

**KEYNOTE ADDRESS TO THE
LEGAL AID CIVIL LAW CONFERENCE
PARKROYAL HOTEL, PARRAMATTA
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“The Legal Profession in Transition: avoiding a tiered system of justice”

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Introduction

- 1 A very good morning to you all.
- 2 I acknowledge the Burramattagal clan of the Dharug Nation and pay my respects to elders past and present.
- 3 It is a great pleasure to have been asked to address you this morning and I acknowledge from the very outset the importance of the work that each of you does, day in and day out, for some of the most vulnerable members of our community.
- 4 It is often very difficult work particularly on a human and emotional level exacerbated by the very limited resources available. Working within those constraints demands pragmatism, efficiency and very high levels of legal competence as you strive to spread the legal aid budget as far as you can for the greater good.

¹ The Chief Justice acknowledges the assistance of his Research Director, Mr Sebastian Braham, in the preparation of this address.

- 5 Notwithstanding its undoubted challenges, I hope that each of you takes great pride in doing this hard but vital work. You should do so.
- 6 I also take this opportunity to acknowledge Monique Hitter with whom I have had the pleasure to work over the past 5 years. She is a fine leader, passionate about Legal Aid, proud of you all and has fought tirelessly for resources. We have also worked together on some of the PLT initiatives that have been undertaken. I also acknowledge the large contribution the recently retired Meredith Osborne has made to the public sector and Legal Aid in particular. We were at law school together and I have admired her work and leadership for many decades.
- 7 One of the great privileges of my role as Chief Justice is to meet and speak to lawyers throughout the State working at all levels of seniority across a wide range of areas and I continue to be impressed with the dedication, commitment and integrity of so many members of our profession who care deeply about the administration of justice, and social justice, and who work tirelessly to assist everyday people in their engagement with the law in all of its apparent complexity.
- 8 Explaining the law to lay people including as to their rights and liabilities and assisting them to understand matters and hopefully to resolve their disputes is vitally important work. Otherwise, people will take the law into their own hands, which is of course never likely to end well.
- 9 The work that each of you does requires not just legal competence but so much more: a high degree of empathy and emotional intelligence as well as the ability to communicate with clarity. These are skills which facilitate meaningful access to justice and they require human beings with emotional and not artificial intelligence.
- 10 I am not out to bash artificial intelligence although, as many of you will know, probably more than most judicial leaders, I take a cautious and conservative view about its use in the legal profession and in particular by the judiciary. If it

can be harnessed to improve access to justice, then it should be so harnessed and I will say a little bit more about that later.

- 11 But I will make this opening point. Many of those who heavily promote the use of AI use, as a standard part of their response to criticisms, that whatever the problem might be, there's no cause to worry because there will be "a human in the loop". Some of you may have heard or read of this expression. It is not one that I like, particularly when applied to the legal profession. That is so for a number of reasons.
- 12 First, it seems to reduce the human to something of a bit player. Humans should continue to play the central role in the administration of justice. Secondly, the expression refers to "a human", not a series or group who learn and benefit from each other and who feel part of a serious profession. Third, call me old-fashioned but, given that the vast majority of claims dealt with in our courts involve human beings, human beings should also be involved in their resolution, including to bring those distinctly human skills of empathy and emotional intelligence to bear. But a bit more of that later.
- 13 Throughout my term as Chief Justice, I have sought to emphasise the importance of lawyers feeling not only part of a profession but *belonging* to that profession which has shared values, high ethical standards and a strong sense of community, and is one whose members take pride in their work. Professional collegiality requires genuine interaction between lawyers who learn from each other, are mentored and who in turn mentor new lawyers and share experiences, knowledge and wisdom. This is one of the reasons I have strongly cautioned the profession against falling into the habit of working from home too frequently. That breeds isolation and undermines community.
- 14 The nature of the legal profession in New South Wales is changing quite radically and is very different from when I started practice. About two thirds of solicitors under the age of 40 are now female and, from the more than 50 admission ceremonies on which I preside each year, my feeling is that the ratio of females to males being admitted is now at 70:30.

- 15 Another striking aspect of those ceremonies is the ethnic diversity of newly admitted lawyers. It is striking and, as I say in admission ceremonies:

“diverse representation amongst solicitors, advocates and judges assists in ensuring that *all people* who become involved in our justice system, whether voluntarily or involuntarily, can (and feel that they can) be properly heard and fairly engaged with by a system reflective of our broader community and a judiciary educated in, and sensitive to, the many different cultural strands which contribute to the rich fabric of our society in New South Wales.”

- 16 There is scope for optimism, in my view, as to the state of the legal profession in New South Wales. One of the reasons for that assessment is the quality and commitment of the many lawyers who work in or aspire to work in the “legal assistance sector” which comprises Legal Aid NSW, as well as some 165 Community Legal Centres, the Women’s Legal Service NSW, Aboriginal and Torres Strait Island Legal Services and numerous Family Violence and Prevention Legal Services.²
- 17 While each has their own governance structure, client focus and form of service delivery, they all share a common goal of “providing free and accessible legal assistance to people who cannot afford private legal services”, especially those groups characterised by structural disadvantage, vulnerability and marginalisation.³
- 18 Such work also assists in fostering an understanding amongst the public that lawyers are connected to and in touch with the many day-to-day issues faced by litigants across the spectrum of the society from which they draw an understanding of human nature, compassion, respect and empathy and an informed appreciation of systemic social problems.
- 19 Such raw engagement with the community was perhaps on display more than ever when, within days of the Bondi Terror Attack, lawyers from the Disaster Response Legal Service (DRLS) were on the ground providing face-to-face

² C Hastings, A Cotterell and F Bruce, “Artificial Intelligence and Access to Justice at the ‘Shop Front’: The Potential and Limitations of Meeting Legal Need Through Technology” (2026) *Australian Journal of Social Issues* (forthcoming) at 2.

