

Design thinking in community legal education by The Legal Forecast

1. Introduction

Good morning ladies and gentlemen.

First off, we would like to thank James Farrell and Cathy Baker of Community Legal Centres Queensland for the opportunity to speak to you all today on behalf of The Legal Forecast. The Legal Forecast is a young and growing organisation and the privilege of speaking to you all is not lost on us.

Our presentation today will provide an overview of the ways that design thinking can be utilised in community legal education as a prelude to a broader discussion of the ways technology can be utilised to enable such thinking.

I wanted to start by noting that The Legal Forecast believes that access to design thinking is of itself an access to justice issue. This statement has such complex depth that we could not attempt to cover this in our presentation today although it is important to think about as we go through this concept and its application to community legal education.

Please feel free to speak up, ask questions and make comments as we go through the presentation today. After all, one of the key elements of design thinking is collaboration and brainstorming.

If nothing else, we hope to inspire you to adopt a new way of looking at community legal education and access to justice perhaps akin to the words of Justice Kirby:

I dream of legal education in Australia which will be strengthened by an appreciation that law is not just words or rules or statutes or regulations. That law has a deeper meaning and purpose.

Unfortunately very often it is the case that law in practice falls short of Justice Kirby's ideal. Often legal issues involve complex disputes with large organisations (such as body corporates, insurance companies, and so on) and people are subject to a vast positional disadvantage in respect of bargaining power in negotiations. Our court procedures are complex and difficult to understand to the untrained.

A 2012 survey indicated that an astounding 88% of Australians were in agreement that our legal system is too complex to be understood properly. What we strike on here is that inability to access to justice is not merely an economic predisposition, nor an imbalance of social position - though undoubtedly these both contribute.

We are quite literally in the age of the information overload. How then are we as advocates of community legal education to best convey legal principles on a mass scale? Could it be the case that the next step in community legal education is something as non-traditional as 'design thinking'? That perhaps by escaping traditional legal methodology we may finally find a depth of understanding usually reserved for judicial chambers?

Our position is exactly that.

2. Design thinking explained

Before we continue further, we offer our definition of design thinking for your consideration as follows:

Design thinking is the practice of making tools, procedures and practices that have utility in solving real problems, that are user-friendly enough to be used by the ordinary citizen and which are engaging enough to capture the attention.

Fundamentally, design thinking is an articulation of a process of problem solving that is human centred. Anybody can adopt this framework. It is non-designer friendly.

You may have previously googled Design Thinking and been overwhelmed by all of the different graphs, diagrams and methodologies. This is the case because Design thinking is not dependent upon any one methodology. It has been used and adapted throughout different industries and while it can rely on technology such as algorithms, software and apps, it is not bound by them. In essence it is malleable, transformative and accessible and is as focussed on the human end user.

Design thinking allows us to merge law with other disciplines, such as behavioural economics, cognitive biases, principles of engineering, and so on. In doing so, design thinking offers us the chance to escape the legal plain and embrace creative and innovative client-centric solutions.

If we could give one piece of advice from the great minds in design thinking we have been fortunate enough to meet, it is the maxim of 'begin with the end in mind'. Who is your audience, what do they need and want and what do you want them to end up with?

It is the intention of Design Thinking that when you start this process you may not truly understand who your audience is or what they need or want. By using the tools, you may end up surprised at how those presumptions may change or narrow.

To reiterate, Design thinking is a process of reverse-engineering legal communication and accessibility to understand what we want our client to walk away knowing and to find the most efficient path of getting there.

Ultimately, it is an exercise in empathy with a bias towards action.

Key examples of design thinking include redesigning contracts to make them more engaging, prototyping new online legal platforms and designing better ways to communicate legal information. Traditionally, contracts are drafted by and for lawyers, our court systems are difficult to navigate and legal jargon renders even basic legal documents like privacy policies incomprehensible to almost all but the legally trained. As a result, the gap between legal services and the issues they are required to solve widens.

