

# Designing Gender Equality into the Future of Law: *Final Report*

Dr Meraiah Foley  
Amy Tapsell  
Professor Rae Cooper AO  
Talara Lee  
Dr. Briony Lipton  
Dr Serrin Rutledge-Prior and  
Professor Ariadne Vromen



THE UNIVERSITY OF  
SYDNEY



Australian  
National  
University

**Gender Equality in Working Life Research Initiative**





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Gender Equality in Working Life Research Initiative

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# About this project and report

*Designing Gender Equality into the Future of The Law* is a three-Phase research project which was designed to investigate how women and men lawyers understand and experience the changing nature of work. The findings presented in this report map the gendered dimensions of workplace change in the legal profession by asking: what are women's and men's hopes and concerns for the legal profession, and how do we build upon their current workplace experiences to construct a more gender-equitable future of work?

This report contains insights developed through in-depth interviews with 33 senior stakeholders in the legal profession, an online survey of practicing solicitors in New South Wales ( $n = 766$ ), and seven online focus groups with 30 early- and mid-career lawyers.

# Executive Summary

The legal profession has undergone profound transformation over the past two decades, driven by new technologies and forms of legal service delivery that are upending the traditional organisation of legal work. These changes are disrupting career pathways and requiring lawyers to rethink the skills that will be required for future success. The COVID-19 pandemic spurred further integration of new technologies, and challenged long-held norms in relation to how and where lawyers should work. Collectively, these changes are occurring against a backdrop of persistent gendered inequality. It should be noted that there have been substantial improvements in women's numerical representation in the legal profession. Under current Law Society of New South Wales leadership, a 20-year trend toward convergence in men's and women's participation in the Australian legal profession has been realised. For example, women now outnumber men in the legal profession in all states and territories across Australia,<sup>1</sup> and in New South Wales, female solicitors have outnumbered male solicitors for a sixth consecutive year.<sup>2</sup> While women remain under-represented in senior leadership roles including as partners, principals, barristers, and judicial members, over one third (35%) of private practice partners/principals in New South Wales are now women.<sup>3</sup> In corporate and government legal roles, there is now an even split between women and men in senior roles.<sup>4</sup> Numerical dominance aside, issues of gendered discrimination, disrespect, and harassment remain stubbornly entrenched in the profession.

This report shows that:

- The automation of legal tasks, the emergence of new market players, and the increasing bifurcation of lower-value legal services from higher-value legal advice have reshaped the terrain of the legal profession.
- Many senior practitioners viewed these changes as having a profound impact on the profession and those within it. However, many early- and mid-career participants were uncertain about whether these changes would have a positive, negative, or neutral impact on the profession and the organisation of legal work. One common concern was that women may be more likely than men to experience career disruptions owing to their disproportionate concentration in areas of the legal profession more likely to be impacted by these changes.
- There was strong agreement across research participants that the profession's culture of ultralong-work hours, demanding workloads, and its highly competitive working

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<sup>1</sup> Law Society of New South Wales (2020) *2020 National Profile of Solicitors - Final*. URBIS. Available at: <https://www.lawsociety.com.au/sites/default/files/2021-07/2020%20National%20Profile%20of%20Solicitors%20-%20Final%20-%201%20July%202021.pdf>

<sup>2</sup> Law Society of New South Wales (2022) *2022 Annual Profile of Solicitors in NSW - Final*. URBIS. Available at: <https://www.lawsociety.com.au/sites/default/files/2023-06/2022%20Annual%20Profile%20of%20Solicitors%20in%20NSW%20-%20Final.pdf>

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

environment were a key driver of burnout, work and family conflict, and gender-based inequities.

- Against this backdrop, technologically-enabled hybrid and remote working – which was accelerated by the COVID-19 pandemic – was generally viewed as a very positive and, in some ways, ‘liberating’ development, accruing multiple benefits to lawyers including enhanced wellbeing, better work and life balance, and increased work productivity. These benefits were seen to be especially positive for lawyers working or living outside of large cities, and lawyers with significant caring responsibilities.
- Participants generally agreed that the COVID-19 pandemic had brought a proliferation of digital platforms and information communication technologies, which increased expectations around lawyers’ availability, accessibility, and responsiveness to both colleagues and clients. Consequently, the boundaries between work and home life were viewed as having been blurred, and workloads intensified. Many participants therefore viewed these technologies as a ‘double edged sword’.
- Among early- and mid-career lawyers, the ability to have a positive impact on people’s lives, while maintaining a decent work-life balance were seen as hallmarks of a successful career, suggesting an emergent narrative of ‘sustainable legal careers’.
- Research participants agree that significant gendered inequalities remain in the legal profession, and they see this playing out across multiple dimensions, including in relation to sexual harassment, bullying, access to prestigious cases and projects, in client’s relationships, promotion opportunities, and in support for work-life balance. However, we identified substantial differences in how women and men perceived both the existence and severity of these problems, with women more likely to identify challenges and less likely to perceive that those challenges are being adequately or appropriately addressed.

# Research-Informed Ideas for Action

The following section presents key findings from our research, followed by suggested action areas that would help to address the issues and problems identified by legal practitioners and stakeholders:

## Technology-enabled flexibility

- **Finding:** Improvements in information communication technologies, accelerated by the pandemic, have greatly expanded the ability of lawyers to work remotely, a development that was seen by participants as ‘overwhelmingly positive’. Participants strongly valued the ability to use hybrid and remote work to better facilitate work-family integration and work-life balance and were concerned about a post-pandemic reversion to long, office-based working hours.
  - **Action area:** Professional bodies, jurisdictions and employers should advocate and take action to ensure that lawyers continue to have access to hybrid and remote work arrangements into the future.
- **Finding:** Participants reported that while improvements in technology and better access to hybrid and remote working arrangements had greatly enhanced their productivity and efficiency, this also contributed to pressure to work longer hours and the exacerbation of already-blurred boundaries between work and home.
  - **Action area:** Professional bodies, jurisdictions, and employers should develop frameworks, policies, and guidance for lawyers to manage digital connectivity and digital workloads in order to support wellbeing and to avoid burnout. This should be accompanied by profession-wide conversations focused on the need and right to ‘switch off’, as well as building sustainable working hours and work-life balance.

## Performance and pay

- **Finding:** Participants, particularly those who provide care to others, reported that ‘unreasonable’ billing targets were a major contributor to gender inequality in the legal profession, by unduly rewarding lawyers with the capacity to work long, interrupted hours. These participants argued an excessive focus on billing targets within the legal profession obscured achievement outcomes and non-billable contributions (such as mentoring early career staff). This was seen as an industry-wide dynamic requiring leadership ‘from the top’.
  - **Action areas:** Professional bodies, jurisdictions and employers should take the lead in developing a framework for ‘reasonable’ billing targets and/or the use of alternative performance metrics that recognise and reward outcomes and capacity building.
- **Finding:** Despite the use and prevalence of billable hours to monitor and reward performance in the legal profession, there was a strong perception among women participants in our research that reward practices and progression opportunities in the



legal profession remain inequitable. They argued that there was a need for greater pay transparency in the profession.

- **Action areas:** Major employers should commence and encourage conversations about pay transparency, conduct regular internal pay audits using gender-disaggregated data, reporting on outcomes and taking action where required.

## Policy and culture

- **Finding:** Participants argued for improved and gender-equitable parental leave policies would encourage better sharing of care work among lawyers.
  - **Action area:** Professional bodies, jurisdictions and employers should promote broader use of parental leave. This might include auditing the availability and use of parental leave for non-birthing parents and encouraging and celebrating the use of these leaves by underrepresented groups (such as men) to reduce stigma associated with care.
- **Finding:** Participants perceived that sexual harassment remained a significant challenge in the legal profession despite many years of advocacy for change. Participants noted that complaint mechanisms available for reporting experiences or observations of harassment were insufficient or not well-known.
  - **Action area:** Professional bodies, jurisdictions, and employers should review their current processes and mechanisms for reporting harassment, build access to improve levels of reporting, increase confidence that the issue is being dealt with and promote a culture of respect.
- **Finding:** Participants, particularly women lawyers and early career lawyers, reported that they often felt isolated and siloed in their work and argued that they would like better opportunities to make networks and to access mentorship and sponsorship opportunities.
  - **Action area:** Professional bodies, jurisdictions and employers should organise and facilitate targeted events for lawyers in particular demographic groups, at particular career stages and in key practice areas, to promote the building of relationships and networks with a focus on career development and sustainable career pathways.
- Engage the entire legal community, including men, in a research-informed conversation about gendered inequalities and barriers for women in their legal careers to build a powerful coalition for practical change and to build gender equitable outcomes.

# Methods

This report summarises findings of a three-phase research project, which aimed to understand how women and men understand and experience the changing nature of work in the law, and their hopes and fears for the future of their careers. The insights gleaned from each phase were used iteratively, building upon each other to inform subsequent stages. As such, different constituencies in the law were targeted in each. In Phase 1, in-depth interviews were conducted with senior stakeholders in the legal profession, individuals in the industry who had a birds' eye view of legal careers. Insights from these interviews informed the design of a survey of practicing solicitors in New South Wales where questions were asked about experiences and attitudes of the subjects. Findings from the first two phases of the study informed the third and final Phase of the research where focus groups were conducted with early to mid-career lawyers about critical themes that were of concern to both senior leaders in the profession and practitioners in the law. In doing so, we sought to identify practical strategies to address key issues raised throughout the project.

Phases 1 and 3 of this project were approved by the University of Sydney Human Research Ethics Committee (Protocol number: 2020/695). Phase 1 was approved by the University of Sydney Human Research Ethics Committee on the 30<sup>th</sup> of October 2020, and Phase 3 was approved on the 5<sup>th</sup> of August 2022. Phase 2 of this project was approved through The Australian National University Human Research Ethics Committee (Protocol number: 2021/184) on the 4<sup>th</sup> of May 2021.

## Phase 1: Senior stakeholder interviews

In the first phase of the research, 33 senior stakeholders in the legal profession were interviewed. Interviews, which were conducted online (via Zoom or Teams) between October 2020 and April 2021, sought a macro-perspective of key trends influencing the legal profession such as the impact of automation and technology, the changing nature of legal service delivery, the impact of these changes on legal career pathways, and the gendered dynamics of work within the profession. Interviews each took between 45 – 60 minutes to complete.

### Sample characteristics

Senior stakeholders were identified for their expertise in and knowledge of the legal profession, and the sample included judicial members, legal academics, legal specialists with expertise in business, human resource management, and technology, senior members of state, national and/or international industry associations, senior members of key regulatory bodies, and senior legal practitioners from government, non-profit agencies, and the private sector (see Appendix A.).

## Phase 2: NSW solicitors survey

Drawing on the insights developed in stakeholder interviews, the research team conducted an online survey of practicing solicitors in New South Wales. The survey was designed to understand and map perceptions and experiences regarding the present and future of work in the legal profession, focusing on three areas: the future of the profession, future careers and future skills, and gender dynamics in the legal profession. We sought to understand whether there were gendered patterns in these experiences and perception. Ipsos Social Research was commissioned to administer the survey on behalf of the research team. A link to the anonymous survey was distributed to The Law Society of New South Wales members via email with a 'click through' link to the survey from the Society's. The survey was open between 24 August and 28 September 2021, yielding a total of 766 responses ( $n = 766$ ).

### Sample characteristics

In the survey, we asked participants about their gender. More than half (58%) of respondents identified as women, 38% identified as men, 1% identified as non-binary/gender fluid and 3% did not disclose their gender. The 1% of non-binary/gender fluid responses were excluded from analysis because the size of this group was too small to draw meaningful comparisons with the other groups. As the purpose of this analysis was to identify gendered dimensions of workplace change, the 3% of respondents who preferred not to say their gender were also excluded from the analysis.