³ Ibid.

legal support at the Bondi Community Support Hub on legal issues such as applications to the Victims Support Scheme, government disaster grants, workplace rights, financial hardship, eligibility for other support schemes, insurance claims, wills and estates, superannuation and tenancy. Such work does a great service to the profession and the community more generally and we owe a debt of gratitude to you.

- 20 It is also very important for a legal profession which hopes to command respect and trust within the community that it serves that those who, in the past, have been treated with the very opposite of justice by this nation's laws and legal system are assisted in seeking justice and in that context, I know that the Civil Law Division of Legal Aid has a long and proud history of championing access to justice for Aboriginal and Torres Strait Islander people, with nearly 25% of civil law service delivery being offered to those groups. In this regard I also commend Legal Aid NSW's Women's Advocacy Service and the caseworker support it provides for women in Silverwater and Willwynia Correctional Centres in partnership with the Aboriginal Legal Service.
- 21 Another marker of a healthy profession is a very strong tradition of legal professionals who devote themselves to the vital but time-consuming work of membership either of the Law Society or the Bar Association of New South Wales, as well as the many legal organisations which exist in New South Wales of which there are too many to list.
- 22 Now, notwithstanding those positive signs of good health, with the growth of "Big Law" including large law firms with truly international operations, and talk of "private equity" buying into some large firms, there is a legitimate concern that the legal profession identity as a "profession" may be diminished in the face of the "the mercantile values of ruthless self-interest"⁴ which more closely resemble those of a business. Having said that I should acknowledge that

⁴ M Kirby, "Billable Hours in a Noble Calling" in P Vout, *Law, Justice and Other Challenges* (Federation Press, 2025) at 69.

many large law firms have evinced a strong and admirable commitment to pro bono work. The Chief Justice of Singapore has recently observed spoken of:⁵

“the *commercialisation of legal practice*. In an increasingly competitive environment, law firms – particularly those that are large and financially successful – seem to be operating more like high-performing business enterprises rather than community-based purveyors of justice. Robert Giuffra, the Co-Chair of Sullivan & Cromwell LLP, summed this up in his observation that ‘there’s a trend in the profession to turn law firms into investment banks with a me culture, not a we culture.’”

His Honour then went on to refer to the rise of a special class of “superstar lawyer” in the US earning annual compensation packages in the tune of more than US\$25 million and the rise of “quiet cutting” where young lawyers are “*effectively* asked to leave their law firms without being told to do so”.

- 23 A degree of nostalgia for the “good old days” is not a new phenomenon in the legal profession. In 1904, in an address to the New York State Bar Association, one lawyer observed:⁶

“The law business is not what it used to be. The expression ‘law business’ itself marks a certain change. The business side of the profession has assumed paramount importance and the profits of the business are our most practical concern.”

- 24 One of the problems with media reports about the huge salaries and large fees charged by large firms and at the top end of the Bar is that the public readily generalises that all lawyers are self-interested fat cats. That is very far from the truth and one of my aims has been to counter such perceptions. Politicians also sometimes latch on to such perceptions.
- 25 Thirty years ago, Justice Michael Kirby, in a paper entitled “Billable Hours in a Noble Calling”, reflected on a perceived fear that “the undue emphasis on economic factors has led, in recent times, to a lessening sensitivity to, and

⁵ S Menon, “The Future of the Legal Profession: A Shared Vision” (2026) 28 *Singapore Academy of Law Journal* 1 at [15].

⁶ Kirby (n 4) at 67, citing EP White, “Changed Conditions for the Practise of the Law” (American Lawyer, February 1904) at 52.

adherence to, the old ethic and culture of professional service”.⁷ One of the points Justice Kirby made in response to that perceived fear was that:⁸

“...the revival of the public debate about what legal professional ethics should be makes it timely to urge an intensified interest in the teaching of legal ethics in law schools. I do not mean just a rudimentary training in the requirements of the local professional statute, rules of etiquette and, where applicable, book-keeping and trust account requirements, offered in a few lectures thrown in at the end of the law course. *It is a matter of infusing all law teaching with a consideration of the ethical quandaries which can be presented to lawyers in the course of their professional lives.*”

- 26 I agree with Justice Kirby in two important respects. First, the practical and ethical legal training of our young lawyers is a critical component in developing a healthy legal profession and I will shortly address you on the reforms to Practical Legal Training (**PLT**) which are underway and which have important implications for lawyers in the public sector including those of you working at Legal Aid.
- 27 Secondly, and relatedly, ethical considerations lie at the heart of the distinction between a profession and a business. One of my greatest concerns at the present concerns the rise of Gen AI in the legal profession and that such technology lacks any ethical foundation. In my view, amidst the growing choir of voices calling for AI to be incorporated in the legal assistance sector to propel access to justice, such calls must be tempered or at least must engage with that lack of ethical foundation.
- 28 I would add one final point by way of opening. In the face of the reality that large firms typically have far greater funding and access to resources than the legal assistance sector, what must be avoided is the emergence or, perhaps more accurately, the extension of a “tiered system of justice” whereby the legal system treats people differently based on their wealth, power, or social status. That requires vigilance from actors all across the legal hierarchy and especially in the areas of PLT and Gen AI.

⁷ Kirby (n 4) at 62.

⁸ Ibid at 69.

