieving their missions (e.g. helping vulnerable people, environmental conservation, or working towards social cohesion).

Digital Innovation

In late 2016, Justice Connect commenced a digital innovation strategy which centres on the development of an ambitious digitisation project that includes online intake and triage, matter matching, data management, and workflow automation: the Legal Help Gateway. With initial funding from Google via its Impact Challenge and further funding of over \$900,000 from philanthropy, the Gateway will provide a technology driven, efficient tool for matching people's unmet legal needs to pro bono lawyers with relevant expertise and to our digital self-help tools. It will increase access to legal help and increase pro bono opportunities for lawyers, as well as improving our own efficiency. The potential of the Gateway will develop over the next several years.

Our membership of the Australian Digital Inclusion Alliance

Justice Connect is a member of the Australian Digital Inclusion Alliance, and supports the work of the Alliance. We note the submission of the Alliance in response to the Consultation Paper, and support suggestions that the Alliance is an appropriate organisation through which to coordinate efforts to consult and better understand the complexity and appropriate approaches to improving and evaluating digital inclusion in Australia. We also support and endorse the excellent work of the authors and sponsors of the Australian *Digital Inclusion Index*,¹ which provides rich and valuable data to assist in understanding the complex picture of digital inclusion in Australia.

Responses to questions 1 and 16

1. How are advances in digital technology changing the way you work, your industry and your community?
16. What efforts are you or your organisation making to respond to digital transformation? Why?

Increasing prevalence of digital in all areas of business and life

There is strong evidence of growing prevalence of the use of digital tools, methods and systems in all fields of private and public life. As the 2017 *Digital Inclusion Index* found:

Australians are spending more time – and are doing more – online. Since 2014, when data was first collected, Australia's overall digital inclusion score has improved by 3.8 points, from 52.7 to 56.5. In 2016–2017 alone, Australia's score rose by 2.0 points, from 54.5 to 56.5. Scores for every state and territory also increased over this period.²

Designing justice solutions with digital in mind is critical – failing to do so is akin to persisting in designing road and transport infrastructure for horses when cars were growing in popularity, or designing for candles when houses were increasingly linked to electricity.

While digital engagement across Australia has rapidly increased over recent years, the picture of digital inclusion for marginalised groups is not straightforward. Digital inclusion is worsening for some (for example, seniors) and for others, it is improving (for example, some Indigenous Australians).³ Therefore, while digital is a critical consideration, we must be mindful of those who are not digitally included when we design digital systems and solutions.

¹ J Thomas, J Barraket, C Wilson, S Ewing, T MacDonald, J Tucker and E Rennie, RMIT University, (2017) *Measuring Australia's Digital Divide: The Australian Digital Inclusion Index 2017*.

² J Thomas, J Barraket, C Wilson, S Ewing, T MacDonald, J Tucker and E Rennie, RMIT University, (2017) *Measuring Australia's Digital Divide: The Australian Digital Inclusion Index 2017*, p5.

³ J Thomas, J Barraket, C Wilson, S Ewing, T MacDonald, J Tucker and E Rennie, RMIT University, (2017) *Measuring Australia's Digital Divide: The Australian Digital Inclusion Index 2017*, p6.

