"You don't often create solutions in the law": Legal design in a small Australian law firm

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Abstract

This article reports on a study of the use of legal design principles in a small law firm context. Among other things, legal design privileges the views and experiences of users (clients) in a deep and empathetic way. In doing so it seeks to reimagine and reengineer legal services in novel ways. It involves the creative generation of ideas and an iterative process of developing, testing and modifying – a process often seen as anathema to traditional legal organisations, which are typically perceived as uninterested in innovation and slow to change. The goal of continuous improvement means that legal design is about sustainable and positive change, recognising that ongoing change is imperative in pursuit of best practice. Despite significant recent interest in legal design, there is generally an absence of studies or evaluations of legal design. In the Australian context, there are few exemplars of how legal design might, practically, be used, especially in the private sector. There are reports of using visual elements in contracts and the use of design principles in legal education, but the use of legal design in relation to law firm services is typically referenced only in media releases or on firm websites, without detailed description or analysis. By illustrating the application of legal design in a single setting, this article therefore aims to present a tangible example of how legal design principles can be meaningfully used in legal practice.

Introduction

While the meaning and methods of legal design are arguably still 'nascent'[1] and contested,[2] it is generally accepted as the use of design methods and tools to rethink and improve legal processes and solve problems. The terms 'design thinking' and 'human-centred design'[3] have

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[1] Amanda Perry-Kessaris, 'Legal design for practice, activism, policy and research' (2019) 46(2) *Journal of Law and Society* 185–210, 186.

[2] Rossana Ducato and Alain Strowel, 'Introduction' in Rossana Ducato and Alain Strowel (eds), *Legal Design Perspectives: Theoretical and Practical Insights from the Field* (Ledizioni, 2021) 18.

[3] While *design thinking* and *human-centred design* are often used interchangeably or to describe similar processes, the term *design thinking* is more widely used: Fredrick Baker and Sarah Moukhliss, 'Concretising Design Thinking: A Content Analysis of Systematic and Extended Literature Reviews on Design Thinking and Human-Centred Design' (2019) 8(1) *Review of Education* 305–333, 320.

longer histories than 'legal design', which term has gained popular traction particularly via the work of the Legal Design Lab at Stanford d.school.[4] Among other things, legal design privileges the views and experiences of users (clients), in a deep and empathetic way and in doing so, seeks to reimagine and reengineer legal services in novel ways. It involves the creative generation of ideas and an iterative and ongoing process of developing, testing and modifying— a process often seen as anathema to traditional legal organisations, which are typically perceived as (and may in fact be) uninterested in innovation and slow to change.[5]

In a thought-provoking chapter contained in *Legal Design Perspectives*, Rae Morgan and Emily Allbon ask whether legal design ought to be seen as a distinct subset of design thinking, concluding that such an approach 'reinforces the insularity already present within the law'.[6] This insularity has a long history, attested to by the 'professional purity' thesis.[7] As Gerry McGivern et al summarise: 'Professionals have historically resisted new ways of organizing professional work that challenged professional dominance and autonomy...'[8] with a corresponding devaluation of knowledge perceived to be less professionally pure or brought in from other domains. The invention of 'legal design' may be the optimal way, therefore, of rendering the principles and lessons of design thinking palatable to lawyers.[9] In any case, regardless of whether it is appropriate or useful to reconfigure design thinking in the legal context as 'legal design', there is value in taking account of the differences between traditional legal firms (and indeed other legal institutions, such as courts) and professional services more broadly. In some respects, lawyers may face different types of constraints and less support (for instance, from regulators) in trying out new ideas and enacting change.

Despite significant recent interest in legal design, there is also criticism that legal design lacks methodological rigour, particularly in evaluating its impact or results.[10] This stems in part from an absence of case studies or evaluations of legal design, although as noted below, these are growing in number. Morgan and Allbon write, 'With few corporate practitioners sharing their final products, (let alone processes...) due to innovation, design and strategy work with law firms being governed by strict [non-disclosure agreements], it is challenging to get a real picture of what design thinking is being done in legal practice'.[11]

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[4] The Legal Design Lab at the Hasso Plattner School of Design, Stanford University: see https://law.stanford.edu/organizations/pages/legal-design-lab/ (accessed 22 May 2024).

[5] See, eg, Charlotta Kronblad, Johanna E Pregmark and Rita Berggren, 'Difficulties to digitize: Ambidexterity challenges in law firms' (2023) 33(2) *Journal of Service Theory and Practice* 217–236.

[6] Rae Morgan and Emily Allbon, 'Is Law Really that Special?' in Rossana Ducato and Alain Strowel (eds), *Legal Design Perspectives: Theoretical and Practical Insights from the Field* (Ledizioni, 2021) 139–158.

[7] Andrew Abbott, 'Status and Strain in the Professions' (1981) 86 *American Journal of Sociology* 819; Rebecca Sandefur, 'Work and Honor in the Law: Prestige and the Division of Lawyers' Labor' (2001) 66(3) *American Sociological Review* 382–403.

[8] Gerry McGivern et al, 'Hybrid Manager–Professionals' Identity Work: The Maintenance and Hybridization of Medical Professionalism in Managerial Contexts' (2015) 93(2) *Public Administration* 412–432.

[9] There are parallels here with the experiences of other disciplines in legal settings: see e.g., Charlotta Kronblad and Søren Henning Jensen, '"Being a professional is not the same as acting professionally"—How digital technologies have empowered the creation and enactment of a new professional identity in law' (2023) 10 *Journal of Professions and Organization* 99–119; Justine Rogers, Peter Dombkins and Felicity Bell, 'Legal Project Management: Projectifying the Legal Profession' (2021) 3(1) *Law Technology and Humans* 133–157, https://doi.org/10.5204/lthj.1610.

[10] See, e.g., Lois R Lupica and Genevieve Grant, 'Will Human-Centred Legal Design Improve Civil Justice Systems? And How Will We Ever Know?' in Rossana Ducato and Alain Strowel (eds), *Legal Design Perspectives: Theoretical and Practical Insights from the Field* (Ledizioni, 2021) 117–138.

[11] Morgan and Allbon (n 6) 141.

In the Australian context there are few studies of how legal design might, practically, be used, especially in the private sector. There are evaluative reports of using visual elements in contracts[12] and work on the use of design principles in legal education[13] but using legal design in relation to law firm services is typically referenced only in media releases or on firm websites and lacks detailed description or analysis.