Practical Legal Training

- 29 Some of you may have been present at the Opening of Law Term dinner in early February 2025 when I delivered a speech entitled “Present and Future Challenges to the Rule of Law and for the Legal Profession”.⁹ That speech covered a range of topics but finished with the topic of PLT. It focussed, in particular, on the costs of PLT which had increased in 2024 to a level that I considered unacceptable and as creating a real barrier to entry to the legal profession, to the particular disadvantage of those who wished to work in the public sector where the possibility of subsidy by current or future employers was not available. In New South Wales, by far the dominant PLT provider is the College of Law which offers a Graduate Diploma of Legal Practice.
- 30 Not only were the fees way too high but the difference was exacerbated by the fact that graduates in large commercial law firms were having their fees subsidised as an incentive to take up a position with that firm on condition that they stay for a number of years.
- 31 One of my major concerns was that the cost of the program was driving a lot of people away from working in a public sector firm or office such as Crown Solicitors, the DPP, Legal Aid, the Aboriginal Legal Service or community legal centres. It goes without saying that the administration of justice requires capable, well-motivated young lawyers like those in the audience today in publicly important roles.
- 32 Since the speech, a great deal of work has been done in the review and reform of PLT, thanks largely to the very hard work of many but Justice Tony Payne, the Presiding Member of the LPAB, Justice Jeremy Kirk, Emeritus Professor Michael Quinlan and Wen Ts’ai Lim in particular. That work included a survey conducted on behalf of the LPAB of graduates and supervisors in relation to their experiences of PLT, the results of which were released on 14 April 2025,

⁹ A S Bell, “Present and Future Challenges to the Rule of Law and for the Legal Profession” (Opening of Law Term Dinner Address, 6 February 2025).

to members of the Law Society, PLT providers and the Deans of NSW law schools.

- 33 In the course of the consultation period, the LPAB met with legal practitioners from regional and rural NSW, from smaller firms, with the large law firm group, public sector lawyers including Crown Solicitors, the Commonwealth and State Directors of Public Prosecution, the Australian Government Legal Service (AGLS), Redfern Legal Centre as well groups of recent PLT graduates, suburban lawyers, NSW Law Schools and all existing and proposed PLT providers in NSW.
- 34 The LPAB also met with six lawyers working with Legal Aid NSW.¹⁰ These lawyers did not consider PLT to be assisting entry level lawyers starting at Legal Aid. One noted that “[f]or someone starting at Legal Aid, it is really no different whether they are straight out of university or have done PLT. PLT doesn’t add much value in terms of advancing people actually going into practice”. The Legal Aid Lawyers thought that if PLT were to continue it might be divided into streams representative of different careers and wondered if PLT could be dispensed with by incorporating practical content in law degrees. There was general agreement that more training post-admission would be sensible. There was also general agreement that PLT needed to change and become shorter and that more CDP in the first two years would be more sensible.
- 35 I am pleased to say most of these recommendations were picked up in the Discussion Paper on PLT Reform released by the LPAB in September 2025 which set out the LPAB’s currently preferred approach to PLT and invited further submissions from the profession.¹¹ I should add that the College of Law has worked and continues to work collaboratively with the LPAB in addressing the cost and quality of the current PLT offering.

¹⁰ Discussion Paper on PLT Reform (Legal Profession Admission Board of New South Wales, 30 September 2025) at 152-3, available online at <https://lpab.nsw.gov.au/documents/policy-documents/PLT_Discussion_Paper.pdf>.

¹¹ Discussion Paper (n 10).

- 36 As to fees, the first point to note is that, following a discussion in late 2024 with the College of Law, there has been a significant reduction of fees charged by the College of Law to \$9,200 for a base course including 75 days' work experience.
- 37 One of the things I'm most pleased about what has been achieved in the PLT space is a further 50% drop in the cost of PLT for people working in the public sector. Indeed, since 1 March 2025, the College of Law has offered unlimited bursaries to persons employed in the community justice sector, legal aid offices, indigenous legal services and Offices of the Director of Public Prosecutions covering one half of the PLT fee. The LPAB is continuing to engage with the College, a not-for-profit organisation, about the appropriate use of its accumulated retained earnings which are approximately \$200 million in the interests of lowering barriers to entry to new members of the profession, and enhancing the quality of instruction for all.
- 38 The preferred PLT reform program envisioned by the LPAB comprises three stages with the first stage being at university law school level and the final stage being *post-admission* training. Practical legal training can and should begin at university, be followed by a capstone course of practical training and continue after admission to practice.
- 39 As to the *first stage*, practical legal training can and should begin at university. Admissions standards *stipulate* that law degrees meet requirements known as the "Priestley 11". This calls for the teaching of 11 disciplines although not necessarily in 11 separate courses. A number of these 11 disciplines have or include a strong practical component and are replicated in or overlap with aspects of PLT programs such as that provided by the College of Law. These are: a basic knowledge of the principles relating to the holding of money on trust; civil litigation; property; contract and company law; administrative law; criminal law and procedure; and ethics and professional responsibility.
- 40 A number of these subjects may be taught at a purely theoretical level, but a number of them are self-evidently practical in nature such as civil litigation and

criminal procedure; and others, such as ethics and professional responsibility, assume their relevance in a practical context.

- 41 The extent to which universities currently emphasise practical aspects of all of these subjects in their teaching varies significantly between New South Wales law schools. Experience dictates, however, that, very often, teaching legal principle in a practical context brings what may be an otherwise dry subject alive. A large number of law schools are enthusiastically embracing the adoption of a greater emphasis on practical elements in the teaching or their curricula.
- 42 Turning to the *second stage*, the survey of the profession revealed a high, albeit not universal, dissatisfaction with what was currently on offer under the system of PLT: its cost, length and quality including the predominant online, non-personal mode of teaching (which is in part a hangover from the pandemic).
- 43 The structure of PLT as it currently exists, as you likely are aware, comprises a skills component, three compulsory practice areas, two optional practice areas, and a work experience component which involves a minimum of 15 days' work experience but, for most who undertake PLT, the requirement is 75 days. Work experience obtained prior to completion of a law degree is currently not permitted to be counted. In addition, while some work experience may be paid, that will often not be the case and, whether paid or not, the quality of the work experience is variable, and difficult to monitor and guarantee.
- 44 One of the issues I have pointed out with the current PLT offering is its suitability in terms of its structure and scope in view of the increasingly varied nature of the legal profession. Take, for example, trust accounting. The vast majority of lawyers entering practice will never run their own firms and, perhaps more importantly, will not do so in their early years of practice, and cannot do so while they remain under supervision. Receipt of client funds, moreover, is unlikely to arise for lawyers working for government bodies, in-house, or, as you know, for those working in Legal Aid. Training in relation to trust accounts is more

appropriately required as and when a practitioner seeks to be authorised to run their own practice.