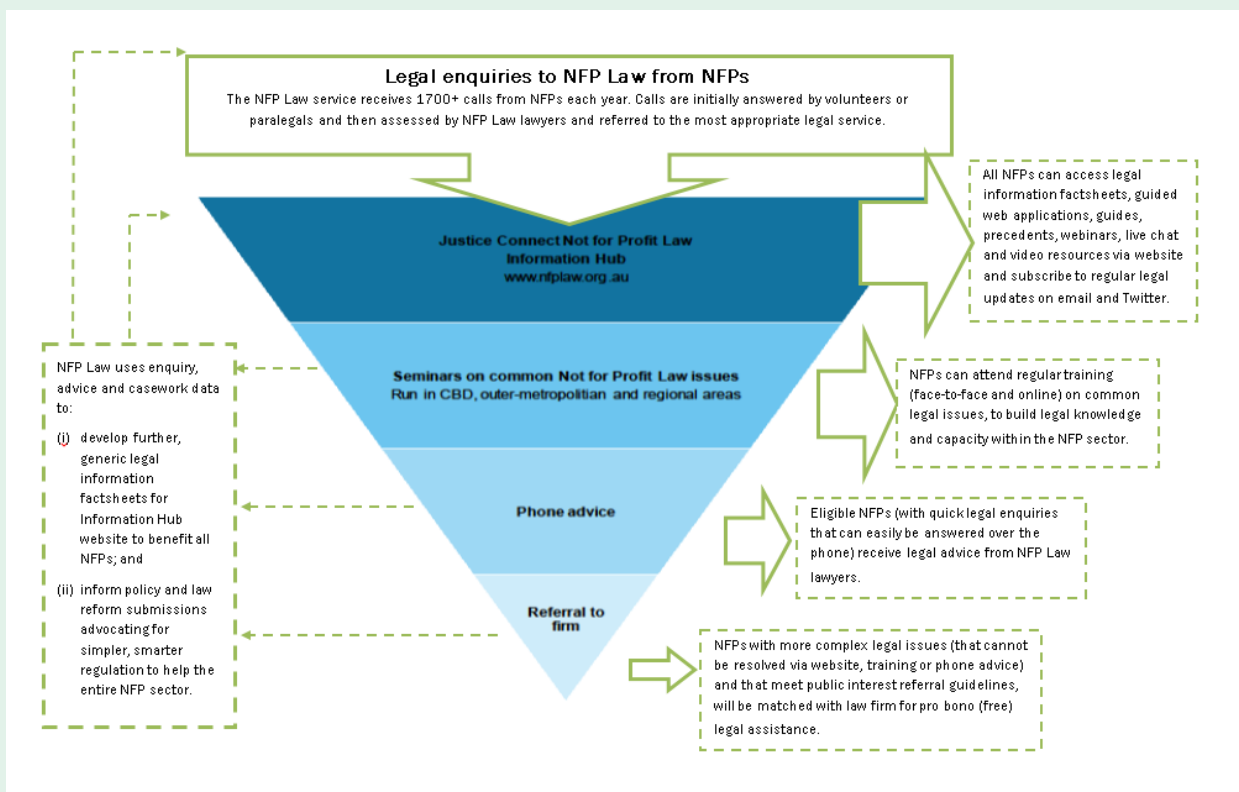
Examples of Justice Connect’s digital work

Justice Connect recognises the potential that digital transformation offers to improve its scale and impact, and has invested in digital transformation accordingly. We support a specific role responsible for designing and assisting in the implementation of digital innovation strategies – our Manager of Digital Innovation Strategies. Each of our programs is working to incorporate digital strategies into their ways of working, and our organisation is also looking at its digital infrastructure needs now and into the future.

The three examples profiled below highlight: the role for digital technology in increasing the reach and scale of Justice Connect’s legal services (including to regional areas); the role that online self-help resources can play in complementing and enhancing the value of direct legal advice; and the role that technology can play in reducing the burden of repetitive administrative tasks for staff so that they can focus their time on the highest impact work.

Not-for-profit Law’s online legal information resources - 300,000 hits per year

Justice Connect’s Not-for-profit Law service has a tiered delivery model, as shown in this diagram.



Justice Connect has a track record of delivering assistance at different levels of intensity and scale. The online legal information resources on Not-for-profit Law’s website (www.nfplaw.org.au) reach an infinite number of community organisations across Australia. This is complemented by training (also accessible to any organisation in any location through webinar training services) and through Not-for-profit Law’s provision of telephone legal advice and pro bono referrals for eligible community organisations with more complex legal needs.

The tiered service model has enabled Not-for-profit Law to scale rapidly from a single jurisdiction service to a national service while maintaining a small staff profile, supported by pro bono work from law firms. The Not-for-profit Law website receives nearly 300,000 unique page hits per year. The site has been evaluated

three times,⁴ with findings indicating significant utility, positive user experience and cost effectiveness, and overall value. The Not-for-profit Law website has twice been a finalist for the Australia and New Zealand Internet Awards (2014 and 2015), and was a finalist in the 2017 global PILnet Local Impact pro bono awards.

In recent years, the Not-for-profit Law service addressed evaluation findings by focussing on interactive digital information resources that empower not-for-profit organisation clients to distil relevant packets of information tailored to their needs. The service has participated in the Melbourne Law School and Neota Logic 'Law Apps' program twice, publishing two interactive web applications that provide tailored information in specific complex areas of law (one for tax concessions options for not-for-profit organisations,⁵ the other, a decision support framework to aid community organisations that are starting up to choose the legal structure that best suits their needs⁶). These online resources have been well received by users, with evaluations finding the applications reduce the complexity of an area of law, reduce the amount of reading that is required to cover all relevant material, and significantly reduce the time spent reading and distilling relevant information relating to a legal issue.