This article references interviews with two directors of a small law firm (referred to by the pseudonym Niche) about their experiences in using elements of 'legal design thinking' in the running of their firm and its influence on their approach.[14] The directors' approach evolved organically, initially in reaction to their frustration with the way that legal services in their particular specialisations were being offered. Identifying that the approach fits within the tenets of legal design occurred early on, but Niche's design and practices were not prompted by a 'legal design project' as such. However, in the remainder of the article, the directors' views on the successes of, and tensions engendered by, legal design in this small law firm setting are analysed. The purpose is to examine the points of tension but also to provide examples of what the directors are attempting to achieve and connecting these to wider issues with enacting legal design projects identified in the literature. The remainder of this article is structured as follows: the 'Background' outlines legal design and the study; 'Findings' reports on three applications of legal design principles at Niche; and this is followed by a discussion and conclusion.

Background

Design thinking or designerly ways of thinking were terms coined to attempt to study and describe the approaches, methods and cognitive processes that designers used when solving problems.[15] Contemporary iterations of design thinking are also very much founded in participatory design (originating in the 1960s and 70s[16]) where the end user of a product is involved in the process of designing.[17] Now, it is common to refer to user-centred design or co-design.[18]

Lucy Kimbell has articulated what she perceives to be a shift in focus occurring over time - from design thinking as a cognitive style, to a 'general theory of design,' and finally to its current and most pervasive state, as an organisational resource, where its purpose is primarily as a tool for innovation.[19] This shift in focus has led to design thinking being described as 'a force of

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[12] See, e.g., Camilla Baasch Andersen and Peter Corner, 'Making Contracts Readable – Developing Contracts in Comic Book Form' (2022) 1(2) *Transnational Commercial Law Review*; Bingyan Zan, Camilla Baasch Andersen and Lisa Toohey, 'Assessing the efficacy of visual contracts: an empirical study of transaction costs' (2023) 55(4) *Applied Economics* 4712–26.

[13] See generally, Emily Allbon and Amanda Perry-Kessaris (eds) *Design in Legal Education* (Routledge, 2023).

[14] Ethics approval for the study was granted by the University of New South Wales Human Research Ethics Committee (HC210788). Names and other identifying details have been anonymised.

[15] Peter G Rowe, *Design Thinking* (MIT Press, 1987) 1; Lucy Kimbell, 'ReThinking Design Thinking: Part I' (2011) 3(3) *Design and Culture* 285–306, 290–92.

[16] Finn Kensing and Joan Greenbaum, 'Heritage: Having a Say' in Jesper Simonsen and Toni Robertson (eds) *Routledge International Handbook of Participatory Design* (Routledge, 2013).

[17] Peter Asaro, 'Transforming Society by Transforming Technology: The Science and Politics of Participatory Design' (2000) 10(4) *Accounting Management and Information Technologies* 257–290, 257.

[18] See Dan Jackson, Miso Kim and Jules Rochielle Sievert, 'The Rapid Embrace of Legal Design and the Use of Co-Design to Avoid Enshrining Systemic Bias' (2020) 36(3) *Design Issues* 16–30.

[19] Kimbell (n 15) 293, citing as key texts Tim Brown, *Change by Design: How Design Thinking Transforms Organizations and Inspires Innovation* (Harper Collins, 2009); and Roger Martin, *The Design of Business*: *Why Design Thinking Is the Next Competitive Advantage* (Harvard Business Press, 2009). See also Sabine Junginger, *Change in the Making* (Doctoral Thesis, Carnegie Mellon University, 2006) and similar arguments made by Ulla

innovation in business, and a point of contention in design'.[20] The point of contention is that while the success of design thinking is widely reported on there is disagreement about its measurable impact.[21] This has led to critiques, some more vociferous than others.[22] Questions of impact have also arisen in the legal design sphere. Arguably, concerns about measurable impact have been raised primarily in the context of publicly funded services and access to justice.[23]

However, many more academic reports of legal design projects have emerged in recent years - for instance, Joaquin Santuber and Lina Krawietz present case studies of legal design projects, using them to arrive at broader lessons for the application of legal design methods.[24] In the access to justice space, there tends to be both a more substantial imperative to show impact, and more examples available.[25] The Legal Design Lab at the Stanford d.school, for example, makes public many details of its projects.[26] There is also considerable interest in using design methods for teaching or educational purposes, including the teaching of law.[27]

With this backdrop, this article contributes to the literature on legal design projects by examining, as noted, the use of legal design principles in a small law firm (anonymised as Niche) located in a large Australian State capital city. In-depth interviews were conducted with Niche's two leaders, Lenore (founding director) and Rachel (director). As explained in more detail in the following section, the purpose of the interviews was to explore the ways that the directors perceived that legal design principles applied to, and guided, Niche and to garner examples of this application in a commercial law firm setting.

Methodology

As set out above, the purpose of this research was to examine in detail an example or case study of how legal design principles could be used in a small, commercial law firm setting. There is some limited information about the use of legal design in larger firms - as noted above,

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Johansson-Sköldberg, Jill Woodilla and Mehves Çetinkaya, 'Design Thinking: Past, Present and Possible Futures' (2013) 22(2) *Creativity and Innovation Management* 121–146.

[20] Baker and Moukhliss (n 3) 305.

[21] Nigel Cross and Anita Clayburn Cross, 'Observations of Teamwork and Social Processes in Design' (1995) 16(2) *Design Studies* 143–170, 170; see also Stefanie Di Russo, *Understanding the Behaviour of Design Thinking in Complex Environments* (Doctoral Thesis, Swinburne University, 2016) 55; and Donald A Norman and Roberto Verganti, 'Incremental and Radical Innovation: Design Research vs Technology and Meaning Change' (2014) 30(1) *Design Issues* 78–96, 80 (arguing that design thinking has not given rise to radical innovations).

[22] See, e.g., Lee Vinsel, 'Design Thinking Is a Boondoggle', *The Chronicle of Higher Education* (Washington), 21 May 2018 and 'The Design Thinking Movement is Absurd', *Medium,* 27 November 2018; Johansson-Sköldberg, Woodilla and Çetinkaya (n 19); Di Russo (n 21).

[23] Lois Lupica and Genevieve Grant have queried how we might best evaluate the impact of user-centred design in legal settings, advocating for a robust, scholarly approach: Lupica and Grant (n 10).

[24] Joaquin Santuber and Lina Krawietz, 'User Research Methodologies in Legal Design Projects: Lessons from Practice' in Rossana Ducato and Alain Strowel (eds), *Legal Design Perspectives: Theoretical and Practical Insights from the Field* (Ledizioni, 2021) 91–115.

[25] See, e.g., Melissa M Moss, 'The Escambia Project: An Experiment in Community-Led Legal Design' (2020) 36(3) *Design Issues* 45–60.

[26] See, e.g., Margaret Hagan, 'What does a user-centered eviction court summons look like?', 15 September 2021, https://medium.com/legal-design-and-innovation/what-does-a-user-centered-eviction-court-summons-look-like-6e88bba2bbc0 (accessed 22 May 2024).