We also asked survey participants about their countries of origin, and cultural and linguistic backgrounds. Respondents identified as being from 51 different countries around the world. Three-quarters (75%) of respondents were born in Australia, while 3% were born in England, 2% in South Africa, and 1% in each of New Zealand, India, Fiji, Hong Kong, and Malaysia. In terms of languages used at home, 85% of respondents said they spoke English at home, while 15% said they spoke a language other than English at home. One percent (1%) of respondents identified as Aboriginal and/ or Torres Strait Islander, 95% identified as neither Aboriginal nor Torres Strait Islander, and 4% did not disclose. In terms of age, our sample was skewed toward the older end of the profession, with 49% of all respondents aged 50 or older. Forty percent (40%) of respondents were aged 30–49, and 12% of respondents were under the age of 30. Please see Appendix B. for the distribution of the survey sample by age and gender.

Survey respondents comprised a range of practice areas. Most survey respondents (60% of men and 70% of women) identified as private practitioners in law firms, followed by practitioners in corporate legal (17% of men and 10% of women) and practitioners in government legal (12% of men and 8% of women). We note that our survey sample is not fully representative of the Law Society of New South Wales membership or the number of solicitors with a New South Wales practising certificate, given our small sample size ( $n = 766$ ). We acknowledge this as a potential limitation of our findings, and an area for further research.

## Phase 3: Solicitor Focus Groups

In the third phase of this research, we designed and conducted focus groups to elicit a more nuanced understanding of the issues that were surfaced in analysis of data collected in the first two phases of this project (that is interviews with senior legal stakeholders and a survey of practicing solicitors in New South Wales). Seven online focus groups with 30 early to mid-career lawyers were conducted between the 20<sup>th</sup> of February 2023 – 17<sup>th</sup> of April 2023. We targeted early and mid-career lawyers in this Phase of the project for two key reasons. In Phase 1 of this project, we spoke exclusively to senior stakeholders in the legal profession. Second, in Phase 2, our sample of practicing solicitors was skewed toward older lawyers, with 49% of lawyers aged 50 years or older.

Focus group conversations sought to understand lawyers' experiences and understandings of three key issues, namely: 1) the features of successful legal careers, 2) impacts of technology and 3) gender dynamics in legal careers including discrimination and disrespect. These themes were identified in earlier phases of the research as being critical themes concerning both senior leaders in the profession and practitioners in the law. The discussion guide was developed by the research team, with input from our research partner organisations, The Law Society of New South Wales, and The Women Lawyers Association of New South Wales. The focus group interviews each took 90 minutes to complete.

### Sample characteristics

Focus group participants included lawyers with caring responsibilities, from culturally and linguistically diverse (CALD) backgrounds, 10 years or less post-qualification experience (PQE), and from metropolitan and regional areas in New South Wales. In our focus groups, we spoke exclusively to early- (up to 5 years PQE) and mid-career (6 – 10 years PQE) lawyers<sup>5</sup> to not only better understand their experiences of working in the legal profession but how to design a more equitable future of work. Early- and mid-career lawyers were targeted for two key reasons. Early- and mid-career lawyers heralded from a broad range of practice areas in private practice, local government, in-house counsel, and legal aid. To ensure the views of metropolitan and regional lawyers were adequately captured, our sample was selected from a variety of suburban and regional law societies. Please see Appendix C. for demographic descriptions of our focus group participants.

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<sup>5</sup> Early- and mid-career stages as defined by The Law Society of New South Wales.

# Findings: Phases 1 and 2

## The future of the legal profession

The legal profession is undergoing profound transformation, with some legal scholars warning that ‘the death of the legal profession’ may be imminent.<sup>6</sup> The changes reshaping the legal profession fall into three broad categories. First, the monopoly that lawyers once enjoyed over the provision of legal services has been upended by the process of liberalisation that has occurred over recent decades, opening the market to new business structures and modes of legal service delivery, such as niche companies that specialise in high-volume, technologically enabled, process-driven legal services.<sup>7</sup> Second, clients, facing their own market pressures, are demanding higher levels of legal service at lower cost, a phenomenon Susskind<sup>8</sup> has labelled the ‘more-for-less’ challenge. Globalisation, outsourcing, and labour market arbitrage – the process of seeking out and using the lowest-cost workforce – are further compounding this challenge by shifting expectations about where and how legal work is conducted.<sup>9</sup> Finally, new legal technologies are creating new efficiencies in the way legal services are delivered, adding new competitors to the legal marketplace, and eroding the primacy of the law firm.<sup>10</sup>

Although legal scholars have been warning of these changes for the past decade, it is unclear how legal practitioners understand and experience these transformations, and whether these perceptions and experiences are gendered. In this section, we first examine how senior stakeholders understand these changes, with a particular focus on the gendered impacts, and then examine our survey results.

### Automation of legal tasks

Nearly every legal stakeholder we interviewed identified the automation of legal tasks and the proliferation of new technologies as key factors reshaping the profession and industry. There was widespread agreement that technology and automation were revolutionising the provision of formerly ‘bread-and-butter’ or ‘core’ legal services, such as document review, due diligence, e-discovery, and conveyancing – with both positive and negative impacts.

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<sup>6</sup> Dan Hunter, ‘The Death of the Legal Profession and the Future of Law’ (2020) 43(4) *UNSW Law Journal* 1199; see also, Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services* (Oxford University Press, 2008); Richard Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future* (Oxford University Press, 2013).

<sup>7</sup> John S Dzienkowski, ‘The Future of Big Law: Alternative Legal Service Providers to Corporate Clients’ (2014) 82(6) *Fordham Law Review* 2995; Marina Nehme and Felicity Bell, *The Future of Legal Service Delivery: Sources of Innovation in the Legal Profession* (The Law Society of NSW & UNSW Sydney, 2021) <[https://www.lawsociety.com.au/sites/default/files/2021-10/LS3600\\_FLIP\\_FlipStream2021-Service%20Delivery.pdf](https://www.lawsociety.com.au/sites/default/files/2021-10/LS3600_FLIP_FlipStream2021-Service%20Delivery.pdf)>.

<sup>8</sup> Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future* (n 5).

<sup>9</sup> Hunter (n 1); Margaret Thornton, ‘Towards the Uberisation of Legal Practice’ (2019) *Law, Technology and Humans* 46.

<sup>10</sup> Larry E Ribstein, ‘The Death of Big Law’ (2010) 2010(3) *Wisconsin Law Review* 749.

Stakeholders saw the adoption of new technologies as a product of the ‘more-for-less’ challenge, with clients pushing for more efficient, lower cost legal services:

*There is very much a drive by clients, particularly the more sophisticated clients, to ensure that when they’re paying for their legal services, they are delivered in the most efficient and effective way. And there is an acknowledgement that technology can support some of that sort of low-value work, or work that is ripe for automation. (Fleur, senior practitioner, private sector)*

The stakeholders we interviewed spoke extensively about how technology was ‘bifurcating’, ‘segmenting’, or ‘dividing’ the industry into lower-value, generalised ‘legal work’ that could be easily automated, and higher-value, tailored ‘legal advice’. Some argued that the automation of legal tasks would be largely beneficial, liberating lawyers from ‘grunt, boring work’ (Charlotte, legal academic) and enabling them to spend time on ‘more meaningful, higher value work’ (Philip, legal specialist, technology). With this bifurcation, however, lawyers were being forced to ‘identify what their real value-add is’ (Todd, senior practitioner, government), as illustrated here:

*Anything that can be repeated easily— if it’s what I call low end repetitive work, it can be done essentially by technology... so lawyers have to move up the value chain in terms of the advice they provide. (Lynne, legal specialist, business)*

Some stakeholders expressed concern about the impact of automation and artificial intelligence (AI) on gender equality in the legal profession, noting the disproportionate concentration of women in practice areas and specialisations more likely to be affected:

*The legal profession is still very much about women being in the bottom end of the profession, so I think AI – if there is going to be a detrimental impact of AI – it’s going to be on the bottom end of the profession, and that’s where the majority of women are. (Carrie, senior member, industry association)*

## **Emergence of new market players**

The emergence of new players in the legal market was another issue of concern raised by legal stakeholders. Stakeholders saw the emergence of alternative legal service providers and NewLaw firms as a disruptive force in the industry but were divided about the long-term impact for the profession and the women and men working within it. Some argued that these new market players offered lawyers more flexibility over how they work – effectively ‘democratising’ the profession and enabling better work-life balance, as illustrated here:

*I feel like it’s actually democratising legal services and the types of people who can provide them and the ways they can provide them are much more varied... There are many more opportunities to work part-time, to work flexibly, to work on a contracting basis when it suits you, how it suits you. That’s a real advantage. The technology means that you no longer have to have a big office with a lot of physical infrastructure and significant barriers to entry. (Donna, senior practitioner, private sector)*

These stakeholders viewed the emergence of these alternative players as particularly beneficial to women working in the profession, providing an alternative to ‘traditional hierarchical partnership structures... of which harassment, bullying, and various other things [like] ridiculous pressures and ridiculous hours and unhealthy work practices have been a part’ (Charles, senior member, industry association). Other stakeholders, however, expressed concern that these new market players would lead to increased outsourcing by larger firms, pushing down wages in less lucrative areas of the profession where women are disproportionately concentrated, and making legal work less secure, a phenomenon that legal scholars and practitioners have dubbed the ‘Uberisation’ of legal careers.<sup>11</sup> As one participant explained:

*I think the flexible lawyering, freelance lawyering, some of these online lawyering models, they have an upside which is flexibility, and the empowerment that brings. I know a lot of lawyers who leave big law whether to have a family or because they are disenchanted by that and then they find that working for one of these freelance legal providers is really great, fits into what they want and their lifestyle aspirations. But I guess it brings with it a precariousness... particularly if it means that more and more firms shed full time stable positions for greater resourcing on those sort of precarious positions. (Stanley, senior member, industry association)*

## Unbundling and consolidation

Several participants noted that automation and increasing competition from new market players were accelerating the ‘commodification’ or ‘unbundling’ of legal services, with the industry shifting from a full-service delivery model to a more ad-hoc, technically specialised mode of delivery, as summarised here:

*A big part of the change in the practice of law is traditional legal services, where you went to a firm, and you got an end-to-end legal service and, by and large, those services were performed by a very small group of people... That has changed very significantly, in that matters are being examined at a very granular level, they’re being broken down into their constituent parts, and either the law firm or the client is unbundling those matters and being quite thoughtful and considered about who is the most effective resource to carry out a specific element of the work... as such, the matter, as a whole, is able to be delivered more efficiently. (Wesley, legal expert, technology)*

Several stakeholders predicted that the technology-enabled commodification of legal services would see the decline of smaller law firms and ‘high street’ legal practitioners, who would be less willing or able to invest in the technology required to stay competitive. Participants predicted that, over time, this process would likely lead to the consolidation of legal services

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<sup>11</sup> Thornton (n 4); Margaret Thornton, ‘Legal Professionalism in a Context of Uberisation’ (2021) 28 *International Journal of the Legal Profession* 243; Jerome Doraisamy, ‘The “Uberisation” of Lawyers Is Picking up Pace’ (2 October 2019) *Online Lawyers Weekly* <<https://www.lawyersweekly.com.au/newlaw/26634-the-uberisation-of-lawyers-is-picking-up-pace>>.

into fewer firms able to support themselves through economies of scale, or by providing highly specialised expertise, as shown here:

*I think law is becoming incredibly competitive from a pricing perspective and so, for you to be able to support yourself doing what you do day in day out, along with the various support systems that we need around us, and to support the funding of that, you need a bit of size around you. (Denise, senior practitioner, private sector).*

*Maybe those smaller firms will all disappear in that their functions, you know, their bread-and-butter type functions will be taken over by an automated or largely, but not entirely, automated process, and there will be fewer providers. (Carole, senior practitioner, government)*