Justice Connect staff have observed that clients who have used the apps prior to engaging in a conversation about their legal issue with a Not-for-profit Law lawyer have increased legal capacity and literacy, and are better enabled to provide clear instructions that allow the service to quickly assist them:

“Providing legal advice to a not-for-profit group which is ‘getting started’ can be very time consuming as there are many issues that these groups need to consider and make decisions on. Having a client complete the Getting Started Framework prior to providing legal advice is really helpful because it allows me to review the client’s feedback and focus on their pain points – the things they are undecided on or confused about, and need tailored legal advice that applies specifically to their group in order to move forward with the process.”

Justice Connect Not-for-profit Law lawyer, 2017

Self Representation service: Combining online resources with unbundled legal services

Following from the success of the Not-for-profit Law model, and using knowledge from various self-help approaches trialled overseas (for example the Californian legal self-help centres⁷), Justice Connect’s Self Representation Service increasingly focusses on supplementing its unbundled advice service with self-help resources.⁸

Feedback from both clients and the lawyers that see the clients in their appointments is that the appointment can be more valuably spent when the client has had time to learn about and reflect on their legal problem prior to seeing a lawyer. The client can be provided with guidance and advice during the appointment, and given further self-help resources to progress their matter. Clients are often provided with

⁴ See, eg, Justice Connect, *Information Hub evaluation shows NFP Law’s resources highly effective*, (December 2015) (available at <https://www.nfplaw.org.au/information-hub-evaluation-shows-nfp-laws-resources-highly-effective>).

⁵ See Justice Connect, *Tax Concessions Guide* (available at <https://applications-au.neotalogic.com/a/taxconcessionsguide-dev>).

⁶ See Justice Connect, *Getting started*, (available at <https://www.nfplaw.org.au/gettingstarted>).

⁷ See, eg, Californian Courts, *Self-Help Centers*, (available at <http://www.courts.ca.gov/selfhelp-selfhelpcenters.htm>).

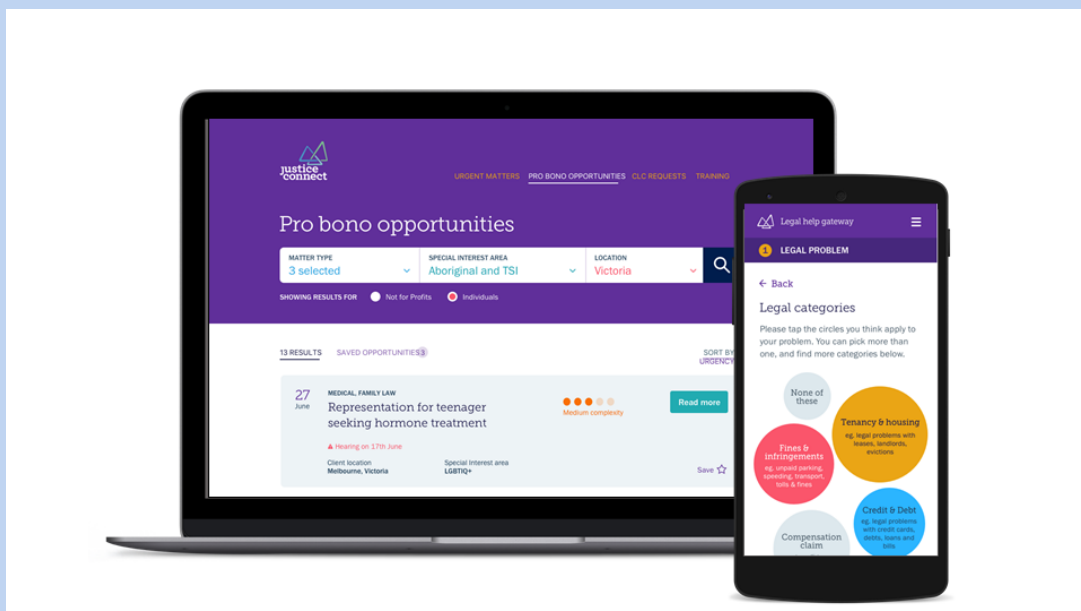
⁸ See Justice Connect, *Fact sheets*, (available at <https://www.justiceconnect.org.au/our-programs/self-representation/fact-sheets>).

subsequent appointments (the average number of appointments is 2) to keep progressing their matter through its different stages. In this way, the value that a client can gain from a few hours with a lawyer is greatly enhanced when supported by online resources which can be easily sent to clients via email.