Design Thinking Process

Innovation comes from a meeting of three cornerstones:

1. Desirability;
2. Viability;
3. Feasibility;

Process to achieve these:

1. Empathise

Learn about the audience for whom you are designing. Go out into the community and discover who your audience is. Get to know them, their experiences and define their needs and wants.

2. Use your discovery to define a problem

What is the problem statement? It's important for this part of the process to be quite narrow and defined. Choose an obstacle or a challenge that is going to be more narrowly solved. All of you I'm sure have a holistic idea in your head of what the problem is. Design thinking is more valuable when you use it to make incremental changes and solve smaller challenges. It's a long term solution.

3. Ideate / brainstorm

This is where you begin to brainstorm and develop potential solutions. Working together in a team is the most effective way to come up with ideas.

4. Develop a prototype

What is your chosen tool? It doesn't have to be technology based. Prototyping is making your idea or solution tangible.

5. Test, test, test

Use your testing. If it succeeds great, if it doesn't go back and use your discovery to better define and narrow your problem. Go back to the drawing board and keep brainstorming. Work on your prototype and go back to the testing phase. Repeat these processes until you have a solution.

Is it desirable? Viable? Feasible?

As Meera Sivanathan, a legal designer currently working in Finland described it to us:

With legal design, we can change this through a human-centered approach in which the users' needs, wants and desires are first identified and then used as a basis to design and develop solutions. The result is legal information and services that are transparent, accessible, visually clearer and ... useable, understandable, useful and engaging. When applied in a strategic manner, legal design can improve performance, innovation, brand perception, audience engagement, conversion rates and many other metrics.

It is in this vein that many participants in our legal hackathon, Disrupting Law 2017, approached the issues we set before them.

3. Disrupting Law 2017

For those not already well-versed, Disrupting Law is The Legal Forecast's flagship event. It is a 54 hour hackathon style event where teams of lawyers, law firms, law students and IT professionals work together to brainstorm and create solutions to some of the law's biggest challenges. Each participating law firm takes ownership over a team and provides both mentoring support and realistic problems to consider.

While it is not the intention of Disrupting Law to focus exclusively or even particularly on design thinking, it is interesting to note how many of the ideas we saw fall within the design-thinking paradigm.

While we cannot and will not attempt to do justice to the many outstanding ideas we saw across the Disrupting Law weekend, we provide the following list by way of brief examples of design thinking in action:

- (a) DLA Piper's team invented 'Crypt-It': a blockchain based solution to evidence authenticity of original artworks and to prevent false assertions of copyright. Inherent in this idea is the end-focused outcome of ensuring that artists can take direct ownership over protecting their works in a method that is easily accessible and understandable;
- (b) LawSquared's team invented 'Rent Aware': an app facilitating tenant to landlord relationships with a focus on promoting information to avoid disputes and keep parties informed of their rights and obligations. Rent Aware is the embodiment of design thinking in recognising that legal rights only have value when the holder of those rights is properly informed of how to exercise those rights and is not unduly inhibited from doing so on the basis of ever increasing legal fees; and
- (c) McCullough Robertson's team invented 'Insight': a client portal that displays work in progress updates, billing information and task management tools for clients to access on demand. The 'Insight' team demonstrated design thinking by taking a common end-user complaint – the lack of communication from lawyers with respect to billing – and created a platform that simply allows client's to tap into the same resources and knowledge that their lawyer can access.

Apparent from these examples is the potential to conflate design-thinking with innovation. While you could be forgiven for mistaking the two they are quite different. In simple terms, design thinking enables innovation – it is the cause and innovation is the effect. Innovation is the sweet spot where desirability, viability and feasibility meet.

In May, TLF will partner with the Department of Justice and Attorney-General's office to run a hackathon in the access to justice space which will be themed around solutions to neighbourhood disputes. Students will be presented with problems faced by real-life people in neighbourhood disputes. They will be required to use design thinking processes to come up with solutions, not necessarily tech based, that are human centred and go beyond rules and regulations but also delve into social and economic issues associated with these.