[27] Michael Doherty and Tina McKee, 'Service design comes to Blackstone's tower: Applying design thinking to curriculum development in legal education' in Emily Allbon and Amanda Perry-Kessaris (eds) *Design in Legal Education* (Routledge, 2023) 67–80 (discussing legal curriculum design).

this is usually confined to statements on firm or consultant websites. Moreover, it appears that typically, legal design is applied to a relatively restricted issue or specific project within the firm setting.[28] Bearing in mind the suggestion from change management literature that small organisations might be more nimble when implementing change,[29] it seemed apt to consider how a small firm could apply legal design. At least in theory, its principals did not have to traverse multiple layers of stakeholders or win over key partners in order to implement their ideas, though of course, as set out in the findings, the role of its staff was still important. The directors were able, or at least able to attempt, to shape the firm as a whole, and on a long-term and ongoing basis - rather than 'doing' a short-term legal design project.

Niche had a staff of 20 to 25 people. At the time of interviews, all its staff were female, although this was not by design and had not always been the case. Its main areas of practice were typical of a small urban firm: wills and estates, family law, and conveyancing and property. Niche had garnered some local publicity for various of its initiatives. Although these were not described as examples of 'legal design', upon meeting and talking with its directors, Lenore and Rachel, by happenstance at a conference, it emerged that they did view some of Niche's practices in this light. Ultimately, ethics approval was obtained in order to formally interview Lenore and Rachel. As an evaluative process, this methodology is not able to quantify the impact of legal design, based as it is on the self-report of two individuals. However, this was not the goal of the research. Firstly, a substantial body of work suggests that in case study research, meaningful results can be generated from a close look at a single example.[30] Stake's concept of an intrinsic case study[31] is utilised—the purpose is to understand Lenore and Rachel's use of legal design at Niche, not to use this as somehow reflective of any other firm's use of legal design. In other words, the research does not seek to make claims to generalizability. The opposite is true, in that it seems likely that Niche's approach is unusual and possibly unique. Secondly, the project was not seeking to study Niche in terms of analysing its functionality as an organisation, or to problematise its practices—in which case an approach that sought out and contrasted the views of different members of the firm would have been more appropriate.[32] Rather, it was to closely examine Lenore and Rachel's descriptions of the ways they had sought to implement legal design in their practice. Other members of the firm might have views on the success or otherwise of this, but only the directors could provide insight into their own ideas and actions, including the creation of firm-wide practices and values. This is discussed further below in relation to mode of analysis. In short, the goal of the research was to learn about Lenore and Rachel's perceptions of the use and applicability of legal design in their offering of legal services: what resonated, what did not. It was to source examples of how a 'design' approach might assist in changing the way that legal services could be done.

The interviews lasted approximately 45 minutes and were conducted by video call using Zoom, rather than in person. This was for practical reasons related location. Although the interviews were conducted by video to facilitate rapport and understanding, they were audio-recorded only. A semi-structured interview guide was prepared and formed part of ethics approval.[33] The

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[28] Morgan and Allbon (n 6).

[29] See Matthew W Ford, 'Size, structure and change implementation: An empirical comparison of small and large organizations' (2009) 32(4) *Management Research News* 303–320.

[30] See the overview of Bent Flyvbjerg, 'Five misunderstandings about case-study research' in Clive Searle et al (eds) *Qualitative Research Practice* (SAGE Publications, 2004); and Clive Roland Boddy, 'Sample size for qualitative research' (2016) 19(4) *Qualitative Market Research: An International Journal* 426–432.

[31] Robert E Stake, *The Art of Case Study Research* (SAGE Publications, 1995) 3.

[32] For this reason, the references to Niche's actions in the discussion below should be taken to describe the actions of its directors, and not as reflecting consensus among the whole of the staff.

[33] See the Appendix for the full list of questions contained in the interview guide.

guide sought background on the interview participant and then asked about the influence of legal design within Niche, including examples of its application. These questions were, as noted, a guide only, in order to allow for flexibility in raising new issues and opening up additional lines of inquiry. In particular, it became apparent that the use of legal design at Niche was more expansive than undertaking particular 'projects'. Lenore and Rachel did describe specific projects but as a way of illustrating Niche's general approach and practices. Though interview analysis is a widely used qualitative research method, there is debate about the extent to which such material can be said to authentically convey either a record of action or the interviewee's subjective feelings.[34] In-depth interviewing may enable rich data collection but also runs the risk that individuals might not be entirely honest when recounting their practices and motivations.[35] Moreover, a simple accumulation of multiple individual views does not necessarily give rise to a more robust analysis.[36] On the other hand, as Hammersley suggests, 'documenting people's experience and perspectives *in detail* is essential if we are to understand their actions'.[37] In this case, the interviews were analysed using an experiential thematic method.[38] This approach makes the assumption that language generally reflects reality, though that may be the reality of a particular participant only.[39] It can be described as a 'realist' approach rather than an interpretivist or constructivist one.[40] The reason for choosing this method was to allow the 'story' of Lenore and Rachel's self-described attempts to implement legal design within their legal practice to emerge, thus addressing the absence of exemplars or case studies in this area.[41] It allowed a general picture of what the directors' perceived Niche was 'doing differently' and how this was connected to their understanding and views of legal design.

Findings

Based on analysis of the interviews as described above, three main aspects of the way that Niche operates, which seem to reflect legal design principles, were identified. These are the mindset with which it tries to infuse its staff; its focus on clients and the client experience, including developing a typology of clients; and the firm's approach to seeking and utilising feedback. As Rachel and Lenore explained, these elements also reflect more generally the firm's values and goals for how it wishes to conduct its operations and offer its services.

Not "thinking like a lawyer"
Lenore, the founding director of Niche, took the step of setting up a new firm following her personal experiences of going through a legal process (probate). At the time, as a busy lawyer working in a large firm, and also with young children, she found the experience deeply

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[34] See David Silverman, 'Analyzing Talk and Text' in Norman K Denzin and Yvonna S Lincoln (eds), *Handbook of Qualitative Research* (SAGE Publications, 2nd ed, 2000) 821, 823.

[35] Michael J Kelly, *Lives of Lawyers: Journeys in the Organizations of Practice* (University of Michigan Press, 1994) 231.

[36] See on this Kathy Charmaz, 'Grounded Theory: Objectivist and Constructivist Methods' in Norman K Denzin and Yvonna S Lincoln (eds), *Handbook of Qualitative Research* (SAGE Publications, 2nd ed, 2000) 509, 524.

[37] Martyn Hammersley, *What is Qualitative Research?* (Bloomsbury, 2012) 52 (emphasis in original).