Justice Connect Legal Help Gateway

After 12 months of intensive research, Justice Connect has designed and commenced development work on an end-to-end digital solution to streamline our processes, improve our accessibility for clients as well as referrers (for example, staff at community legal centres or case workers), and improve the way Justice Connect is connected into other justice organisations and service providers. This is our contribution to a better linked-up justice system. This ongoing work is supported by grants from Google.org, the Myer Foundation, Perpetual Trustees, a private foundation and the Victorian Department of Justice and Regulation.

We (conservatively) estimate that across our services, the time taken to run intake and triage for a client will be reduced by 20 minutes if intake is completed online. We also estimate that placing clients into appointments with our programs and arranging pro bono referrals will be made significantly more time efficient with improved processes. Altogether, we estimate that through the implementation of our Legal Help Gateway, across the organisation we will save the time of 5.6 employees per annum from administrative tasks, so that they can direct this time to high impact work. This includes providing intensive support to vulnerable clients with complex needs, and law reform and advocacy work.



It is our aim that the Legal Help Gateway will be one component of a linked up legal, health and social services sector. We are already in conversation with Legal Aid Commissions, various Courts and Tribunals and other online referral services such as Info Exchange's Ask Izzy service for people experiencing homelessness to build seamless warm referral pathways in both directions between services.

Justice Connect's research into appetite and readiness for digital tools for people and organisations seeking access to justice

In the first half of this year, Justice Connect carried out user-centred research for our Legal Help Gateway Project with our clients including people experiencing homelessness, people experiencing significant mental health problems, people recently released from prison, and long term unemployed people.

These clients consistently expressed frustration at the lack of information available about legal services online, that different services were not 'joined up', that there was no system level view available to them, that for most services, they could not apply online, and that many services as well as legal processes required in-person attendance, during business hours, to engage in and progress matters.

Although there is evidence of a correlation between markers of vulnerability and marginalisation, and markers of a lower likelihood to be digitally engaged,⁹ our experience and research shows that there are many people within vulnerable cohorts (including people experiencing homelessness, recently arrived migrants, and self-represented litigants), who are active and competent users of technology. Many vulnerable clients also have support people (such as friends, family or case workers) who assist them to engage with digital services.



COMMENTS FROM CLIENT PARTICIPANTS

'I'm very visual, I would have used the online form.'

'You want the first [web] page to have pretty much everything, all the categories of everything that you represent.'

'I think the personal service is very important, but I would be open to it [digital services].'

'[Finding what I needed online] was a big problem for me. So I just called the [Justice Connect] number.'

'A lot of people, I guess, don't realise that there's an alternative to legal aid.'

'[clearer service information and online application processes] might help a lot of people actually that I know, that Justice Connect actually do exist and they can actually, they could be helped.'



Of course, there are individuals and groups within the community who do not have access to, or are unable to engage with, online systems and materials and more intensive, integrated models of legal assistance will always need to be available for these groups and people. Importantly, however, if we can service some help-seekers via

⁹ J Thomas, J Barraket, C Wilson, S Ewing, T MacDonald, J Tucker and E Rennie, RMIT University, *Measuring Australia's Digital Divide: The Australian Digital Inclusion Index 2017*; Dote, *Dropping off the edge* (July 2015) (available at <https://dote.org.au/key-findings/>).

improved digital channels, we will experience an efficiency dividend which can be directed to provide additional intensive support to those vulnerable clients who cannot use online or self-help options.

We consider that improving digital inclusion is critically important, and efforts to improve digital inclusion and inclusive alternatives for those that are digitally excluded should take place concurrently with development of digital approaches.

Responses to questions 2, 3, 4 and 6: our vision for the legal system in the digital economy, and the role that disruptive technology will play

2. What is your vision for an Australia that thrives in a digital economy? Where would you like to see Australia in five, 10 and 20 years' time?

3. What is the role of government in achieving that vision?

4. What key disruptive technologies or business models do you see? What do you predict is on the horizon in five, 10, 20 years' time?

6. What opportunities do we have to accelerate the development of technologies that will underpin Australia's digital economy?