4. Practical tips on design thinking

From our Disrupting Law examples, you may be wondering how such complicated or detailed ideas can be conjured out of the imagination. We assure you that while some ideas may appear out of the blue, design thinking is unique for not only providing a *method* of innovation, but providing a predictable and repeatable pattern of idea creation.

Design thinking can be applied right now to your every day legal problems without any additional resources save for a willingness to change your mindset. In that regard and to leave you with some practical tips to assist in your brainstorming sessions we offer the following shortcuts to the design-thinking mindset:

- (a) Identify your client's pain points: consider what your client is seeking out of your advice and why they have come to you in the first place. Remember that what we say is the problem is not necessarily what we mean! By beginning with the end in mind, we can tailor the advice we give and the tools we provide to assist clients in achieving what they want - not what they say they want and not what we think they should want.

- (b) Challenge your assumptions: this can sometimes prove particularly onerous a task for lawyers who were groomed in the era of 'learning to think like a lawyer'. Design thinking is as much about unlearning about what we have already learned as it is about learning anything new. While the ability to 'think like a lawyer' will likely always have its value, having the momentary ability to forget legalistic thinking for the purposes of taking an objective and top-down approach to problem-solving can sometimes prove key to innovation through design-thinking. For example, are you presupposing your advice has to be only in the form of a traditional letter of advice? Would annexing a flowchart assist a client to understand their legal problem?
- (c) Think interdisciplinary: often times the struggle we have as lawyers of narrowing in on the real issues in dispute can be the product of the paradigms and biases we bring to the table due to our experiences, representativeness and manner of thinking. Design thinking is not limited to any particular space and is free to amalgamate ideas and concepts from other disciplines. Consider your areas of expertise outside the law, or the expertise of friends and family that you could lean on in developing your new ideas.
- (d) Audience feedback: one of the sure-fire ways to learn to begin with the end in mind is to seek feedback from clients, particularly having regard to any available surveys, statistics or other verifiable data. What are the trends saying about your approach? Is it time for a shift in thinking?
- (e) Fail early and often: We encourage you not to be discouraged by a particularly large idea, or one that may require substantial harsh critique before it reaches its final form. The key is to accept that small and frequent failures are a part of the process of design thinking and that they are often of little consequence so long as you keep sunken costs low.
- (f) Visualise the issue: Design thinking offers us the opportunity to think about the way we problematise legal issues and invites us, among other things, to 'visualise the issue'. Often times design thinking is more about removing subtle obstructions in the way we think, for example, by providing ourselves the licence to undertake free-flowing mind-mapping and similar exercises to stimulate creativity. Design thinking is also about breaking legal issues down into their composite parts in order to make seemingly confusing and complicated topics simple.

5. Design thinking as a guide to technology

It is our position that if we are to truly provide access to justice, this must extend beyond mere ability to engage with legal services to the ability to *understand* legal mechanisms which it cannot do without being absorbed by its end user. As noted by Attorney-General Robert McClelland:

An effective justice system must be accessible in all its parts. Without this, the system risks losing its relevance to, and the respect of, the community it serves. Accessibility is about more than ease of access to sandstone buildings or getting legal advice. It involves an appreciation and understanding of the needs of those who require the assistance of the legal system.

Design thinking offers a solution to disengagement with the judiciary from the ordinary citizen by allowing legal professionals to reconnect with end-users in a way that is accessible, engaging and meaningful.

When it comes to ways of delivering and facilitating community legal education, design thinking can guide your choice of tools and products. Where technology

seems a desirable choice and something that we go to immediately when we are looking for innovative solutions, consider: is it desirable, feasible and viable? Design thinking may lead you to determine which digital tools to use, but it may also lead you to determine in which scenarios technology isn't the solution.

Once again, we offer our sincere thanks to Cathy, James and Community Legal Centres Queensland for the opportunity to speak with you today and welcome any questions you may have.