[38] Gareth Terry, Nikki Hayfield, Victoria Clarke and Virginia Braun, 'Thematic Analysis' in Carla Willig and Wendy Stainton Rogers (eds) *The SAGE Handbook of Qualitative Research in Psychology* (SAGE Publications, 2nd ed, 2017).

[39] Ibid.

[40] Ibid, noting that these approaches each have their own uses, strengths and weaknesses.

[41] See Austin Sarat and Jonathan Simon, 'Cultural Analysis, Cultural Studies, and the Situation of Legal Scholarship' in Austin Sarat and Jonathan Simon (eds), *Cultural Analysis, Cultural Studies, and the Law: Moving Beyond Legal Realism* (Duke University Press, 2003) 1, 9.

frustrating - inefficient and time-consuming, with seemingly little consideration given to making a difficult time easier or the process smoother. In founding Niche and seeking to do that type of law (and others) differently, there were therefore some core ideas that guided both Lenore and the firm.

A key principle was to engage all staff in the goal of continuous improvement. There were several methods that Niche used to do this. Firstly, all staff (not only lawyers) were encouraged to notice issues and to raise them - but importantly, to raise them in the right forum. This was a weekly 'circle' for the different practice groups. All staff attended the circles, bringing with them at least one item. This could be an issue they had noticed, an idea, or failing that, something the staff member had learned or experienced. Rachel explained:

> So we have regular weekly innovation circles ...each team member brings at least one idea of an innovation or a something that's not working right, or they notice something that needs to be tweaked or can we look at this and then bring it to that team circle, and we've got a spreadsheet that monitors those or sets tasks for those changes to be made and implemented. And then we'll be back the next week to see how it's running and how it's working and what further tweaks need to be made. So that's really the way of bringing everybody into it and having them actively participate in the firm's innovation.

The purpose of this was twofold. It was used to control what might otherwise be unproductive or demoralising griping or complaints, by bringing them into an appropriate forum; and to use that forum to harness the issue by allocating responsibility for addressing it. There was a strong connection between the circles, and the issues and solutions brought to them, and the staff's formal performance reviews, where bringing innovative ideas was rewarded. Lenore said:

> So at the six monthly performance reviews we say, you know, you brought 24 cool ideas to circles in the last six months and that's a tick. It's expected that you're always thinking of ways to do things better... actually I think [connecting this to formal performance review] showed people that we really are serious about this and we do value it and it's expected.

Other research findings, albeit in different contexts, indicate that innovation projects in legal settings struggle to gain traction unless this type of work is recognised and rewarded as equal to 'billables'.[42] As discussed in the following section, some research also suggests that lawyers and their workplaces tend to exist within a prevailing culture that does not encourage raising issues or engaging in innovation.[43] Niche's 'circles' are a structured way of counteracting these tendencies and embracing the goal of continual improvement.

Lenore explained that in creating Niche's practice of circles, which was intended to normalise the raising of issues and ideas for change, she had also had to overcome her own tendency toward thinking that her ideas were superior:

> I used to think my ideas were better than everyone else's, so I didn't—I reluctantly implemented other peoples', but then I kind of realised other people were regularly, because they were seeing things from different angles, bringing... better ideas than I did because my ideas were a bit stale.

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[42] Kronblad, Pregmark and Berggren (n 5) 228; Justine Rogers and Felicity Bell, 'Transforming the Legal Profession: An Interview Study of Change Managers in Law' (2022) 42(3) *Legal Studies* 446–69, 461.
[43] Laura Empson, Imogen Cleaver and Jeremy Allen, 'Managing Partners and Management Professionals: Institutional Work Dyads in Professional Partnerships' (2013) 50(5) *Journal of Management Studies* 808–844; Kronblad, Pregmark and Berggren (n 5); Kronblad and Jensen (n 9).

As the founding director, Lenore recognised her own inclination to consider her views right and superior. However, the democratic space of the circles, where the expectation is that all staff will 'bring' something, opened up the floor to others to share their ideas. Through witnessing this, Lenore realised that others were routinely bringing 'better ideas'.

Lenore and Rachel also gave an example of how Niche had identified a change in its client base and responded to that change. Predominantly, the change related to a gentrification process taking place in the local area, resulting in clients with more sophisticated financial affairs. Lenore explained that analysis of Niche's data showed the development over time of two 'types' of client - generally speaking, those who were younger, with simpler financial affairs; and those who were older, with more complex financial affairs and relationships.

The issue of the more complex clients came to the fore as lawyer-client meetings, particularly in relation to wills, were becoming very lengthy, and - as these meetings often took place after business hours, to suit clients - finishing later. It seemed that more and more ground was needing to be addressed. This was also raised in the feedback that Niche collected from its clients[44] - that conferences were very long, and that the client had felt confused or unable to take in all the information. Lenore said:

> *The conferences were going longer and longer. Like something, something's going on here. Why are our clients so complicated all of a sudden? ...Oh, well, they're a bit older. They have a bit more money. They have a few more problems. They have second marriages...*
> *So some of the ways [Niche was] offering services weren't working for them anymore. So we reinvented it for those sort of, sophisticated client base, a different way of getting the information we needed and explaining the type of will that they needed back to them, using videos.*

The length of the client conferences lead to Niche developing 'explainer videos' for clients to watch prior to the meeting. The video was professionally filmed and involved a lawyer at Niche talking through key information. Rachel noted that this put the information into an accessible form, which was also one that clients had grown increasingly used to following the COVID-19 pandemic. Clients could also revisit the video as they needed to. Rachel commented '*from our end it reduces the length of conferences and the burden on our lawyers and providing that information. So that's been, I think, really key in that pivot and in adapting to the change in our client base*'.

In addressing the problem of the lengthy client meetings by producing the video, Niche also tapped into the particular interest and skill set of one of its younger lawyers, as Rachel described: '*She's kind of our social media guru, so she's really active, she's young... really involved in how to create a product that is easily digestible by users in that kind of social media context.*' In so doing, Niche was also celebrating the diverse skills among its staff, providing individuals with the chance to highlight their different talents and showcase how these synced with the firm and its values.

Thinking like a client
Lenore's idea for founding Niche grew out of her own unsatisfactory experience of having to seek legal services herself. Unsurprisingly therefore, the client experience was prioritised. Lenore described her early experience of being a client:

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[44] Niche's collection and use of client feedback is discussed below.

I remember sitting down trying to lodge a tax return for my mother's estate and being given a clipboard with a piece of paper and a pen and trying to fill in my name, date of birth. You know her tax file number, all of this. And then watching someone type it in with one finger. Realise that. And the conveyancing and the, the whole thing wasn't much more efficient than that and I thought 'This is ridiculous'. And if you're limiting, if you're trying to limit the amount of time that a client needs to give information, and the most efficient way to receive the advice back having given the instructions, how would you design this service?