A vision for Australia that thrives in the digital economy

Justice Connect's vision for Australia is one where justice organisations and systems have been thoughtfully designed and linked so that people, organisations and legal professionals can seamlessly navigate and positively experience the legal system. Digital solutions can do much to assist in reaching this vision, but only if flexible resources are available, if the right skills mix is in place, and if different justice agencies and players work to build solutions together.

Justice Connect considers that, in the context of operating in the justice sector, the ingredients necessary for Australia to thrive in a digital economy are as follows:

- appropriate investment in strategies to improve digital inclusion;
- appropriate investment in modernising education and training so that we have a workforce equipped with key skills required to support a digital economy;
- appropriate funding and an ecosystem to support movement to the digital economy for civil society organisations that are currently ineligible for many technology and innovation grants;
- appropriate incentives for government agencies and institutions to modernise and embrace digital approaches, and to work with and integrate with non-government service providers and institutions to improve user experience of systems; and
- appropriate legal regulation and broader regulatory frameworks that keep pace with innovation and progress while providing sufficient levels of consumer and data protection.

Justice and law in Australia are ripe for disruption

As described in our response to questions one and 16, the legal and justice system in Australia is fragmented, confusing to navigate, and failing to meet users' needs. Many justice organisations, courts, legal practices and community legal centres are operating with systems and technology that have fallen behind community

expectations.¹⁰ Out-of-date infrastructure and business processes constrain efficiency, service quality, scalability and the ability to communicate. The issues in the legal system are problematic from both an access to justice perspective as well as a productivity perspective. Inefficiencies come at great cost to the users of the system and funders of the system – government and taxpayers. For free legal services, limited resources are spent navigating inefficient systems when these hours could reach more clients if the system were less cumbersome. A lack of access to justice also ends up costing the Australia more money, with the Productivity Commission finding in 2014 that ‘[i]mproving access to legal assistance for civil matters will often prevent legal problems from escalating, reducing costs to the justice system and the community’.¹¹

Numerous reviews and reports have revealed that people, not-for-profits, businesses and legal professionals are frustrated with Australia’s legal and justice system.¹² Research and reviews also highlight that many Australian individuals¹³, not-for-profits¹⁴ and small businesses¹⁵ do not access the legal assistance that they need to resolve legal problems. 4.5 million Australian have a legal problem each year and do not access assistance from a lawyer.¹⁶ For individuals, legal problems cause and compound life problems such as financial strain, mental and physical health problems, housing and family problems.¹⁷ For not-for-profits and businesses, unresolved legal problems constrain efficiency, cause stress to those involved, drain resources, and divert energy from pursuing the mission of the organisation or business.¹⁸

When we ask our users what they want from the justice system, they are looking for their problem to be solved at a reasonable price, for fairness, and to be able to get back to their lives. The legal system’s attachment to rigid processes holds back its potential to deliver justice quickly, at a fair price, within the community’s expectations. The failure of the legal system to meet community expectations makes the legal system ripe for disruption.

Potential modes of disruption and innovation in the legal sector

There is much talk of the potential for technology and innovation disruption in the legal sector, however we are yet to see major upheaval, or system change, adaptation or reform because of technology in Australia. One exception is the role that email and digital file management systems have played over the last 20 years in widening the workplace, facilitating rapid communication, transfer, storage and analysis of data, and the move to online databases and loose-leaf services.

While the legal system in Australia has yet to encounter a disruption of the scale that Uber has been to the taxi industry, or Netflix to the home entertainment industry, there are early innovations and disruptions, which include:

- online intake and triage;

¹⁰ See, eg, Victoria Department of Justice and Regulation, (August 2016) *Access to Justice Review Summary Report*, p9.

¹¹ Productivity Commission (2014), *Access to Justice Arrangements: Overview, Inquiry Report No. 72*, Canberra, p34.

¹² Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S (2012), *Legal Australia-Wide Survey: legal need in Australia*, Law and Justice Foundation of NSW Sydney; Productivity Commission (2014), *Access to Justice Arrangements: Overview, Inquiry Report No. 72*, Canberra; Pleasence, P & Balmer, N (2017), ‘It’s personal: business ownership and the experience of legal problems’, *Justice Issues Paper 22*, Law and Justice Foundation of NSW, Sydney; Victorian Department of Justice and Regulation (2016) *Access to Justice Review: Summary Report*.