Design Thinking in Community Legal Education


















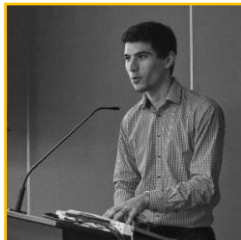











Laura Spalding
Lawyer



Daniel Owen
Lawyer

TLF - Who are we?

Lawyer	Lawyer	Student	Student	Student	Student	Graduate	Lawyer	Graduate
								
Student	Student	Lawyer	Student	Student	Student	Lawyer	Student	Tech
								
Student	Senior Associate	Lawyer	Graduate	Lawyer	Senior Consultant	Student	Student	Tech
								

Design Thinking & Access to Justice

*I dream of legal education in Australia which will be strengthened by an appreciation that law is not just words or rules or statutes or regulations. That **law has a deeper meaning and purpose.***

- Justice Kirby

To 88% of Australians, **our legal system is too complex to be understood properly.**

Design Thinking explained

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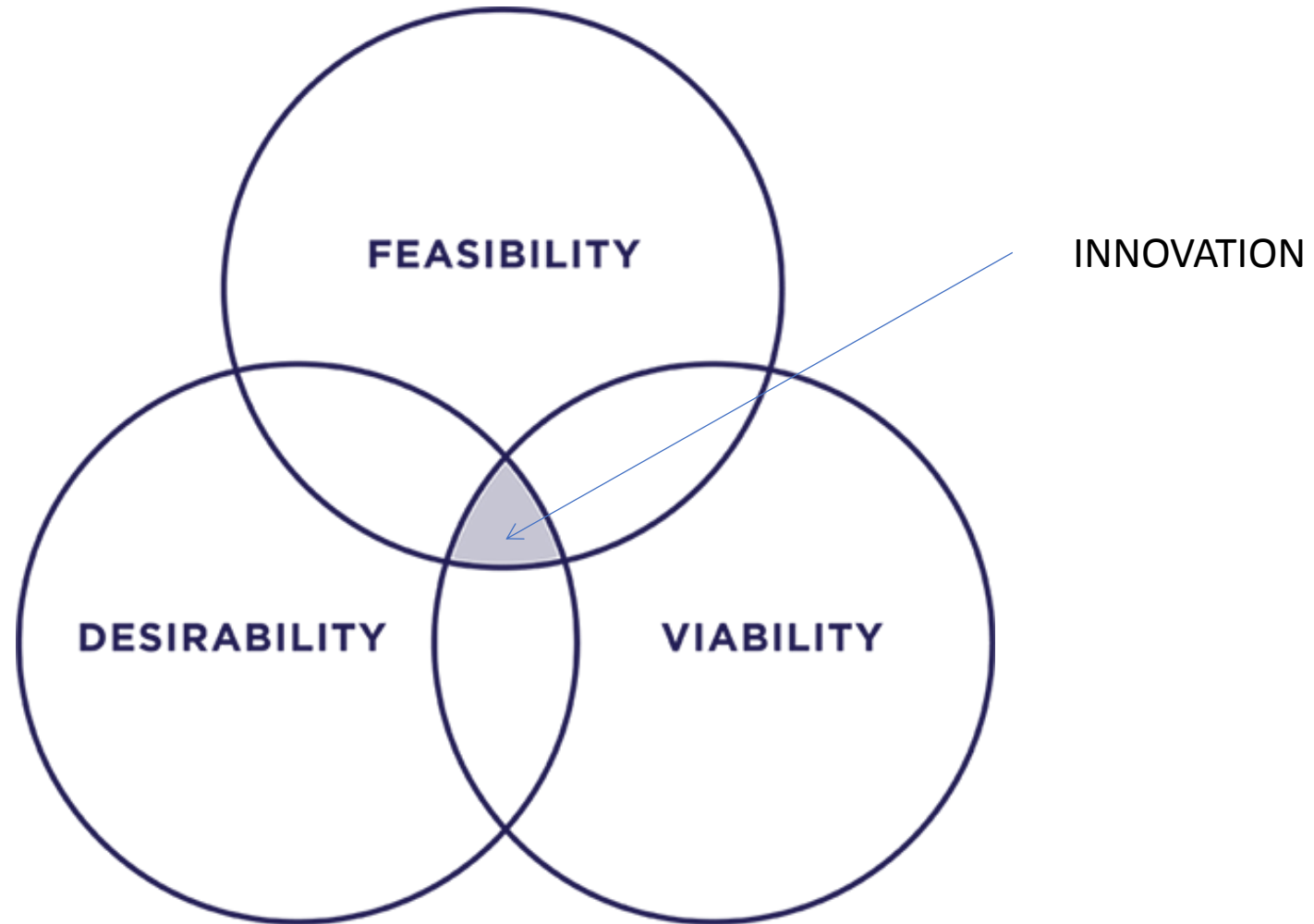
Design Thinking in CLE