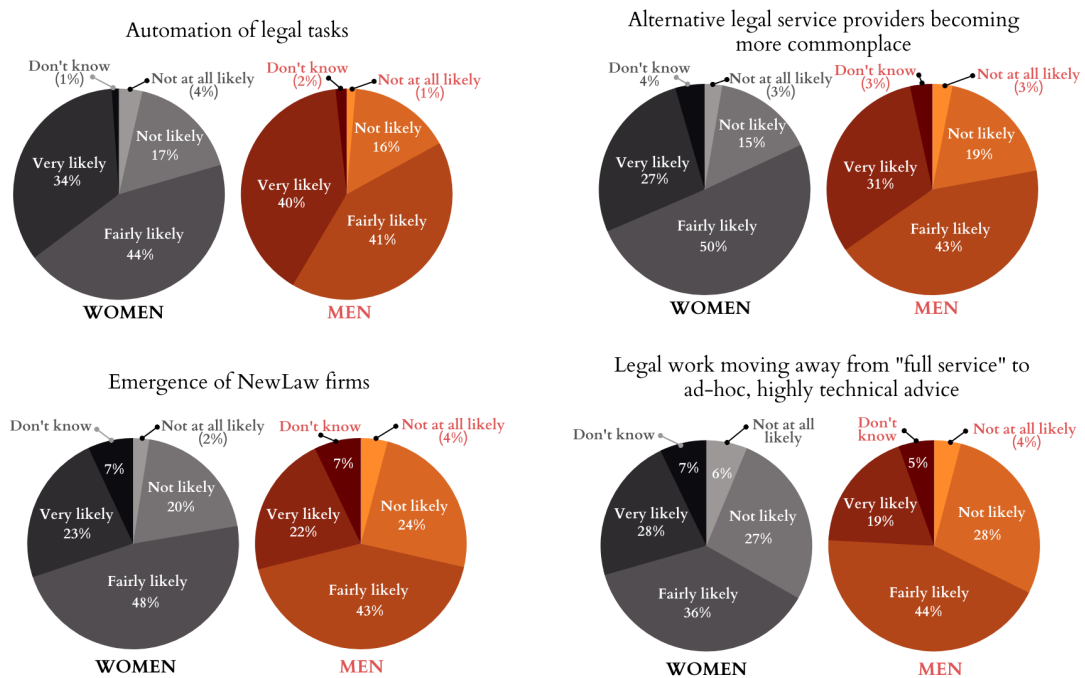
## Survey results

In the next Phase of our study, we surveyed solicitors for their views about the future of the legal profession, drawing on the insights gathered from our stakeholder interviews.

First, we asked survey participants to evaluate the likelihood that these four factors would reshape the legal profession over the next five years. As shown in [Figure 1.1](#), men and women generally agreed that these factors were very likely or fairly likely to change the legal profession. The automation of legal tasks was seen as the most likely factor, with 81% of men and 78% of women saying that automation was fairly or very likely to reshape the profession over the next five years. The emergence of alternative legal service providers was identified as the next most likely factor, with 74% of men and 77% of women saying that this factor was fairly or very likely to change the profession. Perhaps unsurprisingly, this view was even stronger among private practitioners working in small and medium organisations, whose work is more likely to be disrupted by these new competitors. Survey respondents also saw the emergence of NewLaw firms as being likely to change the profession, along with legal work moving away from 'full service' delivery to ad-hoc, highly technical advice. Across all four categories, very few respondents said that these factors were not at all likely to change the profession or simply did not know.



Figure 1.1: The future of the legal profession perceived likelihood, by gender

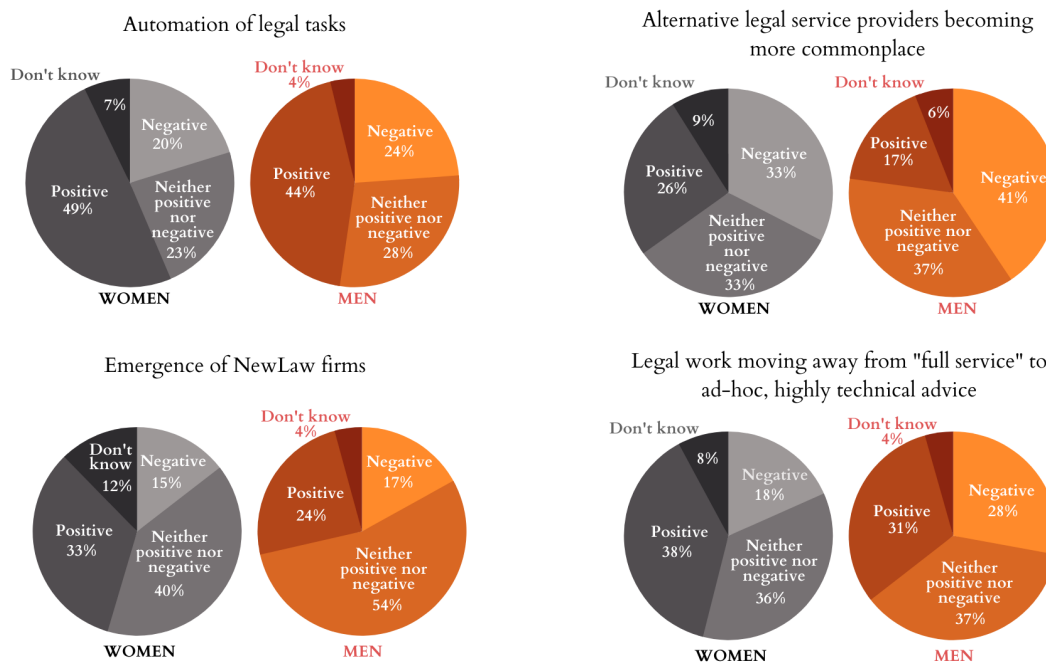


Q1: Think about the following factors and their impact on the legal profession. How likely do you think each factor will lead to a significant change in the legal profession in the next five years? Base: Total sample n=766

Next, we asked participants who said these factors were fairly likely or very likely to lead to a significant change in the legal profession over the next five years to tell us whether they thought these factors would have a positive or negative impact on their own work.

As shown in [Figure 1.2](#), the results were somewhat mixed. Many respondents took a positive view of the impact of technological change, with women being more positive than men. Nearly-half (49%) of women respondents said that the automation of legal work would have a positive impact on their own work, compared to 44% of men. Views on alternative legal service providers were mixed. Notably, only a small proportion of women (26%) and men (17%) said the rise of alternative legal service providers would have a positive impact on their day-to-day work, while one-third (33%) of women and 41% of men said the impact would be negative. The remainder of respondents said the rise of alternative legal service providers would either have no impact (neither positive or negative) or that they did not know. Views were similarly mixed on the emergence of NewLaw firms, and legal work moving away from 'full service' to ad-hoc, highly technical advice. These findings suggest that many solicitors are uncertain about how these developments – which may still be prospective changes for some practicing lawyers – will impact their own work, or believe they are unlikely to be affected.

Figure 1.2: The future of the legal profession – perceived impact, by gender



Q2: You mentioned that the following factors will have significant impact on how work in the legal profession is performed. Do you think these changes will have a positive or negative impact on your own work?  
 Base: Total sample n=766 / Automation of legal tasks n=605 / Alternative legal service providers becoming more commonplace n = 583 / Emergence of NewLaw firms n=520 / Legal work moving away from "full service" to ad-hoc, highly technical advice n=464

## Summary

These findings suggest that senior stakeholders and solicitors perceive that the legal profession is in radical flux, with automation, the emergence of new market players, and disruptions to traditional legal service delivery likely to reshape the legal profession over the next five years. Many senior stakeholders we interviewed told us that these changes could have significant consequences for women, who now represent a majority of working solicitors, but tend to be concentrated in the junior ranks of the profession or working in areas more likely to be affected by these changes. However, our survey respondents were less unanimous or certain in their views about how these changes would impact their own work. Indeed, the relatively large proportion of 'neither positive nor negative' responses in each category suggest that, although many respondents perceive that these changes are occurring or are likely to occur, they do not see themselves as being directly affected. Of all the factors, the automation of legal tasks was the one seen as most likely to have a positive impact, perhaps suggesting that many solicitors see technology as creating a 'more efficient version of today's legal services',<sup>12</sup> rather than heralding the 'end of lawyers.'<sup>13</sup> We explore these attitudes further in the next section.

<sup>12</sup> Richard Susskind and Daniel Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts* (Oxford University Press, 2015).

<sup>13</sup> Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services* (n 5).

# Future careers, future skills

The adoption of new technologies is becoming an increasingly important part of a solicitor's day-to-day work, as well as necessary in the making of a successful career. As the profession changes, legal scholars agree that new skills and strategies for success will be required.<sup>14</sup> In this section, we examine how senior stakeholders and solicitors understand how the disruptors outlined in the previous section influence career pathways and the skills profiles required for future success in the legal profession, with a focus on the gendered implications of these changes.

## Career pathways

Many stakeholders predicted that the changes reshaping the future of the legal profession would disrupt traditional legal career pathways, making them less clearly defined or linear. Several stakeholders observed how technology had 'done away with a lot of the kind of paralegal type roles that give young lawyers a start in the profession' (Todd, senior practitioner, government) and expressed concern about the impact the consolidation of legal service providers would have on the ability for younger lawyers to achieve the requisite training, as shown here:

*We've got a pretty serious problem that's going to emerge over the next little while of – how do we make sure that the people who end up being lawyers (and there will be fewer of them) are actually well trained, because it's going to be harder and harder to get that work. (Guy, legal academic)*

Some stakeholders warned that these disruptions could compound existing gender inequalities in the profession, making it harder for junior lawyers – who are disproportionately women – to acquire the skills required for succeed, in an environment where success already divides along gendered lines. Although the number of female solicitors compared to male solicitors has been increasing steadily since 2011, and women have comprised more than half of all solicitors in Australia since 2018,<sup>15</sup> women remain markedly under-represented in senior leadership roles. For example, a 2019 survey of 140 mid-market law firms found that women held only 16% of equity partnerships, and 33% of non-equity partnerships.<sup>16</sup> Presently, women account for more than 60% of solicitors under age 40,<sup>17</sup> and some stakeholders expressed concern that this new generation of younger, mostly women lawyers would struggle to gain the training and expertise required to succeed as technology and other disruptors bifurcate the industry into 'higher-value' and 'lower-value' sectors:

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<sup>14</sup> Amy Bullows, 'How Technology Is Changing the Legal Sector' (2021) 55(2) *The Law Teacher* 258; Thornton (n 10).

<sup>15</sup> Law Society of New South Wales, *2020 National Profile of Solicitors - Final* (URBIS, 2021) 70  
<<https://www.lawsociety.com.au/sites/default/files/202107/2020%20National%20Profile%20of%20Solicitors%20-%20Final%20-%201%20July%202021.pdf>>.

<sup>16</sup> Jerome Doraisamy, 'Female Grads in Firms Outnumber Males 2-to-1' (6 March 2019) Online *Lawyers Weekly*  
<<https://www.lawyersweekly.com.au/biglaw/25191-female-grads-in-firms-outnumber-males-2-to-1>>.

<sup>17</sup> Law Society of New South Wales (n 14).