¹³ Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, *Legal Australia-Wide Survey: legal need in Australia*, Law and Justice Foundation of NSW, Sydney; Productivity Commission (2014), *Access to Justice Arrangements: Overview, Inquiry Report No. 72*, Canberra; Victoria Department of Justice and Regulation, (August 2016) *Access to Justice Review Summary Report*.

¹⁴ Productivity Commission (2010), *Contribution of the Not-for-Profit Sector*, Research Report, Canberra.

¹⁵ Pleasence, P & Balmer, N (2017), ‘It’s personal: business ownership and the experience of legal problems’, *Justice Issues Paper 22*, Law and Justice Foundation of NSW, Sydney.

¹⁶ Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S (2012), *Legal Australia-Wide Survey: legal need in Australia*, Law and Justice Foundation of NSW Sydney.

¹⁷ Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, *Legal Australia-Wide Survey: legal need in Australia*, Law and Justice Foundation of NSW

¹⁸ Productivity Commission (2010), *Contribution of the Not-for-Profit Sector*, Research Report, Canberra; Reeve, R., Lee, I., Simnett, R., Cortis, N., and Chew, E. (2016) *Australian Charities and Red Tape 2014*. Centre for Social Impact and Social Policy Research Centre, UNSW Australia.

- chatbots;
- online precedents, document automation and self-help tools;
- online court filing and case management;
- online marketplaces for finding lawyers;
- online legal practices or coalitions of lawyers (sometimes referred to as part of the 'newlaw' movement)
- online dispute resolution; and
- artificial intelligence.

There is increasing focus on this progress in Australia, for example in recent years several conferences have been held on law and technology and the NSW Law Society published the *Future of Law and Innovation in the Law and Profession Report*¹⁹ aiming to summarise changes occurring in the sector and make recommendations for future-proofing the sector. Nonetheless, Australia lags behind international peers in legal innovations. For example, the United States has a whole-of-country initiative to drive digital innovation in not-for-profit and state legal services.²⁰



Figure 1 Moving from 1st to 4th order solutions
(c) Margaret Hagan

Beyond Australia, the legal sector globally lags behind other industries. In global forums,²¹ criticism has been made of the legal sector's development and adoption of technology approaches, with too much focus on discrete products rather than higher level system change. Buchanan considers that there are four orders of design (summarised in figure 1 by Margaret Hagan).²² In the legal industry, most digital design is focussing on first and second order design, without progressing to more sophisticated third and fourth order design involving interactions and whole-of-system design. It is this level of design that can have profound impact.²³

In the areas of the legal system where Justice Connect is most concerned to see improvements, we consider that there are three key roles for digital innovation to improve access to justice:

1. process innovation both within and between access to justice organisations to increase scale, access, efficiency, and improve the user experience of the system;
2. service delivery innovation, where technology is integral to the delivery of legal assistance to clients; and
3. technology-facilitated dispute resolution.

Justice Connect has acknowledged that we can make improvements to our systems and technology to better deliver on our mission and increase our impact.

¹⁹ NSW Law Society (2017) *Future of the Law and Innovation in the Profession Report (FLIP)* (available at <https://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/1272952.pdf>)

²⁰ See, eg, Legal Service Corporation *Report of the Summit on the Use of Technology to Expand Access to Justice* (2013) (available at <https://www.lsc.gov/media-center/publications/report-summit-use-technology-expand-access-justice>)

²¹ See for example the Stanford Law + Design Summit <https://conferences.law.stanford.edu/lawplusdesign-summit>.

²² <https://medium.com/legal-design-and-innovation/the-state-of-legal-design-the-big-takeaways-of-the-stanford-law-design-summit-ee363b5bf109>.

²³ Buchanan, R. (2001) 'Design Research and New Learning' *Design Issues* Volume 17, Number 4 Autumn 2001 pp9-13; Pleasence, P & Balmer, N (2017), 'It's personal: business ownership and the experience of legal problems', *Justice Issues* Paper 22, Law and Justice Foundation of NSW, Sydney.

As described in our comments in response to questions 1 and 16 of the Consultation Paper, our Legal Help Gateway project is the culmination of our work in this area.

User-centred acceleration of the role of innovation and technology in law and justice

Justice Connect is a strong advocate of considered adoption of technology in the justice and legal sector. However, the overriding aim of any initiative should not be to adopt technology for technology's sake, but to design better services and experiences for those seeking access to justice and other users of the legal and justice sectors such as social workers, legal professionals and police. If digital has a role to play (which, in many cases, it invariably does) it must be adopted through this frame, in a user-driven context.