Who is your audience?

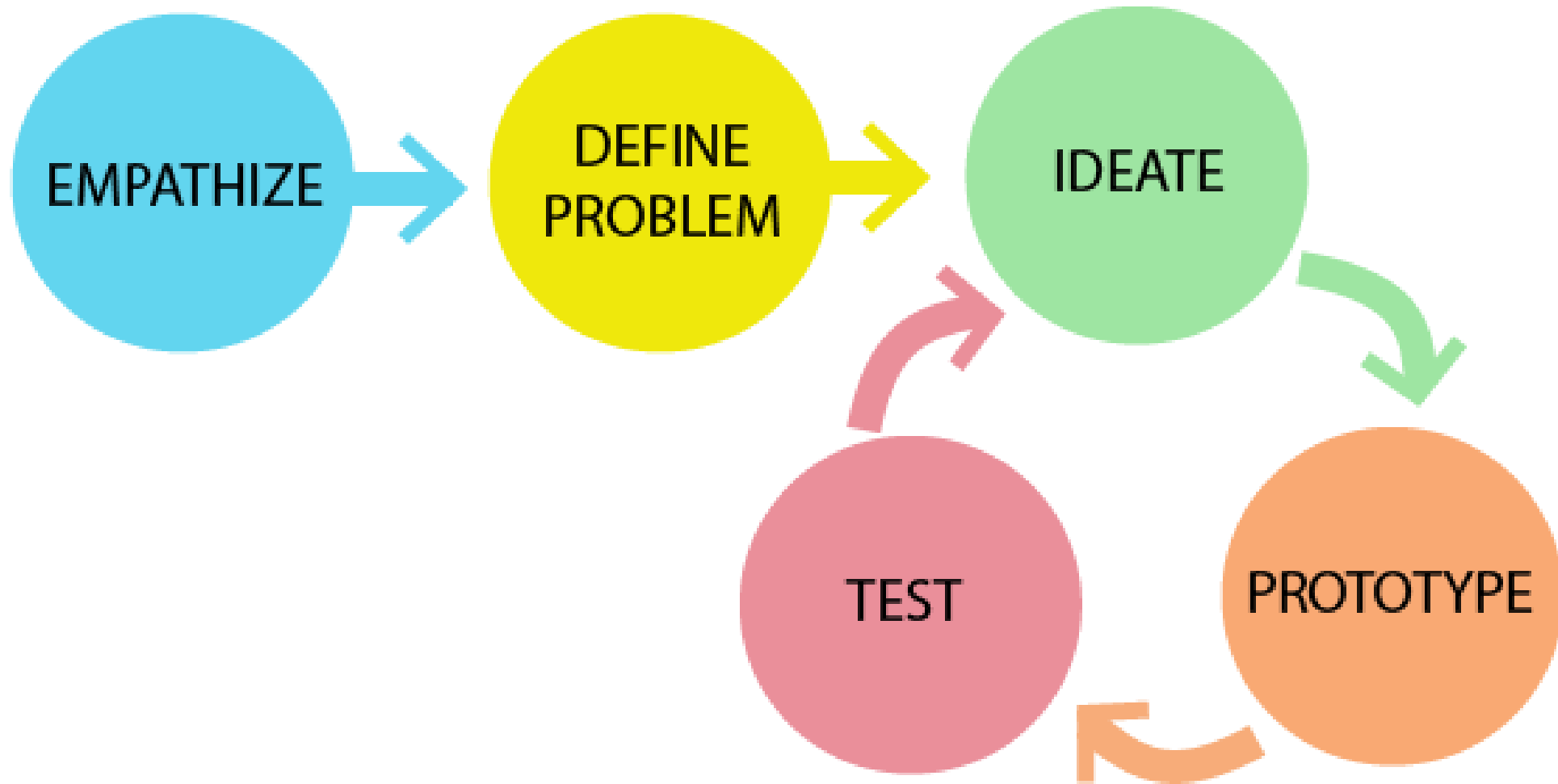
what do they need and want?