- 45 The Survey and extensive consultations that have been undertaken suggest that what is desirable is a capstone program or course of a shorter 3 week duration which is taught in person and focuses on core skills for lawyers relevant at all levels of practice. Such a course would be directed to minimum common basic skills, including training in basic legal tasks such as taking instructions, interviewing possible witnesses, dealing with colleagues, writing client advices, researching the law, making file notes and making written and oral presentations.
- 46 The precise design of such a capstone course is the subject of further and ongoing work including at a national level but it would be complemented by a continuing requirement for 15 days work experience but with the important qualification that, subject to satisfactory certification, work experience undertaken during university studies such as paralegal work, summer clerkships, internships or community legal centre work would be able to be counted to discharge this component of any course. Already in NSW, the in-person component of PLT has been trebled, with conspicuously increased satisfaction from students and faculty alike.
- 47 This brings me to what might be thought of as the *third stage* of a re-imagined PLT, that is, *post-admission* PLT or “PALT”.
- 48 Nobody could sensibly suggest that training can and should end upon admission to practice. The practice of the law competently entails a combination of technical ability and experience. Learning is continual. Moreover, practical legal training might well be thought to be more meaningful to a young lawyer once he or she has commenced practice and is encountering practical challenges on a daily basis in the real world and in real time, working with and hopefully being mentored by more senior lawyers. What might be theoretical pre-admission is likely to be at least more relatable to a young lawyer once in practice.

- 49 Under a re-imagined PALT suggested by the LPAB, a number of components of training would be removed from the pre-admission shorter capstone course but would re-enter the landscape post-admission by the introduction of a practicing certificate requirement for lawyers in their first two (or maybe three) years of legal practice to undertake 15 hours of in-person practical legal training per year.
- 50 The notion would be that specialist day-long in-person courses of 7.5 hours would be developed and offered in a wide range of practice areas to young lawyers working under supervision. These courses could be chosen by the newly admitted lawyer, in association with their supervising lawyer, according to their areas of professional involvement and interest and the needs of their firms or organisations. Already significant work is being undertaken by Justice Payne in conjunction with the Law Society of New South Wales to develop pilot PALT programs in the areas of family law, wills and estates, First Nations justice, commercial law and criminal law, the latter course with valuable input from both Legal Aid and the ODPP.
- 51 There is still scope for further refinement, but my hope is that there are a range of points from what I have addressed above which should hopefully encourage more young lawyers to work in the public sector including Legal Aid. Apart from the lowering of the headline costs and the bursaries for those working in the public sector, another factor is that the costs of attending the re-imagined postadmission training modules would be tax deductible for practitioners, and also allow the overall cost of PLT to be spread over a number of years.
- 52 Further, those having to work in legal aid will not have to spend time and money studying courses like trust accounting with little to no overlap with their daily work, hopefully leading to more competent solicitors starting out in the profession.

Artificial Intelligence and Access to Justice

- 53 Since November 2022, just under four years ago, when ChatGPT first emerged publicly, there has been a growing choir of voices calling for the widespread

adoption of AI within the legal system, including the legal assistance sector, with the aim of improving access to justice. Professor Richard Susskind, President of the Society for Computers and Law (SCL), Special Envoy on Justice and AI to the Commonwealth Secretary-General, and the former Technology Adviser to the Lord Chief Justice of England and Wales, observed in 2023 that:¹²

“Today, less than 3 per cent of British people are effectively excluded from the internet, whereas the majority of citizens in England and Wales are unable to afford most of lawyers and the courts. The good news, as I have for long claimed, is that technology will be pivotal in overcoming many of the growing problems of access to justice.”

- 54 Artificial intelligence has been described as a “game changer” which promises to “cut costs, boost efficiency, and make legal knowledge more accessible” as well as being “not merely a tool for well-resourced law firms but a mechanism to extend meaningful legal assistance to underserved populations”.¹³ Simply put, the contention is that AI “will democratise access to the law” by lowering costs and lessening dependence on human lawyers.¹⁴ One of the thought-leaders in this area is the Master of the Rolls, Sir Geoffrey Vos, who in the recent John Lehane Memorial Lecture in the Banco Court expressed the view that:¹⁵

"I believe that lawyers and judges have no choice but wholeheartedly to embrace and adopt the use of artificial intelligence so as to make their work outputs more efficient, cost-effective and more quickly deliverable. This is all about access to justice and ensuring that the law remains relevant to the new generation of litigants and businesses brought up on social media and AI."

- 55 Some commentators and judges have gone as far as to suggest that AI will give a “leg up”, so to speak, to smaller law firms, community legal centres or legal aid organisations because the technology will act as a kind of equaliser for what

¹² R Susskind, *Tomorrow's Lawyers* (Oxford University Press, 3rd ed, 2023) at 138.

¹³ R White, “The Promise and the Perils of AI in Access to Justice” (2026) 38(2) *Journal of the American Academy of Matrimonial Lawyers* 507 at 508.