*Whose work and experience will remain valuable? It's going to be the people at the senior end of the profession, who have the experience and the expertise that you can't automate, that people, clients will still pay for. And as we know, despite three or four decades of gender parity at entry-level, that hasn't translated into gender parity at the top. (Stanley, senior member, industry association)*

## Technological skills

Stakeholders were near unanimous in their view that technology and the automation of legal tasks would reshape the industry and profession. There was less certainty, however, about the extent to which technology would replace lawyers or augment their capabilities, as summarised here:

*I think technology's role in the legal profession is to augment and supercharge lawyers, so that they can work on more meaningful, higher value work and spend more time talking to and understanding their client and their needs. (Philip, legal expert, technology)*

Stakeholders generally agreed that technological skills would become crucial for future success in the legal profession, with technological skills becoming 'the hard dividing line between people who are successful and people that are not successful' (Carrie, senior member, industry association). Several participants expressed concern that women lawyers could be disadvantaged, or left behind, in the acquisition of technological skills, mirroring trends they identified in the tech sector. Some stakeholders suggested that building women's technological capability now could help prevent this. For example:

*I think it's going to be a real problem for women, because the tech space, there's few women in it. So, men will drive this area. I think we need more support for women in the tech space, particularly law and tech. (Bonnie, legal academic).*

*I'd be providing very, very good training and education in the use of technology for women [lawyers], because I think that will give them more choices. (Carole, senior practitioner, government).*

## 'Human' skills

The stakeholders we interviewed agreed that new technologies were reshaping the legal profession, automating core functions of legal service delivery such as document review and discovery. Within this context, they predicted that 'soft', relational skills such as empathy and communication – 'the things, I suppose, that differentiate human lawyers from AI' (Jackie, legal specialist, human resources) – would become more important:

*The technical advice that a client receives, for the most part, is fairly standard... but the way you go about doing that is actually the differentiator in terms of skills. So, how commercial that advice is, how well you understand the client's business, how you can empathise with the plight the client is facing – which aren't traditional legal skills, but they are human skills that accompany the provision of those legal*

*services... That's, I guess, the "human face" of doing the business of law in the future. (Grace, legal specialist, human resources)*

Although stakeholders saw technological innovations as being powerful and influential, they were sceptical about its capacity to fully usurp what they saw as the 'human' side of the profession:

*There's certainly a lot of hype around lawyers being replaced by robots and machine learning is going to change the way that things happen. I don't know whether it's just the type of work that I do, but it's still largely dealing with people with quite individual problems – you can't get rid of the human element easily.*

(Donna, senior practitioner, private sector)

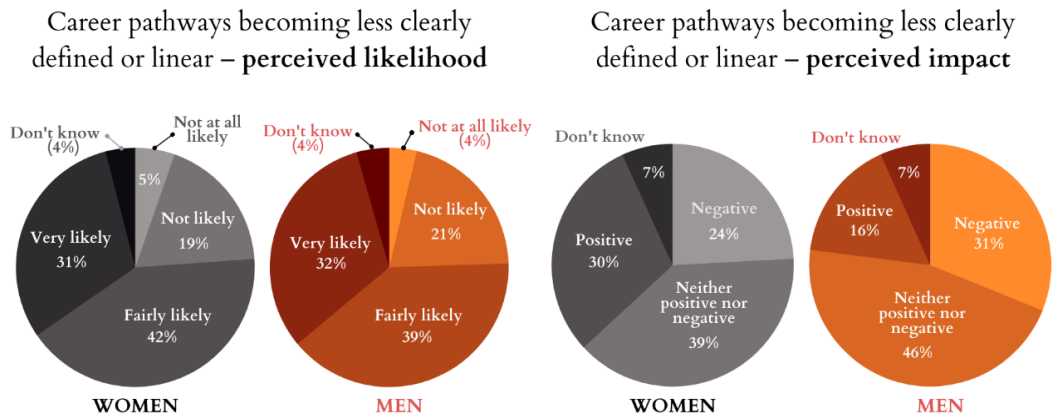
## Survey results

In the next Phase of our study, we asked solicitors whether they thought that legal career pathways would become less clearly defined or linear over the next five years, and, if so, whether the impact would be positive or negative. We also asked a range of questions about technology and the skills required for success in the future of the legal profession.

### *Career pathways*

Building on the insights from our stakeholder interviews, we asked solicitors about the likelihood and perceived impact of 'career pathways becoming less clearly defined or linear'. Women and men largely agreed that this factor is fairly likely or somewhat likely to change the legal profession over the next five years, as shown in [Figure 2.1](#). However, respondents were largely uncertain about the impact of this change on their own work. Around a quarter (24%) of women and nearly a third of men (31%) said this change would have a negative impact on their work, 30% of women and 16% of men said the impact would be positive, with the remainder saying the impact would be neutral (neither positive nor negative), or that they simply did not know what impact this would have.

Figure 2.1: Views on future career pathways, by gender



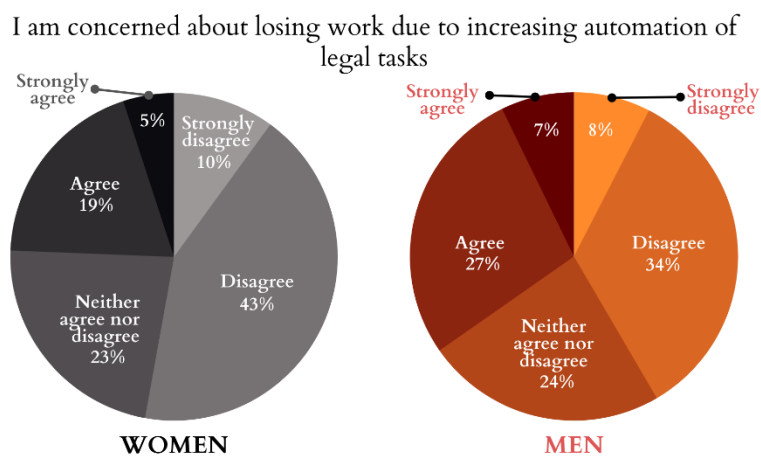
Q1. How likely do you think this factor will lead to a significant change in the legal profession in the next five years?  
 Base: Total sample n=766 Q2. Do you think this change will have a positive or negative impact on your own work? n=550

### Technological skills

We also asked solicitors for their views about new technologies at work, and whether they were concerned about losing work due to the automation of legal tasks. Again, the results were somewhat mixed. As shown in Figure 2.2, women were less likely than men to express concern about the job-displacing potential of automation, despite stakeholders’ warnings about the disproportionate exposure of women lawyers to the risks of automation.

Roughly one-quarter (24%) of women agreed or strongly agreed with the statement ‘I am concerned about losing work due to increasing automation of legal tasks’, compared to 34% of men. It is notable, again, that almost a quarter of respondents expressed a neutral opinion (neither agree nor disagree) about this risk – suggesting that many solicitors are still uncertain about whether automation will impact their work and, if so, how.

Figure 2.2: Concern about job loss and automation, by gender

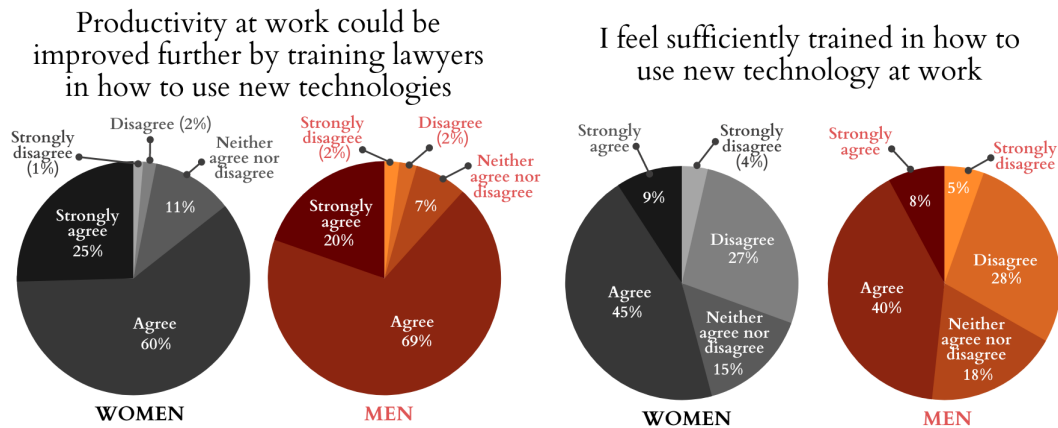


Q5. Please indicate the extent to which you agree or disagree with the following statement. Base: Total sample n=766

Survey respondents were generally positive about the potential productivity benefits of technology. Nearly 9-in-10 respondents (86%) thought that new technologies could help lawyers become more productive at work. As shown in [Figure 2.3](#), this view was strongly shared by women and men, with 85% of women and 89% of men agreeing or strongly agreeing with the statement ‘productivity at work could be improved further by training lawyers in how to use new technologies.’ Not surprisingly, younger lawyers (under the age of 30) were more likely than other respondents to hold this view.

Only about half of all survey respondents, however, said they felt adequately trained in how to use new technology at work, with 54% of women and 48% of men agreeing or strongly agreeing with the statement ‘I feel sufficiently trained in how to use new technology at work.’

Figure 2.3: Use of new technologies, by gender



Q5. Below are some statements on the use of new technologies at work. Please indicate the extent to which you agree or disagree with the following statements. Base: Total sample n=766

### 'Human' skills

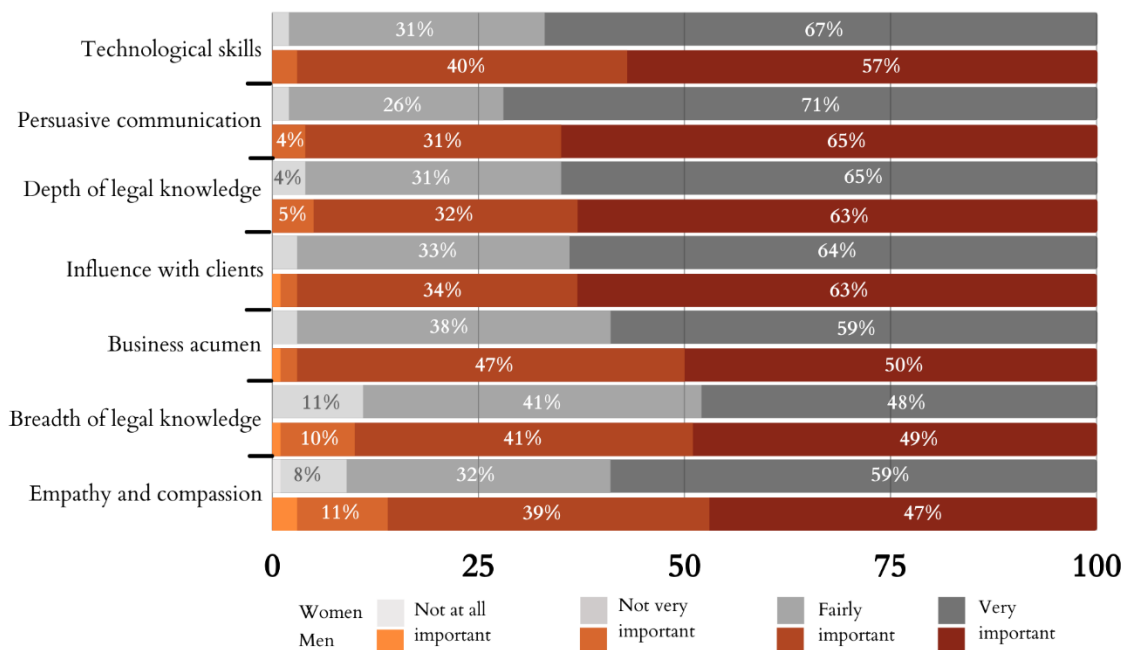
In our survey, we asked participants about the capabilities required to be successful in the legal profession over the next decade. Although women and men agreed that technological skills would be fairly important or very important to future success in the legal profession, there was strong agreement that well-developed relational skills would also be important requisites to success.

Some subtle variations emerged in how women and men rated the importance of these factors. Overall, as shown in [Figure 2.4](#), women were more likely than men to rate almost all of the characteristics we tested as being 'very important' to future success, with the biggest gaps appearing in the perceived importance of technological skills (67% v 57%), persuasive communication (71% v 65%), business acumen (59% v 50%) and empathy and compassion (59% v 47%).