Part of a user-centred approach to designing digital solutions is to ensure that issues of digital inclusion are acknowledged and addressed. This does not mean that digital initiatives do not have a role to play. In many circumstances digital has a role to play in improving processes that will free up time of people in legal organisations so that they can provide better assistance to vulnerable users of the system.

The role for Government, and how to accelerate the use of and role for technology

As a charity working in digital innovation, we encounter many barriers – both structural and financial.

Just as there are important gains to be made in business and science, so too are there many gains to be made in the third sector through technology innovation that benefit organisations, their beneficiaries, the government and society through delivering better impacts and outcomes. There is a clear role for Government to encourage and fund technology innovation in civil society organisations. Government has identified that small businesses in Australia are slow to adopt technology.²⁴ Many civil society organisations are also lagging behind their international peers in this space.

US TECHNOLOGY INITIATIVES GRANT SCHEME FOR LEGAL SERVICES



In the United States, the Technology Initiatives Grant Scheme provides significant grants annually to legal aid organisations to support technology projects based on the premise that “[t]echnology can and must play a vital role in transforming service delivery so that all poor people in the United States with an essential civil legal need obtain some form of effective assistance”.²⁵ The goals of the Scheme are to support work to:

- effectively and efficiently provide high quality legal assistance to low-income persons and to promote access to the judicial system through legal information, advice, and representation;
- improve service delivery, quality of legal work, and management and administration of grantees; and
- develop, test, and replicate innovative strategies that can enable grantees and state justice communities to improve clients’ access to high quality legal assistance through an integrated and well managed technology system.²⁶

In 2017, the Scheme distributed US\$4 million of grants with a median grant of about US\$72,000. Funded projects ranged from complex websites providing resources and live-chat functionalities to applications to support pro bono lawyers, and automated document solutions.²⁷ A community of practice has evolved out the Scheme, with an annual conference held, and practitioners building their digital literacy through communities of practice.

²⁴ Consultation Paper, p27.

²⁵ See Legal Services Corporation, *Technology Initiative Grant Program*, (available at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig>).

²⁶ Legal Services Corporation, *Technology Initiative Grant Program*, (available at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig>).

²⁷ See Legal Services Corporation, *Technology Initiative Grant Highlights and Impact* (available at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/technology-initiative-grant-program/technology>).

Most innovation funds at both Federal and State levels are not available to civil society organisations. They are often targeted at business or researchers. Australia would benefit from a granting scheme available to any organisation working in the legal and justice sector (regardless of legal status as not-for-profit, for-profit or government agency) to support the transition of legal and justice organisations to the digital sphere, for the benefit of legal help-seekers across Australia. There are overseas examples to draw on.

Innovation funding available to not-for-profits to support dedicated resources for digital transformation

Justice Connect has had relative success attracting grant funding for technology initiatives and delivering high impact projects, yet we have first-hand experience of struggling to find funding for technology initiatives, even those with robust business cases.

Justice organisations are chronically underfunded, and struggle to meet the demands placed upon them with limited resources.²⁸ They are therefore, understandably, often reluctant to divert resources from meeting client needs to fund digital and innovation projects with uncertain outcomes. To enable such projects, dedicated funding is needed.

Our experience shows that to deliver sustainable digital work, and to move an organisation forward in this respect, staff resources need to be freed to prioritise this work. Having staff dedicated to digital projects and user-centred design (and not pressured with juggling the needs of clients and casework with the needs of longer term projects) has been the key to Justice Connect's progress.

There are very few grants available to fund technology-focussed innovation initiatives for legal organisations, and even fewer that will cover the staff costs associated with such work. Funders often indicate that they would prefer to fund 'direct' service provision, or that they aren't convinced that the relevant technology or project is an appropriate investment. Further, Government funding of legal services is not structured to easily accommodate funding technology initiatives. The overall lack of funding available to apply to technology initiatives at not-for-profit justice organisations contributes to a vicious cycle of these organisations falling further behind in digital competency and falling further behind meeting the expectations of the community.

LEGAL HELP GATEWAY PROJECT: THE QUEST FOR FUNDING

Justice Connect's Legal Help Gateway Project received seed funding through Google.org's Google Impact Challenge, selected by Google as one of the top 10 not-for-profit technology projects in Australia.