¹⁴ E Stanford and C Kerrigan, “LegalTech and Law Firms” in *Artificial Intelligence: Law and Regulation* (Edward Elgar Publishing, 2nd ed, 2025) at 974.

¹⁵ Sir Geoffrey Vos MR, “The Implications of the Development of Artificial Intelligence on the Judiciary and the Legal Profession” (John Lehane Memorial Lecture, 18 August 2026, Supreme Court of New South Wales) at [15].

has historically been a mismatch in personnel, resourcing and financial capacity. Thus, Professor Martin Ebers has expressed the view that:¹⁶

“... LLMs have the potential to produce output that is more consistent and coherent, compared to humans. Given that the use of LLMs can compensate for a lack of personnel and financial capacity, smaller law firms now have the opportunity to compete with larger law firms.”

- 56 The Chief Justice of the United States, Chief Justice Roberts, made a similar point as part of his 2023 *Year-End Report on the Judiciary*.¹⁷

“For those who cannot afford a lawyer, AI can help. It drives new, highly accessible tools that provide answers to basic questions, including where to find templates and court forms, how to fill them out, and where to bring them for presentation to the judge — all without leaving home. These tools have the welcome potential to smooth out any mismatch between available resources and urgent needs in our court system.”

- 57 There is an undeniable attraction to this argument. Even at this early stage of the technology, it is clear that Gen AI may perform some of the work currently performed by junior lawyers¹⁸ and indeed has various, well-documented usages within law firms including assisting with case management, legal research and drafting, document review and production, selecting suitable experts, counsel and arbitrators, transcription and translation services, document review, internal knowledge and communication management, outcome prediction and settlement proposals.

- 58 One might imagine that AI is particularly well suited to smaller law firms or legal aid bodies, given such bodies often deal with “low value and low-intensity

¹⁶ M Ebers, “LawGPT: LLMs under Legal Services” in M Zou et al, *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) at 430-1.

¹⁷ The Hon J G Roberts, *2023 Year-End Report on the Federal Judiciary* (Report, 2023) at 5-6, available online at <<https://www.supremecourt.gov/publicinfo/year-end/2023year-endreport.pdf>>.

¹⁸ Stanford and Kerrigan (n 14) at 975, citing L Beveridge, “‘ChatGPT Already Outperforms a Lot of Junior Lawyers’: An Interview with Richard Susskind”, *Law.com International* (online, 2 March 2023) available online at <<https://www.law.com/international-edition/2023/03/02/chatgpt-already-outperforms-a-lot-of-junior-lawyers-an-interview-with-richard-susskind/>>.

proceedings” which are high in volume, and thus an obvious target for digital solutions.¹⁹

- 59 That is all well and good *but*, as I will seek to explain, it all depends on *access to the technology*, and, I should emphasise, *equal access* because otherwise AI has the potential to have the opposite effect: namely, it may create a “digital divide” between the large law firms and the rest of the legal services sector “where only large law firms can afford to invest in the best new tools, licenses and ongoing training required to deliver value”.²⁰
- 60 I fear such a divide is already developing. We are seeing in real time the development of *two tiers of Gen AI within the legal sector*: those “mainstream” LLMs which are publicly available, such as Claude, ChatGPT, Google or CoPilot, and those “specialised” LLMs, such as Harvey or Legora, developed by large tech companies and to which large law firms subscribe. The latter tier is characterised by greater safeguards in terms of the integrity of the underlying data which leads to greater accuracy and reliability in terms of the quality of the output. Also in the second, more advanced tier, are what we might call “bespoke” AI programs which are developed in-house by large law firms, trained on their data, and tailored to befit the needs of their commercial clientele.
- 61 Stepping back for a moment, the integration of Gen AI in the legal assistance sector may be divided into two categories. First, Gen AI programs may be used to augment the work of lawyers to free up human capital which can then be allocated to assisting other litigants in need of legal aid or working on more complex or onerous cases. No doubt this is already occurring to an extent but predominately with free, publicly available, what I call “mainstream” LLMs.

¹⁹ V Tan, J Marie Paterson and J Webb, “Generative Artificial Intelligence in Small Value Consumer Claims: Hallucination Risk, System Design, and Governance in Online Dispute Resolution” (2025) 48(4) *University of New South Wales Law Journal* 1257 at 1269. See also Hastings, Cotterell and Bruce (n 1) at 2.

²⁰ Stanford and Kerrigan (n 15) at 975.

62 Second, litigants themselves can access these LLMs at various stages of the dispute resolution process to better understand their legal rights and obligations as well as the procedural aspects of the criminal and civil justice systems. Put simply, “chatbots or virtual assistants can help people navigate the legal system, answer their legal questions and provide them with legal advice.”²¹ This is also undoubtedly occurring and there was a recent Australian case which received some publicity where a computer-science lecturer used AI agents to run a successful case against real lawyers in the Fair Work Commission.²² So too have litigants been recorded to have followed the advice of AI in a way that has ultimately led them down incorrect or illegal paths and exposed them to liability.²³ Sir Geoffrey Vos has said that:²⁴

“it is the case, whether we like it or not, that every litigant, whether a consumer or a business, in fact feeds their legal problem into Claude, ChatGPT, Google or CoPilot before they ever contemplate consulting a lawyer. And many, if not most, lawyers do the same, using mainstream LLMs or Harvey or Legora or other specialised LLMs according to their means and their need to maintain their clients’ data confidential.”

63 That may be so but the key point for present purposes is not the generic use of AI, but *which* AI program is being used and by whom. A range of observations may be made which serve to highlight a growing divide between large law firms and the “legal assistance sector”.