Notably, women and men generally agreed that depth of legal knowledge would be more important to future success in the legal profession than breadth of legal knowledge, possibly reflecting awareness of the premium that will be placed on specialised legal advice compared to the provision of more general legal services.



Figure 2.4: Perceived importance of future skills for success in the legal profession, by gender



Q3. Thinking about the capabilities required to be successful in the legal profession over the next decade, how important will each of the following be? Base: Total sample n=766

## Summary

These findings suggest that while interviewed stakeholders and surveyed solicitors agree that changes occurring in the legal profession are disrupting (or are likely to disrupt) legal careers, but the impact of this disruption is still largely unknown. Overall, women are less likely than men to say they are concerned about losing work due to the increasing automation of legal tasks, and both women and men see the career-enhancing, productivity-enhancing benefits of technology. However, many lawyers do not yet feel adequately trained in the use of these technologies. Senior stakeholders say that technological skills will become essential to succeed in the future of the legal profession, and that it will be necessary to ensure that women are not left behind in the legal-tech revolution. As technology and automation assume a larger share of core legal work, stakeholders and solicitors agree that ‘human’ skills such as communication, client influence, business acumen, and empathy and compassion will become more important – although women are more likely than men to see these skills as ‘very important’ to future success in the profession. As technology takes over an increasing portion of formerly core legal work, it will be essential to ensure that lawyers receive the technological training they need to succeed, and that women are not left behind. It will also be necessary to ensure that the so-called ‘human’ skills – communication, influence with clients, empathy, and compassion – are properly valued and remunerated.

# Gender dynamics in the legal profession

Acknowledging current gender dynamics in the legal profession can help us to better understand how the transformations currently reshaping the profession may play out in the future. Although women have made enormous strides in the industry in recent decades, significant inequalities still exist. The number of women entering the legal profession as solicitors in Australia has increased 67% since 2011, compared to a 26% increase among men, and women now constitute a majority of solicitors in every Australian jurisdiction and every practice area with the exception of private practice.<sup>18</sup> Despite this gradual feminisation of the profession,<sup>19</sup> women still face substantial ‘glass ceilings’ and ‘dead ends’, or careers marked by slow or stalled progression.<sup>20</sup> In Australia, as in other jurisdictions around the world, the legal profession is characterised by marked gender stratification, with women proportionally under-represented in senior leadership roles; and gender segmentation, with women proportionally over-represented in certain practice areas, such as government and community legal services.<sup>21</sup> Scholars in Australia and internationally have documented how the legal profession’s dominant model of full-time work – characterised by ultralong hours, hefty workloads, and high targets of billable hours – disadvantages workers with caring responsibilities, still predominantly women.<sup>22</sup> Requests for flexible working hours are widely seen to conflict with deeply-held notions of professionalism, expressed through working ultralong hours, being physically present in an office, and giving complete dedication to one’s clients.<sup>23</sup> Bullying and sexual harassment remain all too common experiences for women in the profession.<sup>24</sup>

In this section, we examine the perspectives of senior stakeholders and solicitors on the current state of equality, opportunity, and flexibility in the legal profession.

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<sup>18</sup> Ibid.

<sup>19</sup> Sharon Bolton and Daniel Muzio, ‘The Paradoxical Processes of Feminization in the Professions: The Case of Established, Aspiring and Semi-Professions’ (2008) 22(2) *Work, Employment and Society* 281.

<sup>20</sup> Eli Wald, ‘The Changing Professional Landscape of Large Law Firms, Glass Ceilings and Dead Ends: Professional Ideologies, Gender Stereotypes, and the Future of Women Lawyers at Large Law Firms’ (2010) 78(5) *Fordham Law Review* 2245 (‘The Changing Professional Landscape of Large Law Firms, Glass Ceilings and Dead Ends’).

<sup>21</sup> Sharon C Bolton and Daniel Muzio, ‘Can’t Live with ‘Em; Can’t Live without ‘Em: Gendered Segmentation in the Legal Profession’ (2007) 41(1) *Sociology* 47 (‘Can’t Live with ‘Em; Can’t Live without ‘Em’).

<sup>22</sup> Iain Campbell, Sara Charlesworth, and Jenny Malone, ‘Part-Time of What? Job Quality and Part-Time Employment in the Legal Profession in Australia’ (2012) 48(2) *Journal of Sociology* 149.

<sup>23</sup> Jennifer Tomlinson et al, ‘Structure, Agency and Career Strategies of White Women and Black and Minority Ethnic Individuals in the Legal Profession’ (2013) 66(2) *Human Relations* 245; Bolton and Muzio, ‘Can’t Live with ‘Em; Can’t Live without ‘Em’ (n 20).

<sup>24</sup> Law Council of Australia, *National Action Plan to Reduce Sexual Harassment in the Australian Legal Profession* (URBIS, 2020) <[https://www.lawcouncil.asn.au/publicassets/4c3d5a37-b744-eb11-9437-005056be13b5/National%20Action%20Plan%20to%20Reduce%20Sexual%20Harassment%20in%20the%20Australian%20Legal%20Profession\\_FINAL.pdf](https://www.lawcouncil.asn.au/publicassets/4c3d5a37-b744-eb11-9437-005056be13b5/National%20Action%20Plan%20to%20Reduce%20Sexual%20Harassment%20in%20the%20Australian%20Legal%20Profession_FINAL.pdf)>; Joanne Bagust, ‘The Culture of Bullying in Australian Corporate Law Firms’ (2014) 17(2) *Legal Ethics* 177.

## Equality at work

When we asked senior stakeholders to reflect on the state of equity and inclusion within the legal profession, common themes emerged. Stakeholders cited the influence of unconscious (and conscious) gender biases, discrimination, sexual harassment, bullying, and a general lack of accommodation for caregivers as key barriers to women's advancement, as shown here:

*The prevalence of bullying and sexual harassment and discriminatory conduct is a huge barrier. The boys' club network and environment and the hyper-masculine environment continues to be a barrier. The broader social context and the fact that disproportionately still, you know, it's women who are taking significant time off to have kids and then care for kids and take on other care and responsibilities that men typically don't do to the same extent. I think those are three or four examples of a broader puzzle of factors each of which contributes to the fact that women still aren't rising to the top of the profession (Stanley, senior member, industry association)*

Some stakeholders observed that, although conditions for women lawyers have improved over recent decades, normative expectations within the profession remain strongly weighted in favour of men and traditionally male career paths, which see women struggle to 'break in' or progress:

*I feel there has been an absolutely enormous change over my professional life. Having said that, I still think that there are differences. I think, for example, in commercial law I suspect that there is still something of a prejudice in favour of male counsel... I have the sense that there is a feeling amongst the commercial clients and solicitors doing large scale commercial work that you need to be tough and aggressive and assertive... I think it's still probably hard for women to break into that. (Margaret, judicial member)*

## Opportunity at work

Stakeholders spoke extensively about the barriers to progression faced by women in the legal profession, including the difficulty of accessing prestigious cases or projects, and forming effective client networks. Stereotypical notions of what 'good' or effective lawyers look like were seen to create a 'vicious cycle' in which women were blocked from gaining development opportunities required for success:

*I think it's just a primitive notion which is deeply held that in a stressful situation, you can place faith in a tall, big, strong man with a deep voice to look after your interests and be aggressive and get the result you need... So, it becomes a bit of a vicious cycle. Because they [women] haven't been given those roles and they don't develop those skills, then someone can legitimately say, "I'm not going to give her that role because this case is so important. (Tracey, judicial member)*

Stakeholders saw that promotion and reward systems within the legal profession were intrinsically linked to the practice of working – and thus billing – ultralong hours. Several

stakeholders we interviewed spoke about how these expectations disproportionately affected women's ability to progress within the profession. For example:

*The way we measure people still in law is on billables and how much big clients they bring in. And we dismiss the rest. And when someone comes back from having a young family, it's really hard to compete with the male that can be there for 12, 14 hours. So, you leave behind the female, or the female exits out because she can't compete. (Samantha, senior practitioner, private sector)*

Although some stakeholders saw the potential of alternative billing models, such as fixed pricing and capped fee billing, to disrupt the profession's culture of ultralong hours and overwork, views on the likelihood of these alternative pricing models replacing billable hours were largely sceptical. As one lawyer said: 'that ain't going to happen, you know, in the immediate future' (Carole, senior practitioner, government). Stakeholders agreed, however, that it was a major challenge for the industry to "break the connection between time and value" which was seen to be a 'very hard-wired nexus in the profession' (Donna, senior practitioner, private sector).

## Flexibility at work

Senior stakeholders argued that improving access to flexible working arrangements was an important part of building gender equality into the legal profession, given the predominant distribution of paid and unpaid labour in Australian society, and potentially a means to combat the legal profession's culture of ultralong hours and presenteeism. For example:

*We're still at a point in society where there's only 1% of primary caregivers are the blokes. The fact of our culture right now is that, for the most part, women will be giving up more time for caregiving if they have children... I think that flexible work allows, if it's implemented correctly, more flexibility to show what you're capable of outside of the "I'm up against it, working 14 hours a day in front of my boss, but not actually very effective. (Sandra, senior practitioner, private sector)*

It was an interesting time to have these conversations, as they were contextualized by widespread experience of remote working necessitated by the COVID-19 pandemic and enabled by technology. Nearly every stakeholder we interviewed told us that the COVID-19 pandemic had accelerated broad acceptance hybrid and remote working arrangements, including in the operation of courts. Others warned that, without appropriate controls, the same technologies that facilitated hybrid and remote working could exacerbate the existing epidemic of overwork in the profession, as shown in the following quotes:

*Required attendance in person is almost irrelevant now. The courts have embraced video appearance, for example, which was probably one of the only remaining 'have-to-be-there-in-person' type jobs in the law... my genuine experience in our firm is that flexible work and the advance of technology has allowed for far more flexible work. (Sandra, senior practitioner, private sector)*

*I think COVID has really revealed that working from home, you can work, you can be productive, and you can continue to make a contribution. It's made that type of*

*use of technology for doing the work far more acceptable, and employers are more trusting of their employees... I think that's all been a great benefit to women and also the organisation of work, but that has to come with some careful monitoring—that it doesn't then become a tool of exploiting women. (Sally, senior practitioner, private sector).*

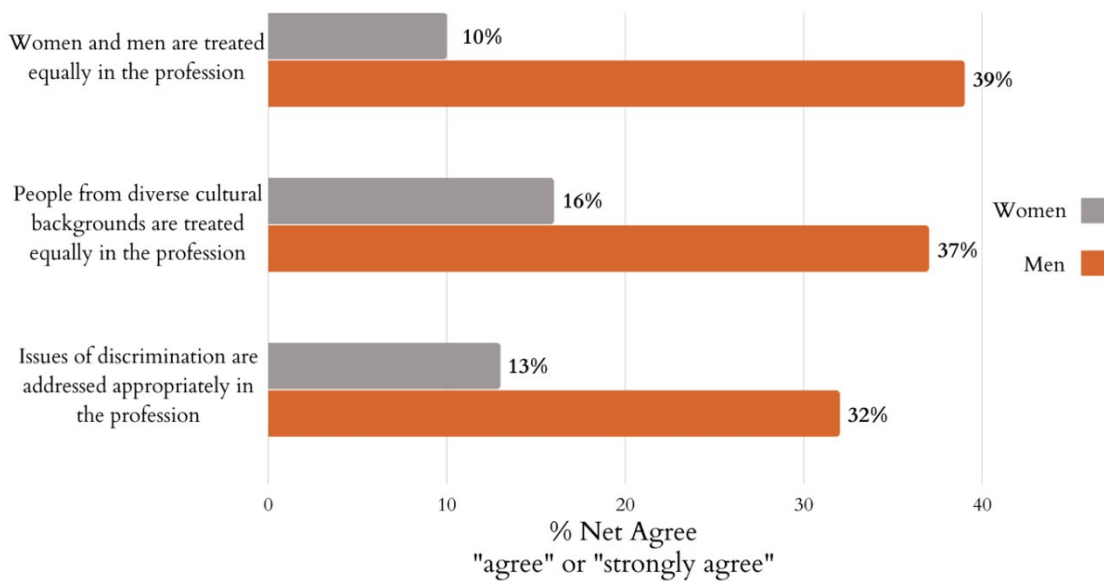
## Survey results

In the Phase 2 of the study, we asked solicitors for their views on equity, opportunity, and flexibility in the legal profession. In this phase, more than any other, the results show substantial differences in how men and women experience the profession.