Reverse engineering in this way, Niche used client avatars and 'journey mapping' to design and refine the paths that its clients would take through its services. Margaret Hagan refers to this as a 'model Legal User Journey', describing it as a process of 'mapping out the steps from beginning to end that an archetypal person would take to move through an archetypal legal process. This modelled process identifies the opportunity areas for where we can be building new products, and offering more value. Mapping out the model Legal User Journey also helps us see how we can integrate trust, routines, other touch points to find opportunity areas to help people flow easily through the legal system'.[45]

Niche's client avatars represented its typical clients, those to whom Niche sought to appeal. Originally, this was young, busy professionals with children, who might be buying a house, drafting wills or having family law issues. As Lenore explained, key characteristics of the client avatar were being '*Relatively technologically savvy and time poor*'. Over time, another client avatar emerged - an older and more complex version of the first. In short, both types of client avatar were intelligent, educated professionals who were middle class, with dependent children, and very short on time. Designing the path that the client would travel, following the person's initial inquiry, therefore had to be as efficient as possible. The path was also continually reviewed and improved upon. Lenore said:

[W]e can quickly diagnose which, lane a client should be in, and then we can send them down that lane and we've designed the service for them. So we use that a lot and … we're always tweaking and changing and sort of improving each lane of service based on feedback and we get that feedback from across the field—from the person that processes how they pay for it, to the person that books them in, to the person that meets with them.

Rachel explained that the firms' values assisted here, as they guided, and ideally matched, its processes. One key value was accessibility ('making it easy') and another was transparency, particularly in pricing/cost, which was reflected in the use of fixed fees (c.f. billing by time units). Nevertheless, Lenore also explained the need to continually remind Niche's lawyers to put themselves in the client's position:

I don't think lawyers think of themselves as clients. And I know I'm often saying: "If you put that paragraph in an advice can the client actually understand what stamp duty they are paying?" "No." "Well, how do you think that would make them feel?" "Oh, confused." "You've given them seven different URLs to go and read. Is that really us doing our job? Is that what a client wants to read?" "No. They just want to know the amount of money." So go back and fix it. Put yourself in their shoes. They're time poor. They're trying to create a budget. And I think lawyers think about, well, how are we gonna cover ourselves? How do we make sure we say something that we are

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[45] Margaret Hagan, 'Legal Design Mechanics', *Law By Design*, https://lawbydesign.co/design-mechanics/ (accessed 22 May 2024).

absolutely covered from all angles, that we didn't miss anything. But clients sometimes just want the answer.

This may, of course, also relate to years of experience - as lawyers become more senior they may feel more comfortable not including every potentially relevant issue in their advice. Of the firm values, Lenore explained how they guided, for example, the ways that Niche wanted its lawyers to write client communications:

One of our values is making it easy. So it's that: are you making it easy for the client in the way you've communicated that—could you do it better, could you make the language simpler? Could you make the advice clearer? We put that right at the top. Interviewer: And have you always had a set of values that guide you? When [Niche] got sort of beyond five people, that's when I found I really kind of needed it—just to say 'this is what we're about'. We're not about long advices, we're not about wordy advices, that you know, sound as convoluted as possible. We're about making it easy. That's what we value.

Within legal design, improving legal communications is a key concern - whether the communication is a legal notice, contract or other legal information.[46] Lenore also noted that this wordy approach was neither universal to the law, nor innate among lawyers, but reflected a particular style that had been taught, picked up, or which lawyers thought reflected expectations of 'how things were done':

I think in traditional firms, it probably does stem from trying to spend as long as possible on a file and involve as many possible people on it. And then it's sort of a cultural thing ... we'll hire lawyers from other firms, and I know they're capable of writing a clear email because that's how they'll talk amongst themselves. And they write an email to the client and it's like 'Why are you writing like this?' And: 'That's the way that I was taught to write an email to the client'.

Niche's values were, therefore, about putting oneself in the client's position and designing to make things easy and accessible for clients. However, both directors also agreed that it was necessary to place limits on client autonomy, or how much the client could control or direct the process. Rachel said:

[I]n taking a legal design approach or a human centred design approach you can sometimes err on the side of giving your clients too much autonomy or too much control of the process, and we actually have just gone through this in our wills process, where we were relying on our clients to provide us with their instructions in a timely manner [laughs]. And they weren't doing it in the way that we had expected them to for whatever reason. They got busy, they got distracted, they forgot—who knows why—but it ended up compromising the integrity of our processes and our lawyers' ability to meet time frames and provide documents in a timely way prior to a conference. So we had to relook at that and say, 'OK, do we need to remove some of our clients' autonomy or their control of the process?' So that we can maintain the integrity of how things work and operate and we're not so heavily reliant on them.

Lenore noted that this change meant that clients had to provide their information and documents first, before they were given the ability to book in a conference with a lawyer (which they could do online). This was less onerous on staff, as Rachel commented:

[I]t's a recent tweak that we made only in the last few weeks, but we're seeing the burden on our junior lawyer has been lifted significantly in terms of dealing with the

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[46] See Hagan, 'What does a user-centered eviction court summons look like?' (n 26); Baasch Anderson (n 12).

cancellations and the rescheduling at the last minute because the clients haven't provided their instructions.

In line with its value of accessibility, Niche wanted clients to be able to easily make appointments to see a lawyer (i.e. without going through a gatekeeper, or a cumbersome process of waiting for confirmation). However, this had to be balanced against the fact that clients would 'get more out of the conference' if the lawyer already had the necessary background and had had time to complete the work they needed to do to prepare, so that they could focus on 'the real issues'.

Feedback seeking and experimentation

A core aspect of Niche's approach was to collect feedback from nearly all clients (certain clients were not directly contacted for feedback - namely those who had had a person close to them pass away and had been through probate). The feedback was collected by sending the client a text message with a link to a site where they could choose to provide comments. Perhaps more importantly, however, was that this feedback was analysed and followed up on. Observing 'trends' in the feedback was what lead Lenore and Rachel to determine, for example, that the length of conferences was becoming problematic:

> *So when you see trends like that—and we open sort of an average 200 files a month, so we are a volume based practise and we have the luxury of a lot of data, and when you see a lot of people who are saying 'Well the conference was very long and I didn't know the conference would go so long' or 'I felt really confused after the conference' or—often you know, 'the lawyer was really nice but I still don't quite understand my will.' Then... [the feedback] helps to sort of diagnose issues.*

Lenore explained that the close attention to feedback had begun before the COVID-19 pandemic, but its value was cemented during that time. As a manager, she felt that collecting the feedback each day helped her to 'keep her finger on the pulse' of the firm and what was taking place. Where feedback was negative or not positive, this could also be followed up. Lenore said:

> *I'll just jump in in the morning and if something has come through, then I'll put it on a group WhatsApp. And say you know, 'Great work, [Sophie], you know, John said he got really listened to in his conference and praised your attention to detail.' So we use it to celebrate someone that's made it easy for a client.*

Posting the positive feedback on the firm's internal chat allowed other staff to also respond positively.