64 *The first point and most obvious point is one of cost.* There is no doubt that “developing, refining, and deploying” bespoke LLMs trained on the firm’s database and tailored to their needs requires significant investment which many smaller law firms, as well as legal aid commissions, community legal centres and other public legal firms or offices simply cannot afford.²⁵ There is also the question of ongoing subscription costs. Nor is this a matter which may be easily

²¹ D Charlotin, “Large Language Models and the Future of Law” (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4548258.

²² E McGrath-Cohen, “Only One Type of Lawyer Will Survive the AI Wipeout”, *Australian Financial Review* (online, 20 August 2026), available online at <<https://www.afr.com/work-and-careers/workplace/judges-may-be-the-only-survivors-of-law-s-ai-carnage-futurist-20260819-p60pla>>.

²³ *Fortis Advisors, LLC v. Krafton, Inc* 2025-0805-LWW; *In the matter of Lanmar Pty Ltd (No 2)* [2026] NSWSC 800.

²⁴ Vos (n 15) at [22].

²⁵ Ebers (n 16) at 434

resolved with relatively minor additions in government funding. The scope of investment by the large law firms is huge as there has been a “technological arms race”²⁶ among certain global law firms in tech spending and knowledge management tools many of which are bolstered by AI technology.²⁷

- 65 In terms of subscriptions to bespoke legal Gen AI tools, there have reportedly been a “roster of global law firms” competing to be prospective clients of particular technology companies offering these products,²⁸ and one Silicon Valley AI start-up is reported to have signed up a third of Australia’s “top-tier firms” to an AI technology which “provides instant analysis and data processing for lawyers”.²⁹ Further, two top-tier Australian law firms have reportedly announced the development and use of an in-house chatbot to assist lawyers

²⁶ Thomson Reuters Institute and Center on Ethics and the Legal Profession at Georgetown Law, *2026 Report on the State of the US Legal Market: Peak prosperity and the fault lines below* (Report, 2026) at 11: “The current boom in legal demand has masked an arms race that’s consuming cash at breathtaking speeds. The average law firm’s spending on technology and knowledge management tools has grown an astonishing 9.7% and 10.5%, respectively, over the already record growth of 2024. With both categories enjoying a 7-percentage point increase above core inflation, 2025 has seen the most rapid real growth in these expense categories likely ever experienced. And the tech revolution this time around isn’t the gentle cycle that law firms experienced when online research replaced sprawling legal libraries or when email supplanted fax machines. Such changes streamlined workflows but left the fundamental practice of law untouched.”

²⁷ A Thomson Reuters survey of Australian law firms conducted in July 2023 found that 15% were using Gen AI and 27% were considering using it, but by 2025, the Thomson Reuters global report on GenAI in professional services reported an upswing of 41% in use by individuals and 55% optimism about its future benefits: Tan, Marie Paterson and Webb (n20) at 1262, citing Thomson Reuters, *Tech, AI and the Law 2024: Australian Edition* (Report, October 2024) at 3; Thomson Reuters, *2025 Generative AI in Professional Services* (Report, 2025) at 3 (‘2025 Generative AI in Professional Services’). See also Centre for Artificial Intelligence and Digital Ethics, *AI in the Law: SnapShot 2024* (Report, 30 July 2025) <<https://www.unimelb.edu.au/caide/research/caide-law/technology-in-the-law-snapshot-reports>>.

²⁸ See S Merken, “Legal AI Race Draws More Investors as Law Firms Line Up”, *Reuters* (27 April 2023), available online at <www.reuters.com/legal/legal-ai-race-draws-more-investors-law-firms-line-up-2023-04-26/>.

²⁹ See D Swan, “From Hallucinations to High Court: Can AI Administer Justice” (Sydney Morning Herald, 13 September 2025), available online at <<https://www.smh.com.au/technology/from-hallucinations-to-high-court-can-ai-deliver-justice20250909-p5mtpi.html>>.

with routine tasks, research and drafting.³⁰ Many top-tier law firms have implemented a combination of “specialised” and “bespoke” AI models.³¹

66 Investment extends beyond the *development of or subscription to LLMs* and it has been reported that large law firms also directed resources towards adopting a range of other “future-proofing” initiatives including “investing in robust internal training programmes that enhance digital literacy and AI competencies among legal professionals; investing in scalable, secure technology infrastructures; regularly auditing AI tools for performance and compliance; and remaining attentive to emerging regulations and standards”.³² Enhancing digital literacy requires investment in training programs and initiatives which drive engagement.³³ MinterEllison, for example, in June this year, appointed a “Chief AI Officer” and has an “AI Accelerator program” to embed AI-enabled workflows across its teams.³⁴ AI use has also been incorporated within the firm as a key performance metric.³⁵

67 *Second*, while it is true that it has proven difficult to distinguish between the *accuracy* of the outputs of bespoke or specialised LLMs when compared to the mainstream, off-the-counter-variety,³⁶ conventional wisdom suggests the

³⁰ Tan, Marie Paterson and Webb (n 19) at 1262, citing Noah Yim, “Australia’s Biggest Law Firm, MinterEllison, is Using a Version of ChatGPT for Its First Draft of Some Legal Advice”, *The Australian* (online, 4 December 2023), <<https://www.theaustralian.com.au/nation/australias-biggest-law-firm-minterellison-is-using-a-version-of-chatgpt-for-its-first-draft-ofsome-legal-advice/news-story/517fe2e4ea2371b62ac69ce75aecd66a>>; Allens, ‘Allens Launches Enterprise Version of ChatGPT, Airlie’ (Web Page, 18 August 2023) <<https://www.allens.com.au/insights-news/news/2023/08/allens-launches-enterprise-version-of-chatgpt-airlie/>>.

³¹ MinterEllison, “MinterEllison appoints Chief AI Officer” (Web Page, 18 June 2026), available online at <https://www.minterellison.com/articles/minterellison-appoints-chief-ai-officer>.