### *Equality at work*

Among survey respondents, there was a strong perception that gender and other intersectional inequalities exist within the profession, and that more action is required to address these problems. However, there were substantial gaps between women's and men's perceptions regarding the existence of inequalities in the profession, and whether they were being appropriately addressed. Overall, just over two-thirds (67%) of survey respondents said they did not believe that women and men are treated equally in the profession. Overall, as shown in [Figure 3.1](#), women were more likely than men to perceive inequality in the profession, relative to men. While 39% of men agreed or strongly agreed with the statement 'women and men are treated equally in the profession', only 10% of women held this view. Similarly, only 16% of women agreed or strongly agreed with the statement 'people from culturally and linguistically diverse backgrounds are treated equally in the profession', compared to 37% of men. A substantial majority of women and men did not indicate agreement with the statement that issues of discrimination were being adequately addressed in the profession – a concerning result in an industry focused on legal rights – but again, women were more likely to hold this view. Nearly 9-in-10 (87%) women 'strongly disagreed', 'disagreed' or indicated that they 'neither agreed nor disagreed' with this statement, while the same was true of 68% of men.

Figure 3.1: Views about equality and discrimination at work, by gender



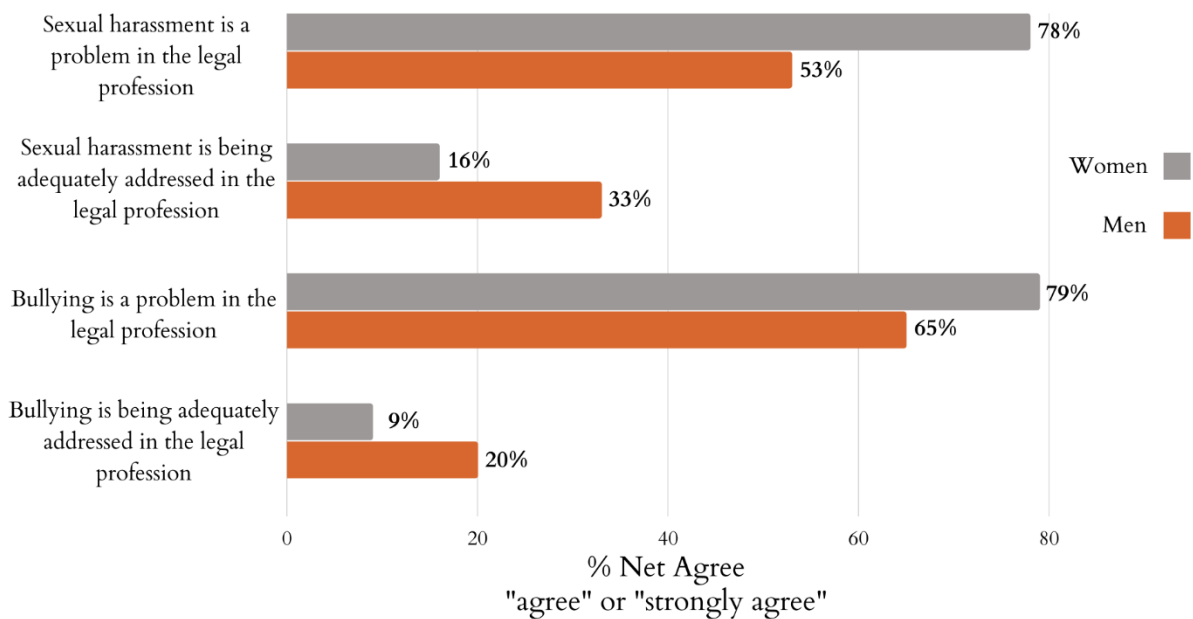
Q7. Below are some statements about people's experiences in the legal profession in general. To what extent do you agree or disagree with the following statements. Net 'agree' shows percentage of survey respondents to said they 'agreed' or 'strongly agreed' with the statements. Base: Total sample n=766

As shown in [Figure 3.2](#), more than three-quarters (78%) of women and just over half (53%) of men agreed or strongly agreed that 'sexual harassment is a problem in the legal profession' and a mere 16% of women and 33% of men agreed that 'sexual harassment is being adequately addressed in the legal profession'. In line with our stakeholders' perspectives, these results suggest that recent advocacy around the issue of sexual harassment may have increased awareness of the problem. The fact that women were more likely than men to say that sexual harassment was a problem, and not being adequately addressed, likely reflects women's relatively greater understanding and experience of harassing behaviours at work.<sup>25</sup>

Women and men also agreed that bullying is a substantial problem in the legal profession and, in their view, one which is not being adequately addressed. Interestingly, more men perceived that bullying was a problem (65%), compared to the proportion of men who saw sexual harassment as a problem (53%). It is open to interpretation as to whether this reflects personal experiences in work and careers, or a more generalised awareness of the problem. Smaller proportions of women and men perceived that bullying is being adequately addressed in the profession, relative to sexual harassment, which may reflect the fact that bullying has not yet been the focus of significant national or industry-based attention.

<sup>25</sup> AHRC, *Respect@Work: Sexual Harassment National Inquiry Report (2020)* (Australian Human Rights Commission, 2020) <<https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>>; Law Council of Australia (n 23).

Figure 3.2: Views about bullying and harassment at work, by gender



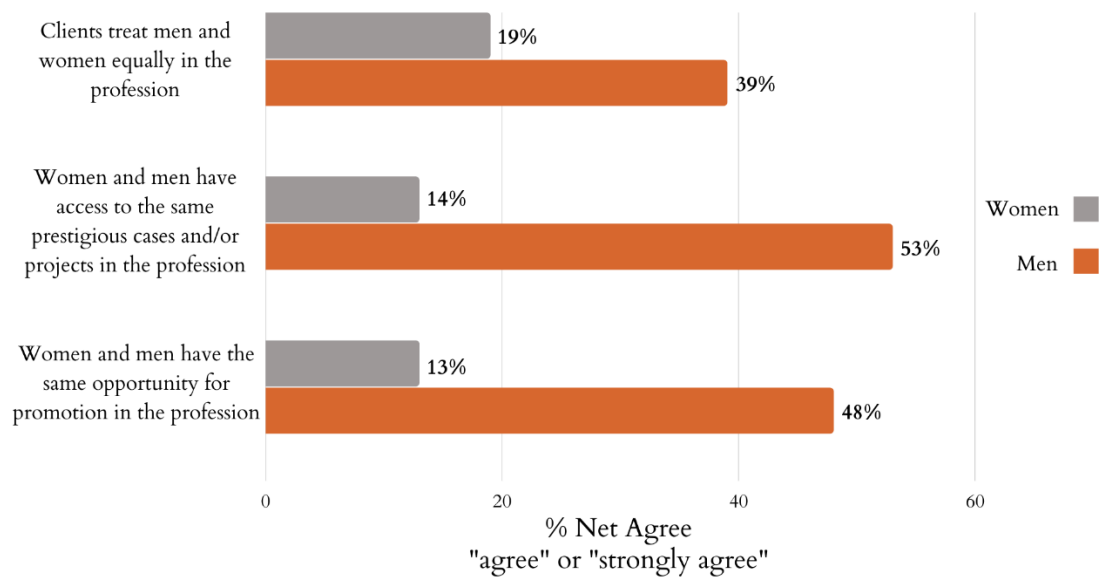
Q7. Below are some statements about people's experiences in the legal profession in general. To what extent to you agree or disagree with the following statements. Net 'agree' shows percentage of survey respondents to said they 'agreed' or 'strongly agreed' with the statements. Base: Total sample n=766

### Opportunity at work

We asked solicitors for their views on whether women and men experience equal opportunities at work and in careers, including treatment by clients, access to prestigious cases and projects, and opportunities for promotion. On every metric, women and men perceived substantial differences in their opportunities for advancement within the profession.

As shown in [Figure 3.3](#), women and men agreed that clients do not treat women equally in the profession, but women were much less likely to agree with this statement than men. Only 19% of the women we surveyed agreed or strongly agreed with the statement 'clients treat women and men equally in the profession', compared to 39% of men. The gender divide on access to prestigious cases and/or projects was even more pronounced, with only 14% of women agreeing or strongly agreeing that women and men have the same access to these important career development opportunities, compared to more than half (53%) of male respondents. Women and men were similarly divided on upward mobility in careers, with only 13% of women agreeing or strongly agreeing with the statement 'women and men have the same opportunity for promotion in the profession', compared to nearly half (48%) of men.

Figure 3.3: Views about opportunity at work, by gender



Q8. Below are some statements about people's experiences in the legal profession in general. To what extent do you agree or disagree with the following statements. Net 'agree' shows percentage of survey respondents to said they 'agreed' or 'strongly agreed' with the statements. Base: Total sample n=766

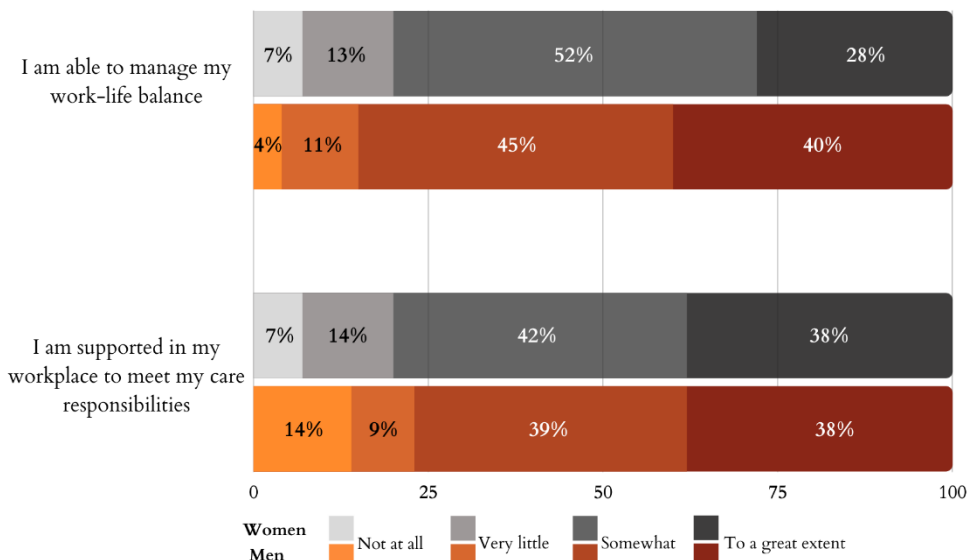
### Flexibility at work

Flexibility is an important part of reconciling family and other caring responsibilities and managing work-life balance. Senior stakeholders spoke extensively about the challenges faced by women lawyers negotiating their work and family commitments. They saw the potential advances in flexible working necessitated by the COVID-19 pandemic, but also cautioned that technology-enabled flexible working could exacerbate overwork and long hours.