With significant user-research and a technology architecture and development roadmap created, Justice Connect undertook an extensive fundraising campaign to raise further funds to support the build-out of this cornerstone project. This resulted in raising further support of \$900,000 from private philanthropic organisations (the Myer Foundation, Perpetual Trustees and a private foundation).

So far, the only government contribution to the project is \$30,000 from the Victorian Department of Justice and Regulation. This is 2.5% of the total grant funds received to date. We estimate that the project will deliver over \$20 million dollars' worth of extra pro bono work into the Australian legal assistance sector within three years, which represents a direct saving for government. Government funds directed to this project would generate a significant return on investment. We have further unmet funding needs for this project, and continue to seek the support of State and Federal Governments.

²⁸ See, eg, Productivity Commission (2014), *Access to Justice Arrangements: Inquiry Report*, p30, which recommended additional funding from Commonwealth and State and Territory Governments for civil legal assistance services of approximately \$200 million per year (recommendation 21.4) and summarised the benefits of this as: 'Improving access to legal assistance for civil matters will often prevent legal problems from escalating, reducing costs to the justice system and the community' (at p38).

Bold leadership in the justice sector

Courts, Tribunals, Legal Aid Commissions and Legal Services need bold leadership and appropriate funding if Justice Connect's vision of a linked up, accessible legal and justice system is to come to life. An appetite for risk, experimentation, and a greater focus on user needs over legal pedantism is required.

We encourage the development of sector-wide initiatives to build a community of practice around digital innovation in a sector that is traditionally risk averse. As the sector lags so far behind, incremental change is unlikely to meet community expectations – bold leadership is required.

Educating lawyers for the future

Many of the lawyers currently practising in Australia received no education about the role that technology can play in systems. Many of these lawyers were educated at a time when technology was beginning to have a profound impact on the legal system when it was clear that change was coming.

Several law schools across Australia have recently introduced technology-focussed classes or interdisciplinary streams and we strongly support these initiatives.²⁹ However, these initiatives have come years too late. As we work to implement our digital transformation alongside other legal organisations seeking to do the same, there are simply not enough appropriately qualified interdisciplinary practitioners in Australia to support this transition.

In the modern world, it must be queried whether, for the practice of law, it is more important to have a sound understanding of niche areas of law, which a graduate is statistically unlikely to encounter in their career, or to build an understanding about the role that technology plays in institutions, organisations, society and the public sphere – an issue that almost every graduate is going to encounter in their career.

We consider that understanding system architecture, logic mapping, user experience, cloud storage, encryption and security and the difference between a content management system, client relationship management system, and client management system are all as important to the modern practice of law as trust accounting has been in years past.

Regulation that keeps pace with changing environment

As a legal practice, Justice Connect regularly considers how its technology initiatives fit within legal regulatory frameworks. Our legal regulation has not kept pace with the changing nature of legal practice, nor with opportunities to provide legal assistance in automated or semi-automated forms, through the productisation of legal advice. Automated document generators, bespoke information products, legal chat bots, and use of off-shore paralegals all push our legal regulations to their limits.

It is critical that regulation keep pace with the rapidly evolving sector, and that it strikes a balance between protecting the interests of consumers and allowing for innovation. It should not be forgotten that innovations that result in accessible and lower cost legal assistance are beneficial to consumers of legal services, and this benefit should be weighed against risks associated with new approaches to providing legal assistance.

²⁹ For example Melbourne University and Neota Logic's 'Law Apps' program, UTS's New Legal Futures and Technology major in its law degree and the creation of the Allens Hub focussed on researching technology and law based at UNSW.

Conclusion

Our key recommendations for the role that Government can play to address issues that we have raised in our submissions are as follows:

RECOMMENDATIONS

- Encourage innovation in legal institutions and reward legal institutions that are rising to the challenge of better service delivery and user-centred design.
- Ensure that the adoption of innovative technology in the legal sector is driven by a user-centred design imperative, aiming to meet the needs of the key users of the system above all else.
- Fund digital innovation in the community sector (including legal organisations) as well as in business, and expand the types of organisations eligible for various government innovation and incubation funding programs.
- Modernise (and keep modernising) the education of lawyers so that they have skills for the future and can support the important work that will make access to justice more achievable via digital technology.

We look forward to the outcomes of this Consultation, and welcome further conversations on the issues that we have raised in this submission.

Yours sincerely



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