³² J Drevikovsky, “Law Firms Talk a Big Game on AI. Here’s How They Actually Use It”, *Australian Financial Review* (online, 2 July 2026), available online at <<https://www.afr.com/companies/professional-services/law-firms-talk-a-big-game-on-ai-here-s-how-they-actually-use-it-20260612-p606dp>>.

³³ *Ibid*.

³⁴ MinterEllison (n 31).

³⁵ E Tadros, “MinterEllison Sets Target of 80pc Using AI by March”, *Australian Financial Review* (online, 16 December 2024), available online at <<https://www.afr.com/companies/professional-services/minterellison-sets-target-of-80pc-using-ai-by-march-20241207-p5kwwk5>>

³⁶ Ebers (n 16) at 431-2.

former are less likely to hallucinate given the more focused dataset. The UK Guidance on AI for Judicial Office Holders provides that:³⁷

“Public AI chatbots do not provide answers from authoritative databases. They generate new text using an algorithm based on the prompts they receive and the data they have been trained upon. This means the output which AI chatbots generate is what the model predicts to be the most likely combination of words (based on the documents and data that it holds as source information). It is not necessarily the most accurate answer.”

- 68 The better and less controversial point is that bespoke or specialised LLMs are, by definition, likely to be more *tailored* to the specific needs of their clients and that is a considerable advantage as compared to mainstream LLMs. The lack of tailoring of mainstream LLMs makes them inapt tools for advising marginalised groups with “intersecting identities, needs, strengths, and vulnerabilities”. Proper service of regional and marginalised communities requires a response which is “appropriately responsive and differentiated”.³⁸ Even if Legal Aid bodies did have access to specialised LLMs, such models are likely trained to be available to wealthier providers with corporate clients with different incentives.
- 69 *Third*, the quality of the output of Gen AI models is at least in part a function of the skill and preexisting knowledge of the user. I refer to “skill and knowledge” in both a legal and technological sense, and in both areas there will be considerable difference between the average lawyer in a large law firm, who has benefitted not only from legal study and experience but also training with AI technology, and the kinds of vulnerable litigants who are the traditional clientele of Legal Aid. That is wholly consistent with my experience dealing with self-represented litigants using AI in the New South Wales Court of Appeal, and anecdotal experience from other judges, which suggests that many proponents of AI-generated arguments do not understand the nature of the output they are reproducing.³⁹ Self-represented litigants are said to be particularly vulnerable

³⁷ UK Courts and Tribunals Judiciary, “Artificial Intelligence: Guidance for Judicial Office Holders” (31 October 2025) at 4, available online at <<https://www.judiciary.uk/wp-content/uploads/2025/10/Artificial-Intelligence-AI-Guidance-for-Judicial-Office-Holders-2.pdf>>.

³⁸ Hastings, Cotterrell and Bruce (n 2) at 10-11.

³⁹ See, eg, *May v Costaras* [2025] NSWCA 178.

to the misuse of GenAI, owing to a lack of ‘alternative sources of legal information’ which makes the technology both (a) attractive and (b) difficult to verify.⁴⁰ Even if it is the legal aid lawyers rather than the litigants using the AI, there is unlikely to be the requisite human resourcing to ensure the verification which is necessary and which courts and Practice Notes demand.

- 70 As for technological skill, it is again unlikely that untrained users will be able to enter appropriate prompts into AI chatbots and will therefore be especially vulnerable to the twin phenomena of AI sycophancy⁴¹ and seduction coupled with “dashboard myopia”.⁴² This is made more difficult by the apparent confidence of Gen AI responses and the equanimity with which such confident responses may be immediately changed, withdrawn or substantially qualified when challenged. It has been said:⁴³

“...the quality of outputs produced by LLM-based chatbots depends on the quality of the prompts – inputs – provided by the user. Yet clients who ‘utilise legal self-help tools may lack a legal background and therefore have difficulty articulating their situation clearly’; indeed, ‘[i]n some cases, they may not even be sure what type of legal information they need’. This means that even if the model were trained on reliable data, it is not guaranteed that it will generate relevant information.”

- 71 *Fourth*, there is a problem of digital exclusion, which includes the lack of *access to* and a lack of *trust of* technology. Dealing first with the issue of access, “limited internet access and algorithmic literacy among low-income individuals could further hinder their access to innovative legal services.”⁴⁴ According to the Victorian Law Reform Commission:⁴⁵

⁴⁰ M Legg, V McNamara and A Alimardani, ‘The Promise and the Peril of the Use of Generative Artificial Intelligence in Litigation’ (2025) 48(4) *University of New South Wales Law Journal* 1196 at 1198.

⁴¹ See M Cheng et al, “Sycophantic AI Decreases Prosocial Intentions and Promotes Dependence” (2026) 391 (6792) *Science*.

⁴² J Armour and H Eidenmüller, “Self-Driving Corporations?” (2020) 10 *Harvard Business Law Review* 87 at 101.

⁴³ W Cesta, “Large Language Models and Community Legal Centres: Could Chatbots Help Reduce Australia’s Justice Gap” 49 (3) (2024) *Alternative Law Journal* 181 at 184.

⁴⁴ C Chien and M Kim, “Generative AI and Legal Aid: Results from a Field Study and 100 Use Cases to Bridge the Access to Justice Gap” (2025) 57 (4) *Loyola of Los Angeles Law Review* 903 at 917.

⁴⁵ Victorian Law Reform Commission, *Artificial Intelligence in Victoria’s Courts and Tribunals: Consultation Paper* (Consultation Paper, October 2024) at 80 [6.37].

“There is a digital divide between First Nations and non-First Nations people, and between capital cities and other parts of the country. In a study of digital exclusion, those who are ‘highly excluded’ were found to be more likely than others to have a disability, live in public housing, not have completed secondary school, or be aged over 75. The principle of access to justice needs to balance gains from efficiency and increased accessibility with not undermining inclusion.”