In our survey, we asked solicitors about their ability to manage their work-life balance, and the degree of support they felt they received in their workplaces to meet caregiving responsibilities. As shown in [Figure 3.4](#), women were less likely than men to say they are able to manage their work-life balance to a great extent (only 28% of women, compared to 40% of men). However, men and women were similarly negative about the support they receive to meet their caregiving responsibilities, with only 38% of both men and women saying they feel supported to a great extent. These relatively negative, and similar responses, indicate that there is significant room for improvement in the profession in terms of helping men and women lawyers to manage their caring responsibilities.



Figure 3.4: Views on work life balance and workplace supports for caregivers, by gender



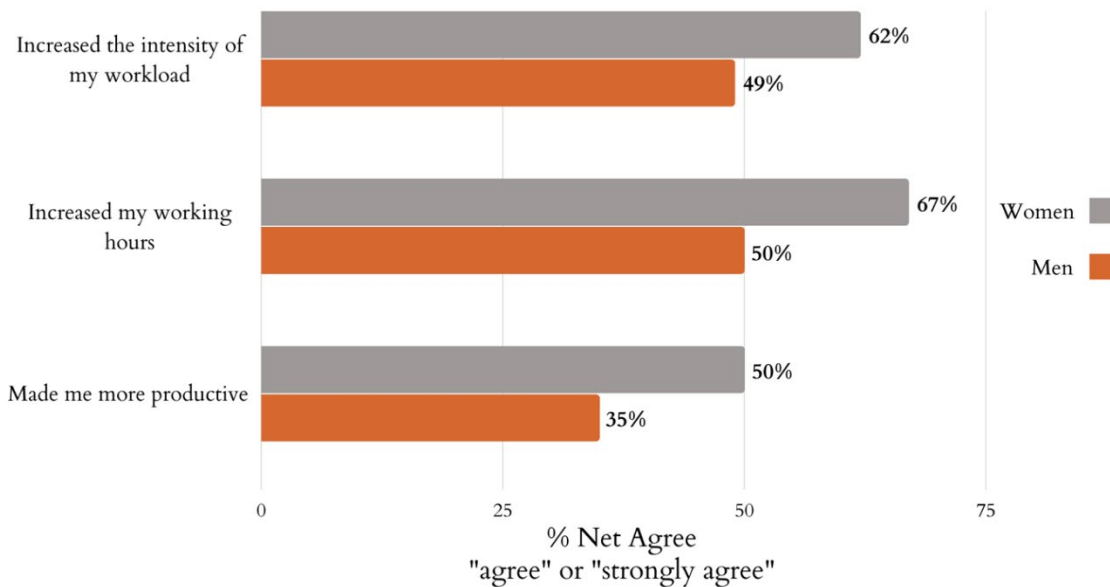
Q9: Below are some statements about how people manage their working lives. To what extent do the following apply to you. Base: Total sample: n=766

We also asked solicitors about their experiences with hybrid or remote working over the past 18 months. As shown in [Figure 3.5](#), some notable gendered difference emerged around experiences of remote and hybrid working. Women were more likely than men to say that hybrid or remote working had increased the intensity of their workload (62% of women, compared to 49% of men), had increased their working hours (67% of women, compared to 50% of men) and had increased their perceived productivity (50% of women, compared to 35% of men).

Although these questions asked solicitors to reflect on their experiences over the past 18 months, which encompassed both lockdown and non-lockdown periods, it is important to note that solicitors completed this survey in the middle of an extended state-wide lockdown, and that the extra burden of balancing paid and unpaid work responsibilities during that time may have influenced these responses, particularly for women, who assumed a relatively larger share of unpaid work at home.<sup>26</sup> The additional burden of managing paid work whilst supervising children at home, and/or overseeing other caring activities during a pandemic, may have had a disproportionate effect on women's working hours and the perceived intensity of their workloads. A majority of women and men said they were less productive during this time, however, women's higher reported productivity compared to men may be attributable to the elimination or reduction of commuting times and the increased temporal flexibility enabled by remote working. For men, the experience of working from home – with additional distractions and burdens associated with unpaid caregiving – may have been an unfamiliar challenge, resulting in relatively lower reported productivity. Further research would be necessary to fully understand and unpack the dynamics at play here.

<sup>26</sup> Lyn Craig and Brendan Churchill, 'Dual-Earner Parent Couples' Work and Care during COVID-19' (2020) 28(1) *Gender, Work & Organization* 66.

Figure 3.5: Experiences of hybrid or remote working, by gender



Q4. Below are some statements about people's experiences with hybrid or remote working over the past 18 months. Please indicate the extent to which you agree or disagree with the following statements. Note: 'I didn't work remotely or hybrid' results are excluded. Base: Total sample n=766

## Summary

Women and men agree that significant gendered inequalities exist in the legal profession, and they see this playing out across multiple dimensions, including in relation to sexual harassment, bullying, access to prestigious cases and projects, treatment from clients, promotion opportunities, and support for work-life balance. However, we identified substantial differences in how women and men perceived both the existence and severity of these problems, with women more likely to identify challenges and less likely to perceive that those challenges are being adequately or appropriately addressed. Organisations and institutions within the legal ecosystem should address these perceived inequalities. Part of this will be addressing the gendered disparities in the severity of these problems and creating systems and processes to create equity at every level of the profession.

The stakeholders we interviewed perceived that access to flexible working was a crucial factor in progressing gender equality in the legal profession, and that the COVID-19 pandemic had accelerated acceptance of technology-enabled flexibility. Stakeholders expressed concern that, without having the appropriate policies and safeguards in place, the same technologies may exacerbate the legal profession's existing culture of ultralong hours and overwork, with serious negative consequences for women's careers. These concerns appear to be validated by our survey results, which showed that women were much more likely to report that hybrid and remote working had increased the intensity of their workloads and increased their working hours. These findings suggest that, in order to reap the benefits of technology-enabled flexibility without these detrimental consequences, organisations need to carefully consider

the workload demands placed on solicitors in a world where 24/7 connectivity is the new normal.

## Findings: Phase 3

Themes identified in the first two phases of this project were used to inform our design of focus groups conducted with early- and mid-career lawyers. As a popular technique for gathering qualitative data, focus groups enable active and natural engagement between participants in a similar cohort about collective experiences, issues, and understandings. The discussion guide for the groups started out as broad (i.e., thinking about technological changes that have occurred in the legal profession, would you say these changes have been positive or negative?), with questions becoming more focused and narrow as the conversation ensued. Our analysis of the focus group data identified three key themes: 1) sustainable legal careers, 2) impacts of technology, and 3) gendered dynamics, discrimination, and disrespect. We explore these themes in greater depth below.

### Sustainable legal careers

In Phases 1 and 2 of this project, we examined how legal professionals understood how technological disruption influences career pathways and the skills profiles required for future success in the legal profession, as well as the capabilities required to be successful in the profession over the next decade. We found that technological skills and ‘human skills’, such as communication, client influence, business acumen, empathy and compassion were perceived as essential for succeeding in the legal profession. To understand what broadly constitutes success on their terms, we asked our focus group participants to describe what this looked like for them, and to reflect on whether they thought a successful career was easy or difficult to obtain. In every focus group, work-life balance emerged as a major feature of a successful career, which we explored in-depth following our participants lead.

#### The pursuit of work-life balance

Participants in focus groups told us that reaching partnership was the pinnacle of a successful legal career in traditional law firms,<sup>27</sup> with encouragement to ‘rise up through the ranks’ (Camille, FG4). However, our focus group participants saw ‘successful’ careers as having a broader range of elements which were related to longevity, sustainability, impact, and intrinsic reward. Success was characterised as ‘a job that I can do for years to come.’ (Lillian, FG2), whilst providing ‘fulfilment’ (Anita, FG5) and ‘happiness’ (Camille, FG4), as well as serving the

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<sup>27</sup> Marta Choroszewicz and Diane-Gabrielle Tremblay, 'Parental-Leave Policy for Male Lawyers in Helsinki and Montreal: Cultural and Professional Barriers to Male Lawyers' Use of Paternity and Parental Leaves' (2018) 25(3) *International Journal of the Legal Profession* 303.

‘public interest’ (Myles, FG3). Importantly, all focus group participants unanimously agreed that having work-life balance was a key indicator of success in the legal profession:

*Having that work life balance is so important. And I think I look at many people that don't have that balance, and I don't look at them as successful lawyers. I think of them as people that are just living to work, which to me is not really successfully living. (Christina, FG2)*

For many early and mid-career lawyers, the pursuit of work-life balance became more, not less important over time:

*I think if you were to ask me that at the start of my professional life the answer would be very, very different but I think now the answer would have to be one that is reasonably balanced with other things in my life as well. (Brendan, FG7)*

Several mid-career lawyers reflected on how their perspective of success had shifted and developed throughout their career, although this had solidified as they entered mid-career, moving from ‘getting as far as I can as quickly as possible’ (Brendan, FG7), to prioritising ‘family and my work life in conjunction with each other’ (Roxanne, FG4). Olivia, a mid-career lawyer (FG2), explained that her own version of career success had changed quite dramatically:

*I think it just depends on the stage of the career, right? So, if you had asked me, you know, when I was junior, I would've said well-paid in a really high position, and that would've defined success for me. But I think as I'm becoming more seasoned, success, when I look at it, is a practitioner who has a good home balance and work balance and can manage those things quite well. (Olivia, FG2)*

While work-life balance was seen as the marker of a successful career in the legal profession, it was also near universally identified as being the biggest impediment to a sustainable legal career:

*Our principal solicitor has been practising for 52 years now and has only this year cut down to a four-day week. And it's not really a four-day week because he still works Sundays. One of our other solicitors had a baby last year and was still working on parts of her maternity leave. It is perhaps somewhat ambitious to aspire to these goals of balance when it doesn't seem like a lot of people around me are managing to get it right. (Sylvie, FG4)*

## **Barriers to a ‘successful’ legal career**

When we asked focus group participants about whether they thought a successful career was easy or difficult to obtain, it was described as ‘exceptionally difficult’ (Brendan, FG7), due to the ‘insane hours’ (Leah, FG6) and ‘endless, endless, endless workloads’ (Roxanne, FG4). The legal profession’s ultralong working hours culture was thought to be connected to and arguably driven by the system of billable hours, which Anita (FG5) noted ‘gets in the way’ of achieving work-life balance. Some focus group participants spoke about breaking away from large law firms to go in-house or to start their own firm, to achieve good work-life balance and to take on legal work that was more ‘manageable’ (Tyler, FG1). However, in the pursuit of work-life balance, certain ‘sacrifices’ (Brendan, FG7) or ‘trade-offs’ (Rose, FG1, Fiona, FG5) were seen as necessary such as in relation to salary:

*I suppose that classic trade off maybe between public sector work and private sector is that it's money for time. (Myles, FG3)*

Women lawyers noted that they were more likely to seek out sustainable legal careers, particularly if they were planning to start a family or were already trying to juggle caring responsibilities:

*I know practically from my experience of looking at my female colleagues who are, you know, 10, 15 years older than me, it's bloody hard. So, I certainly see the government, in-house as a more sustainable, I guess, option in terms of early parenthood. (Katherine, FG1)*

Other focus group participants told us about the difficulties of maintaining work-life balance while also subscribing to the traditional legal career pathway in private practice. They described progression through the ranks of the profession as an 'uphill battle' (Sylvie, FG4). With few examples of work-life balance being modelled by more senior colleagues or managers, Kevin (FG6) perceived that the journey to partnership no longer felt 'worth it':

*I don't even know if I want that life. That's going to be such a drain on my work-life balance to go that way. It's always, and increasingly over time, it's always been a bit of an unknown with even you would even achieve partnership at the end of that, even if you put in the hard yards, which could take several years.... it's you know, the carrot on the stick, it's not even that attractive anymore potentially for some people. (Kevin, FG6)*