Particularly during the stressful time of pandemic-related lockdowns, Lenore explained that the feedback could also give an indication of problems:

> *...if someone's getting "meh" scores or you're not seeing someone's name in there—there's not much input—it's hard to know what's going on in an organisation when you can't see people... if we're in the office and we could hear that someone was, you know, really getting a bit cross and snappy with clients on the phone, then we could sort of nip that in the bud quickly. But if everyone's at home, you don't quite know that's going on. And I think it's sort of it made me sleep a bit easier at night, just feeling like we were getting more information rather than less.*

In addition to collecting and responding to feedback, and using it for continual improvement, Niche had recently run a pilot project, trying out a new way of delivering its services. Many of Niche's services (particularly its family law services) were typically offered online, through

video conferencing rather than face-to-face meetings. An urban firm, Niche became aware that there were no lawyers practising in family law in a particular regional area. Rachel explained:

> *So the idea was, well, there's a gap there in that service, and can we fill that? But it ended up that, you know, the clients' needs are different to what we are able to service... We ran it for a year, so it was a one-year pilot and look, it had its successes. We built up some strong networks amongst the [local] community. We did have clients coming through enjoying the use of our integrations and being comfortable with online services and online platforms, so we still have clients coming through those channels.*

On the whole, Niche realised that its approach, which was generally not to litigate, did not work well with the majority of matters it was seeing in the regional area, which tended to be more litigious and where allegations of family violence were more prevalent. Rachel said:

> *It doesn't sync intuitively or naturally, with our client journey, which is about building that relationship of trust and taking them on their journey through the separation and finding the solution to the end. If you're jumping straight into Family Court and you're trying to build that relationship as you go, you often find yourself headbutting with your clients. Because you haven't had that opportunity to establish the confidence and they are second guessing the advice that you're giving and you're doing it all on the fly—it makes it difficult to opt for the type of service that we espouse, in that type of context.*

Lenore noted that while the firm could carry some litigious files, it was not resourced to run the volume of litigation that appeared to be needed in the regional area. Further, the 'remote' nature of the service did not fit well with litigation. There were also unavoidable practical aspects, such as the fact that a high number of clients in the regional area had inadequate internet access or hardware. Lenore said:

> *[T]hey were capable of using Zoom if someone set up the laptop for them and turned it on and worked the mouse and handed the tissues—but there were quite a few people like that. And yeah, perhaps if we sort of worked in with some of the local social workers, so there was someone on the ground that provided that, could have made it work... we just figured again that there's there are people on the ground who were better placed to do that than us [here], an hour and a half away.*

Niche therefore determined not to continue its experiment. In part, difficulties related also to aspects of the service (being remote) where the legal services regulator needed to be involved or provide its views. Lenore was especially frustrated by this process:

> *I think I had more appetite for it in the earlier years. I want to do this. Can I do this? And then it would take months ...and they'd just come back and tell me all the problems with my idea. And I just said fine, I won't then. Let's keep law expensive and confusing, shall we? Great.*

As Lenore noted, the goals of the regulator were not reformatory, but to manage risk, and in her view, it was unsurprisingly risk averse.[47] In terms of Niche's regional service, a key concern for the regulator was, as Rachel explained, the idea of offering 'limited scope' services:

> *We were exploring the idea of doing limited scope retainers in the context of litigation. So where we would just do the document preparation for the clients. So, they're going into a legal fight in court having some pretty strong documents backing them, which is,*

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[47] This can be contrasted with, for example, the reported approach of UK regulators: see Emily Allbon and Amanda Perry-Kessaris, 'What can design do for legal education?' in Emily Allbon and Amanda Perry-Kessaris (eds) *Design in Legal Education* (Routledge, 2023) 1–14, 9–11.

> *you know, half your road to success. But we ran into significant challenges on that,*
> *[the regulator] having considerable issues with the idea of clients having expectations*
> *about—given the fact that they're paying for a service and not getting outcomes, and*
> *how you can limit it in a way that they can understand what the limitations are. I guess*
> *the other half of the advocacy component is not there, so they've got their documents,*
> *but they don't have the advocacy. And that can compromise their expectations of*
> *what they're hoping to achieve.*

Limited scope services are where, as Rachel described, a lawyer assists with part of the client's matter only - in Niche's case, this was to be assisting the client with document preparation only, and not appearing in court proceedings as their representative. Limited scope services, also referred to as unbundling (and more pejoratively, ghostwriting) are used overseas, for instance in California.[48] In Australia, the position is uncertain, as while not prohibited, the concept of a limited retainer is not recognised by the professional ethical rules, or rules of court.[49] As explained, the regulator was concerned about how to ensure clients truly understood the ways in which the retainer would be limited and did not hold differing expectations.

Rachel was more positive than Lenore about finding a way to offer these services in the future, but she also perceived the challenges of trying to 'go it alone'. She explained:
> *We're up for the challenge and it is on our bucket list of things to try and overcome and*
> *see how we can do it. But I think we need the community to come with us on it. You*
> *know, if we are doing it on our own it's not going to work. We need likeminded people*
> *to put their heads together to make it work.*

This points to the energy needed to engage in experimentation, and the importance for any new project of bringing others along on the journey with you - especially when confronting broader social and legal issues. Rachel also noted her longstanding interest in using legal design for family law services but explained that she had struggled to find others who were pursuing similar goals or who were interested in doing so. She commented:
> *I think it's difficult in family law because the system is still relatively archaic and I think*
> *lawyers use that to their advantage to say 'Oh you know, well, we have to charge you*
> *an exorbitant amount of legal fees just because the system is geared that way' without*
> *actively looking and seeking out how it can be changed and made different.*

The next part of this article now turns to consider some of the broader lessons emerging from the interviews about using legal design in the small firm context.

Discussion

The interviews with Rachel and Lenore were conducted in order to try and obtain, as Morgan and Allbon suggest, 'a real picture of what design thinking is being done in legal practice'.[50] Noting that Lenore did not originally apply the label 'design thinking' to what she was attempting to achieve by founding Niche, the purpose was to understand the practices that Lenore and Rachel considered reflected a 'different' way of doing things and how these might reflect central tenets of design thinking. As set out in 'Findings', analysis of the interviews with

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[48] See, e.g., Mark A Juhas and Maria E Hall, 'A Bridge to Justice' (June 2018) 41(4) *Los Angeles Lawyer* 20–25.
[49] Michael Legg, 'Recognising a new form of legal practice: Limited scope services', *Law Society Journal*, 1 November 2018, https://lsj.com.au/articles/recognising-a-new-form-of-legal-practice-limited-scope-services/
[50] Morgan and Allbon (n 6) 141.