- 72 Many clients of legal aid may also be distrusting of technology.⁴⁶ Sometimes for good reason. It is well-documented that mainstream LLMs trained on huge amounts of data during a (largely unsupervised) training process are vulnerable to bias. AI-driven tools for bail and sentencing have been found to “frequently replicate or exacerbate existing biases, especially when their underlying training data incorporate historical inequities.”⁴⁷ A growing body of research has also identified that Gen AI outputs around non-Western cultural contexts entail “superimposed Western interpretations of those contexts”.⁴⁸ Incorporating these biases into the legal aid arena without proper verification risks digitalising discrimination.
- 73 Amidst concern about cost, ongoing subscriptions, and reliability, there is one great beacon of hope. That is that AustLII, that wonderful organisation which has provided free access to a wide range of published legal databases for both the profession and the public for more than 30 years, is able to develop a free, high-quality legal-specific AI platform for Australian law. Prototypes are being developed in that regard by the very dedicated and brilliant staff of AustLII in this regard, and, if successful, this could be a game-changer in ameliorating the digital divide I have referred to.
- 74 *Finally*, and perhaps most importantly, one of my greatest concerns about the rise of AI in the legal profession looking to the future is that it lacks any ethical foundation. Such a foundation is central to our very conception of a legal *profession*. That is why lawyers must undertake ethical training as an element

⁴⁶ Cesta (n 43) at 185.

⁴⁷ *Ishfaq Ahmed v. Mushtaq Ahmed* C.P.L.A. No. 1010-L/2022 at 12-13.

⁴⁸ M Lou and E Lefley, “Chapter 25: Generative AI and Article 6 of the European Convention of Human Rights” in M Zou et al (n 16) at 465, citing D M Kotliar, “Data Orientalism: On the Algorithmic Construction of the Non-Western Other” (2020) 49 (5) *Theory and Society* 919.

of their professional qualifications and as a condition of their right to practice law. A genie that appears to have escaped from the bottle lies in the fact that many AI platforms being used and promoted by law firms are essentially practicing law without a licence.⁴⁹

75 None of that is to undermine the development of AI programs designed especially for the legal assistance sector and in fact such programs may be useful means of countering the “digital divide” or tiered system of justice which I have just addressed. Not-for-profit legal service “Justice Connect” offers streamlined online intake and triage services by “sorting enquiries, directing people quickly to the right service, improving referral accuracy through consistent issue identification and helping people reach an accurate provider sooner and thus reduce ‘referral roundabout’ fatigue.” One of the services offered is that litigants are able “describe their issue in their own words” and Justice Connect AI program will suggest “the relevant legal category or categories” for them to pursue.⁵⁰

76 Another product being deployed is the “Hear Me Out” model which is tailored to assisting litigants to navigate the over 67 different complaint bodies in NSW and over 300 complaint bodies Australia-wide by “processing [users’] input to identify the nature of their issue and directing them to the most appropriate complaints body or process ... outlining their options and providing actionable guidance on the next steps”.⁵¹

⁴⁹ See M Ebers (n 16) at 436: “The more sophisticated applications become, the more difficult it is to draw a sharp line between legal information and advice, between standardized and tailored forms of communication, and between products and services. As software companies increasingly offer applications that can be used for legal purposes, it becomes very likely that this will cross into the territory of providing legal advice. Against this background, state bar associations and regulators all over the world have filed actions against legal tech companies for the ‘unauthorised practice of law’”.

⁵⁰ Hastings, Cotterrell and Bruce (n 1) at 6.

⁵¹ D Moutopoulos et al, “AI-Powered Platforms for Access to Justice: The Case of Hear Me Out” [2025] *UNSWLRS* 13 at 14. See also A Steele, “‘Hear Me Out’: UNSW-developed AI Tool Bringing Justice to the People Honoured with Award” (UNSW, 28 May 2025), available online at <<https://www.unsw.edu.au/newsroom/news/2025/05/Hear-Me-Out-UNSW-developed-AI-tool-bringing-justice-to-the-people-honoured-with-award>>.

- 77 Such bespoke programs are, however, relatively scarce, leaving lawyers in the third or public sector also heavily reliant on the generic or “mainstream” tools the limitations of which I have discussed in detail.

Conclusion

- 78 I mentioned at the outset of this paper that the Chief Justice of Singapore had expressed concerns about the *commercialisation of legal practice*.
- 79 I maintain that the legal *profession* in New South Wales is in relatively good shape and it is at Conferences such as this one where one is reminded that we admit young lawyers to a profession and not a business. One of the distinctions is the importance placed by the legal profession on ethical values. That includes adherence to our ethical and professional values but also, importantly, using the practice of the law to promote social change and justice and protect marginalised and disadvantaged members of our community. That very much includes the important work being done by the lawyers in the Civil Law Division at NSW Legal Aid and, as I mentioned at the outset, you should take immense pride in that.
- 80 We also have an obligation to protect the marginalised and the disadvantaged from the risk of a “tiered system of justice” in which access to the legal system is markedly different depending on wealth, access, and the nature of one’s representation. I have addressed two such threats which risk leading to a tiered system of justice. The first, PLT, has already been the subject of considerable exposure, consultation and change, headed by the LPAB. I hope, and am confident, this work will avoid a situation where young talented lawyers are disincentivised from, or disadvantaged by, work in the public sector.
- 81 The second issue relates to the risk of a digital divide in the adoption of Gen AI platforms and the vastly different infrastructure and data upon which different models rely. Work still needs to be done in this area to ensure the existing “digital divide” does not grow, leaving smaller firms and the legal assistance sector unable to keep up with the pace of change.