what do you want them to end up with?

Design Thinking explained



Methodology



Disrupting Law



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Practical Tips in Design Thinking

- Identify your client's pain points
- Challenge your assumptions
- Think interdisciplinary
- Audience feedback
- Fail early and often
- Visualise the issue

Technology in Community Legal Education

Allow design thinking to **guide your choice of tools and products**

Remember – is it **desirable, feasible and viable**?

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- Attorney-General Robert McClelland



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HACKCESS TO JUSTICE

NEIGHBOURHOOD DISPUTE RESOLUTION

*Promoting safe and peaceful communities
by helping neighbours resolve their disputes*

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**Queensland
Government**



What is Hackcess to Justice?

Hackcess to Justice is a legal 'hackathon' run over a single weekend, where talented tertiary students and early-career lawyers will be placed in teams with the aim of designing and ultimately presenting an innovative solution to neighbourhood disputes in a 'pitch evening' before a panel of judges.

The aim of Hackcess to Justice is to bring fresh, innovative minds together to formulate ways in which neighbourhood disputes can be prevented and resolved at an early-stage.

What problem will competitors be solving?

Teams will be presented with problems faced by real-life people in neighbourhood disputes. They will be required to use their fresh perspectives to develop an innovative solution which can potentially be implemented in the justice system to prevent and resolve neighbourhood disputes.

When will Hackcess to Justice run?

Hackcess to Justice will be held from Friday 18 May 2018 to Sunday 20 May 2018. The hackathon will be the closing event of Law Week 2018, which is held from Monday 14 May 2018 to Sunday 20 May 2018 and run by DJAG.

Where will Hackcess to Justice take place?

Hackcess to Justice will be held in the Brisbane Supreme Court complex. The Opening and Closing Events will take place in the Banco Court, and 'hacking' by teams will occur on Level 10 of the Supreme Court over the weekend.

Who can compete?

Hackcess to Justice is open to both tertiary students and early-career lawyers. Whilst the hackathon is aimed at solving issues faced in the justice system, a range of views and skills will be required to deliver the best solution. Tertiary students from a range of disciplines are encouraged to compete, including law, technology and creative students. Early-career lawyers are also encouraged to compete, as they can provide practical legal experience and understanding of the justice system.

What are the prizes?

The winners of the Hackathon will be offered a one month paid contract to work with DJAG to develop their solution. The terms of this contract will be negotiated with DJAG.

How can you get involved?

Tickets to compete in Hackcess to Justice will be released closer to the date on a first-in best-dress basis. Be sure to like The Legal Forecast and Justice QLD on Facebook to be kept informed of the most recent updates about the hackathon.

Tickets will also be available to the public for the Closing Event, when teams will be presenting their pitches to the panel of judges. A limited number will be available due to venue capacity, so make sure to get in early if you would like to attend.