Lenore and Rachel elucidated three key aspects of their approach at Niche that resonated with design thinking, pertaining to mindset and firm culture, extensive work on client needs and the client journey, and adopting an experimental approach with the goal of continuous improvement.

Law and 'designing from scratch'

Lawyers' views about their own separateness and distinctiveness (and perhaps more importantly, that of their organisations and profession) have been identified in a range of other contexts: viz., the debate about the incursions of managerial logics into the professions,[51] and contests around hybridisation and legitimacy.[52] However, Morgan and Allbon argue that there is nothing special about lawyers or about the design processes that occur in law firms as compared with other settings.[53] Indeed, they consider that there may be dangers in accepting the view that lawyers are somehow special or different, and in constructing lawyers as "other" - such as devaluing design approaches by failing to value the knowledge and experience of other sectors, and in reinforcing pre-existing ideas rather than creatively broadening one's thinking.[54] In particular, Morgan and Allbon note that 'thinking like a lawyer' can have a negative impact in design projects. For example, lawyers tend to be overly keen to avoid failure, and have a heightened fear of looking foolish or being seen not to know the answer.[55] These are generalisations, but do have some basis in research that has examined lawyers' typical personalities.[56] For instance, Larry Richard's early work on lawyer personalities found that lawyers in the larger American firms he profiled exhibited high levels of scepticism, which was consistently the highest scoring trait among lawyers,[57] and which might be seen as anathema to a design thinking mindset.

In contrast, Jon Kolko wrote that 'design culture... doesn't encourage failure, but the iterative nature of the design process recognizes that it's rare to get things right the first time'.[58] This reflects the concern of design thinking to move away from inductive or deductive reasoning to abductive reasoning; a process of inferring a best available hypothesis from whatever information is known and available.[59] This was and is of interest because it is recognised that the types of problems designers may be called upon to solve cannot be clearly defined until finding a solution has been attempted.

Lenore's original idea (leading ultimately to founding Niche) was to minimise the time and number of contacts that a client would need to have with a firm in order to obtain the service

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[51] E.g., Hilary Sommerlad, 'Managerialism and the legal profession: A new professional paradigm' (1995) 2(2-3) *International Journal of the Legal Profession* 159–185.

[52] Mirko Noordegraaf, 'From "Pure" to "Hybrid" Professionalism: Present-Day Professionalism in Ambiguous Public Domains' (2015) 2(2) *Journal of Professions and Organization* 187–206; Michel W Lander et al, 'Drift or Alignment? A configurational analysis of law firms' ability to combine profitability with professionalism' (2017) 4(2) *Journal of Professions and Organization* 123–148; Rogers, Dombkins and Bell (n 9).

[53] Morgan and Allbon (n 6).

[54] Ibid 151–53.

[55] Ibid 146–50.

[56] See, e.g., Marc Salomon 'Lawyer personality and resistance to change', Master's Thesis, INSEAD, 2014; Randy Kiser 'Why lawyers can't jump: the innovation crisis in law', *Legal Innovation*, 4 October 2020, https://www.legalevolution.org/2020/10/why-lawyers-cant-jump-the-innovation-crisis-in-law-205/ (accessed 22 May 2024).

[57] Larry Richard, 'Herding Cats: The Lawyer Personality Revealed' (Managing Partner Forum, 1998) 4.

[58] Jon Kolko, 'Design Thinking Comes of Age', *Harvard Business Review*, September 2015, https://hbr.org/2015/09/design-thinking-comes-of-age (accessed 22 May 2024).

[59] Jon Kolko, 'Abductive Thinking and Sensemaking: The Drivers of Design Synthesis' (2010) 26(1) *Design Issues*.

they needed. In founding her own firm, she was venturing into areas of legal practice she had not previously worked in. As she explained:

> I think I had both the misfortune and the luxury of not having practised in those areas and was designing it from scratch and was really thinking about what I wanted, and I now, nine years later, know that's called legal design.

In so doing, Lenore had the benefit of, to some degree, starting from a 'clean slate', enabling her to freely reimagine the way that she wanted the new firm to operate. Hence, '*really thinking about what I wanted*' meant among other things, beginning with the goal of reducing the number of touchpoints for the client and working backwards. Niche sought to continually adjust and refine its offerings to suit both its clients and its staff, harnessing the ideas and sometimes the particular talents of its staff as it did so. At times, this did not come naturally, as Lenore's example of having to relinquish her view that her own ideas were superior to those of others.

It also meant intentionally trying to adopt and promote among its staff a different type of 'thinking', one that was more oriented toward problem solving. Lenore explained:

> There's other sort of disciplines that do this better. You know, my dad's an engineer and he would always be building something that pumps something from here to take it there to do that. And that's not something—you don't often create solutions in the law. We're about deducing answers as opposed to thinking 'If we want to get from here to here, how would you create that?'

In general, through generating potential solutions and testing them iteratively - trying them out - Niche worked at its goals of continual improvement and in responding to its changing environment and clients, thereby adopting a key tenet of legal design.[60]

Privileging the client view within the professional relationship

Legal design also aspires to a deeply empathetic approach to clients, and in some respects, this was also foundational to Niche, given that its creation stemmed from Lenore's own personal experience of being a client. In prioritising the client experience, Niche attempted to be non-hierarchical, in that clients' interactions with lawyers were not privileged over its interactions with other professional staff or over any other aspect of its service. Thus the 'client journey' mapping considered all touchpoints between Niche and a client, regardless of who they occurred with, or whether they were interactions with a person or with Niche's website or systems. Niche also requested feedback from clients routinely, not only for the sake of being seen to collect it, or attaining '5 star' reviews, but to analyse trends in the feedback and use those trends as guidance to improve its systems and interactions. However, there was no suggestion of engaging in a 'co-design' approach with clients.

At the same time, both interviewees noted that there were limits on the extent to which clients could have the exact process that they might desire. Clients wanted to book a session with a lawyer early on, so that they had a greater choice of times and knew it was confirmed and in their calendar. However, the firm found that after making the appointment, clients were not following up by providing the information and documents that lawyers needed prior to the appointment taking place, leading to cancellations or to conducting the meeting with the lawyer not having all the necessary information. As a result, Niche adjusted its processes so that clients could not proceed to book their meeting until all the information had been provided. This small change illustrated the practical limits of respecting client's wishes and designing for the

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[60] See, e.g., Hagan, 'Design Process for Lawyers' (n 45).

client, by the need to balance these against what lawyers required to do their job thoroughly and well. This reflects a wider point of tension for legal design, in that although it seeks to privilege the experiences and views of clients, lawyers have professional responsibilities to their clients, but also to others, including the courts and the administration of justice.

As with other professionals, the lawyer-client relationship is typically characterised as unbalanced: the lawyer possesses specialist expertise and knowledge, familiarity with systems and processes, that the client often lacks. Traditionally, the asymmetrical lawyer-client relationship generated an assumption 'that the professional was better placed than the client to define the content, timing, delivery and price of the lawyer-client engagement'.[61] A newer approach to lawyer-client relations can be seen as a shift away from paternalism to the lawyer presenting options and the client retaining decision-making ability. However, adhering to a clients' wishes must still be tempered by the lawyers' views of what is best for the client, even in seemingly mundane issues of process.

'Satisficing' in a highly regulated legal setting

As noted, there were aspects of Niche's design and values which appeared to naturally fit with a legal design approach, although Lenore did not start out with this at front of mind. Conversely, points of tension arose in relation to how far to lean toward what clients wanted and adopting an experimental approach in the context of a highly regulated profession. Lawyers may be constrained by the limitations associated with the regulation of legal practice and the high ethical duties owed to clients and to the court. For example, Lenore explained, in response to a question about whether there were any elements of legal design that were not so helpful:

> [A]s lawyers, you don't have the freedom of this idea of a minimum viable product. If you were designing something that was not quite right and bringing it to market and then learning from that. I think legal services and our insurer would have something to say if we sort of shipped something out there that was ill-thought through and not fit for purpose and not dealing with all of our obligations to clients about advising them of all options and making sure there was proper confidentiality and all of that, so I think that's something that doesn't work well in practice.

Design is evaluated on the usefulness of its results,[62] but the goal is 'good enough' solutions: a designer cannot 'solve' problems but only 'resolve' them. This is sometimes described as optimization, or satisficing. It means that any design is naturally iterative, as Kolko explained, as the designer should continually seek to improve on it.[63] However, the idea of refining a 'minimum viable product' concept, as Lenore noted, did not transfer smoothly into the legal regulatory setting which could not tolerate gaps, uncertainties, or any possible risks to clients. The conundrum associated with experimentation is well-illustrated by Niche's pilot project extending its services to the regional area some distance away. If Niche had not attempted its own solution to the lack of family law services in the area, the specific, additional challenges associated with doing so would have remained undiscovered. As set out above, not all of the issues that arose with the project were related to the legal services regulator. However, key concerns for the regulator were offering legal services remotely, and as Rachel explained, the idea of offering services on a limited basis, with the regulator's view that this could not be done ethically. The cessation of the project had the somewhat ironic outcome that individuals in the

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[61] Stephen Mayson, *Independent Review of Legal Services Regulation: The Focus of Legal Services Regulation*, Working Paper LSR-3 (UCL Centre for Ethics and Law, March 2019) 18.
[62] L Bruce Archer, 'The nature of research into design and design education' (Paper presented at the International Conference on Design and Technology, Department of Design and Technology, Loughborough University, 2007) 4.
[63] Kolko (n 58).

region were left once again without access to a private (i.e., non-Legal Aid) family law service. In other words, the choice reverted to a 'full service' legal services model, widely noted to be unaffordable for a large section of the population, or no service at all.

These areas of tension perhaps do point to the validity of conceptualising 'legal design' as, at least, the application of design thinking in a highly specific context. Conversely, some of Niche's other values, such as making things easy for the client, had developed out of an intuitive and empathetic approach focused on envisaging oneself as the client, which could be described as a hallmark of all design thinking.

Conclusion

A few aspects of Lenore and Rachel's stories of attempting to implement legal design principles at Niche support the observation that legal design is still at an early or nascent stage,[64] and moreover that perhaps there should be some credence given to the idea of lawyers being, if not different and special, at the very least operating within a specific professional culture. The interviewees described a process of trying, in an intentional and sometimes effortful way, to create a particular mindset within the firm which did not always seem to come naturally. For instance, Lenore's comment that lawyers do not think of themselves as clients, and that they might sometimes lose sight of the client's understanding in the effort to 'cover themselves' from all angles. Likewise, Rachel's point that an 'archaic' family law system might be an excuse for lawyers not to seek out and pursue a better way of doing things.

It was clear also from the interviews that the legal services regulator (and indeed, the concept and field of professional regulation more broadly) had a key role to play in relation to testing and trialling projects. Indeed, in some jurisdictions, legal regulators have set out to encourage innovation in legal service delivery, often by the creation of regulatory sandboxes.[65] Here, however, the protective function of the regulator was at odds with elements of design thinking, especially an iterative process of testing, seeking feedback and refining. The debate over limited scope services exemplifies this, as insistence on 'full service' is so dramatically different to the idea of 'good enough'.

Some of Niche's design-influenced practices could be reframed as simply professional care for clients - adopting to the fullest extent lawyers' obligations to ensure that clients understand and can give informed instructions, or sensible business methods, such as understanding client needs and the changes in the market. Nevertheless, there were various ways that Niche did try to instil a mindset that was not 'thinking like a lawyer', i.e., was not a fixed adherence to a certain way of doing things, but which was open to new ideas and continual growth and revision, such as its weekly innovation circles. Accordingly, within the constraints of a highly regulated system, Niche worked at shifting its culture to be, in a sense, more 'designerly'.

Appendix

Interview Guide – HC210788
To begin, I am interested in how you developed your knowledge of legal design.
   1.   When did you become interested in legal design?

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[64] Perry-Kessaris (n 1) 186.
[65] See, e.g., Stephen Mayson, *Consumer Harm and Legal Services: From Fig Leaf to Legal Well-Being,* Supplementary Report of the Independent Review of Legal Services Regulation (UCL Centre for Ethics and Law, April 2022) 105–6.

2. How did you acquire your knowledge of legal design? [Intuitive, or learned?]
3. When did you decide to apply that knowledge?

I would now like to ask about how you have applied legal design to your practice.

4. What elements of legal design have you used? Stages/processes?
5. Can you give me some examples of how you have used legal design for specific projects?
6. [Follow up on one or two projects]: Can you tell me about how that project was implemented?
7. Do you think that using legal design caused you to do anything differently for that project?
8. Were there any elements of the legal design approach that worked really well for your firm/project?
9. Any elements that did not work so well or did not seem to be as effective?

Finally, I am interested in your more general thoughts about legal design:

10. What would you say to others who might want to use a legal design approach?
11. What resources on legal design do you think would have been helpful for you or would be helpful in the future?
12. Do you have any further comments or questions for me?

Conflict of interest statement and any funding acknowledgement