Several focus group participants also spoke about industry-wide conditions and norms, including high performance standards. For Katherine, an early-career lawyer (FG1), 'surviving' the first few years in the legal profession was a test of endurance:

*If I can slog out the initial, early years as a lawyer, in a private firm I'd certainly consider that a success ... I think. (Katherine, FG1)*

Other early-career lawyers echoed this sentiment, reflecting on 'slogging it out' (Lillian, FG2) until they reached 'burn out', or considered leaving the profession altogether:

*Who knows, maybe I will just drop law altogether. I mean, I never went into law to be a lawyer because of the stress and, you know, I know a lot of lawyers and the horror stories you hear, which I'm sure everyone here has a horror story. (Rose, FG1)*

Focus group participants observed that although expectations to perform at such high levels were not always explicitly articulated by peers or more senior lawyers, it was certainly an 'industry-wide' norm (Kevin, FG6), and something that was ingrained even before entering the legal profession: 'you go to university, and you're sort of told you're special, so you think you've got to prove yourself.' (Drew, FG7):

*The environment certainly breeds an expectation, whether it's expressed or not that people will put in the hard yards, which means that especially when you're still coming to grips with everything, you know it is sink or swim, you feel like you're clinging on just to survive. (Kevin, FG6)*

With many focus group participants expressing dismay about never being able to achieve a modicum of work-life balance, lawyers called for reminders that ‘private practice isn’t the only pathway’ (Ellie, FG2). In considering other career options, women lawyers in their mid-career stage, in particular, noted that they would like to understand how their skills could be transferred to other organisations, suggesting facilitated and focused conversations for lawyers in order to share industry experience:

*It would be really nice to understand how you can transfer those skills so that you can work in other government organisations, maybe not necessarily within the same field that you've been working in, but adjacent or, you know, find that niche. I think at that mid-level is where it would actually be really useful. (Christina, FG2)*

## Impacts of technology

In Phases 1 and 2 of this research, we examined how senior stakeholders perceived the future of the legal profession, and the impact of technological change. We found that technological change has been reshaping the legal profession, through automation, new market players, and disruptions to traditional legal service delivery. Many of our senior stakeholders told us that such changes could have significant consequences for women. In our focus groups, participants reported that engagement with digital technologies which was already emerging as a key feature of the working life of lawyers was accelerated through the COVID-19 pandemic and especially in periods of state-mandated work from home. We asked focus group participants about the positives and negatives of technology use in the legal profession. From online courts to hybrid and remote working arrangements, focus group participants told us that they have revelled in the ‘luxuries of technology’ (Audrey, FG4) since the beginning of the pandemic:

*The ability to work from home as a sole practitioner and to operate what is a virtual office is unbelievable because not only does it reduce your overheads to nothing, but I think the clients have been better trained now thanks to the pandemic, to accept legal advice over Zoom or Teams. (Eleanor, FG4)*

The increased use of, and improvements in technology has created greater opportunities for lawyers, including remote supervision and the move to online courts. For example, traditionally conducted face-to-face, court hearings were shifted online during the pandemic, which several focus group participants viewed as being a ‘massive improvement’ (Melinda, FG6). This was seen to be particularly beneficial for lawyers with caring responsibilities and lawyers living in outer suburban or non-metropolitan areas, who could participate in or observe court hearings, without having to travel:

*I can go to a hearing by Zoom or by phone. I absolutely love it. Otherwise, I'd be travelling down to Sydney. (Valerie, FG3)*

Despite the overwhelming agreement that technology has positively impacted the legal profession, some focus group participants noted that there had been a push in some quarters to return to pre-pandemic modes of operation. For example, Roxanne (FG4) expressed being ‘disappointed’ that court appearances had reverted to in-person rather than online, meaning that accessibility was lessened and many the positives of in remote operations were being lost.

## Experiences of technologically enabled hybrid and remote working post-COVID-19

### *Benefits of hybrid and remote working*

In phases 1 and 2 of this research, senior stakeholders spoke in interviews about new market players in the legal profession such as NewLaw, which was seen to be a disruptive force potentially upending existing lawyering practices. Although focus group participants were asked about the impact of NewLaw on the profession, they indicated that the most significant impact of technology was in their experience in relation to technologically enabled hybrid and remote working. Prior to the pandemic, hybrid and remote working was viewed by focus group participants as being strictly reserved for senior lawyers or lawyers with caring responsibilities. Rose (FG1) explained that regardless of level of seniority or caring responsibilities, all lawyers could now enjoy the newfound freedoms afforded through hybrid and remote working arrangements:

*Before COVID-19, there was no way, I as a, you know, a single woman without kids would ever be able to leave the office for any reason. If I wanted to go to the dentist, I'd have to do it on a Saturday or take leave, but being at home, you can work flexibly, you can do the hours or you can put on a wash, you can, you know, live your life. (Rose, FG1)*

Focus group participants identified the rapid acceleration of technology-enabled hybrid and remote working that occurred throughout the pandemic as a ‘revolution’ (and) ‘overwhelmingly positive’ (Myles, FG3), ‘liberating’ (Samuel, FG5), ‘equalising’ (Anita, FG5), and ‘the best thing that has ever happened’ (Rose, FG1), citing benefits such as increased wellbeing and productivity, providing greater opportunities for lawyers in non-metropolitan areas and the ability to better balance home life and work:

*For the people in our office who are mothers, and in rural areas, it helps them because they can just stay at home, take care of their kids, that type of thing... and no one is worried because they have access to all the technology. (Samuel, FG5)*

Women lawyers and lawyers with caring responsibilities indicated that hybrid and remote working arrangements was particularly valuable for achieving work-life balance, as illustrated by Melinda: ‘being a parent, if I didn’t have the flexibility to work from home some of the time, I think it would be 10 times harder’ (Melinda, FG6). For Valerie (FG3), a regional lawyer with caring responsibilities, the ability to work flexibly around her caring schedule was transformative: ‘it’s completely changed my ability to work’. As a lawyer working part-time while caring for her husband with a disability full-time, working flexibly meant that Valerie was still able to preserve her legal career:

*I can work from wherever I want to, and it's been fantastic. It suits my life because, if my partner is sick and I want to send an email or do some complex stuff at two o'clock in the morning, I can do it. So, they haven't boxed me in... How [else] can you be a solicitor working two days a week? (Valerie, FG3)*

In our focus group conversations with lawyers across early- and mid-career stages, they told us that hybrid and remote working was often 'way more efficient' (Adam, FG1), enabling increased productivity and greater control over their time when at home:

*Sometimes it feels like it's a bit too sort of robust in the office and, you know it actually hinders productivity. When you really need some downtime and focus, I find that it may be better to do it at home. (Kira, FG5)*

### *The downsides of technologically enabled hybrid and remote working*

In our focus groups we discussed the perceived downsides and frustrations of hybrid and remote working with lawyers. Some focus group participants spoke about the difficulties of 'striking that balance' (Reema, FG1) between hybrid and remote working arrangements and gaining opportunities for learning. These missed learning opportunities were seen to be particularly detrimental for junior lawyers' induction and inculturation in the profession. Adam, an early-career lawyer (FG1), spoke about the impromptu and ad-hoc learning opportunities available when working from the office, such as speaking to clients, taking notes, and learning to 'read a room', which were ultimately lost when working at home. Katherine (FG1) also felt that working from home posed a risk for career development:

*I found for me particularly as a junior lawyer, I really missed out on that initial, being in the office, being face-to-face, having someone be like, oh, I'm going to court. Do you want to come? Or I'm going to a mediation. Do you want to come? I really had to initiate it, as opposed to it just being assumed – someone walking by and seeing you... (Katherine, FG1)*

Interactions with colleagues or 'water cooler conversations' (Reema, FG1) were viewed by focus group participants as highly beneficial for networking opportunities: 'as a young lawyer, you need all those opportunities to come your way.' (Reema, FG1). With the pandemic exacerbating a skills shortage among junior lawyers, Adam (FG1) observed that the legal profession was now struggling to 'fill that gap'.

### *Immediate responsiveness*

Focus group participants identified immediate responsiveness as a result of 24/7 connectivity as a downside of hybrid and remote working arrangements. Participants overwhelmingly agreed that the use of digital communications in the legal profession had been broadly accepted and were being used with greater frequency. However, many participants felt that there was now an expectation to be 'constantly online' (Melinda, FG6):



*If you're at home, there's no real physical exit so you can just be on forever and if there's a lot of pressure if your colleagues have their Teams icons on and they're still present and online you don't want to be the odd one out who's the first one to leave. (Drew, FG7)*

Worsened by the transition to more flexible modes of working during the pandemic, focus group participants noted that consequently, response times were now based on 'unrealistic expectations' (Lillian, FG2). Many focus group participants commented on experiencing 'pressure' (Melinda, FG6) to respond immediately to colleagues, managers, and clients, including after hours and on weekends, which was creating acute work intensification: 'everything is much faster in terms of the expectations.' (Melinda, FG6).

*I think it would be a very common experience to have gotten an email at like 10 o'clock at night from somebody more senior than you, and then feeling that pressure that you've got to respond immediately or, you know, you're not online at 6:00am and so you feel like you're already behind, you know, behind on everything. (Melinda, FG6)*

Participants argued that the ease of digital platforms now used to communicate legal work heightened this pressure to respond: 'I've got to check my Teams, my Zoom, my email, my work phone, my messages, my missed calls ...' (Olivia, FG2). The need to be immediately responsive was not only felt from within law firms and among colleagues, with some lawyers noting that clients had become emboldened in their demands, contacting lawyers outside of work hours or taking 'advantage' (Audrey, FG4) of having their personal phone number. Olivia (FG2), a mid-career lawyer, spoke about the barrage of emails and calls she received if she didn't respond to clients immediately, which had grown worse since the start of the pandemic:

*If I don't reply to some clients within the same day, you're getting aggressive emails or like calling consistently. (Olivia, FG2)*

Many focus group participants spoke about trying to 'push back' (Tyler, FG1) on client demands, although these attempts were perceived to be almost always futile. With immediate responsiveness always considered an industry norm, some lawyers pointed out that the timeframe to respond to clients had narrowed significantly since the pandemic. As illustrated below, Kevin (FG6) noted that clients would just 'go elsewhere' if their demands weren't met in their expected timeframe:

*You just know that if you're not there responding within 20 minutes to every email or something, you know, they'll take their work elsewhere to someone who is willing to put that in. (Kevin, FG6)*

Although technology has afforded lawyers greater flexibility in relation to where, when, and how they work, focus group participants were concerned that 'the boundaries between home life and work life are really blurred now' (Christina, FG2). In attempting to set appropriate boundaries between home and work, several focus group participants described implementing physical or technological strategies to lighten their digital workload. Such strategies were highly individualised and ad-hoc, such as buying a dedicated work phone to avoid receiving professional calls out of work time, working in a different room, covering up files or placing them out of sight to create a psychological 'safe space' (Christina, FG2) when working at home:

*I had to put in boundaries, you know, put my computer in a different room when I log off, actually close the lid so I don't hear it ringing all the time, put my work phone on silent at a certain time in the evening. (Rose, FG1)*

Given that the home is often considered a 'safe space' for many lawyers due to the adversarial or distressing nature of their work, Christina (FG2) explained that a definitive line often had to be drawn between one's work and personal life:

*I'm not doing this at home. You can't call me after this hour. I'm taking emails off my phone because you've already taken my safe space. You can't have all of me. (Christina, FG2)*

In the absence of organisation and industry guidance in relation to how to handle tech-enabled work intensification, many lawyers in our focus groups reported feeling a personal responsibility to exercise 'discipline' (Rose, FG1) or 'self-control' (Audrey, FG4) in managing their digital workload. In some cases, if they were unable to disconnect from work, lawyers identified this as an area for personal development or 'something I need to work on' (Sylvie, FG4). Other lawyers however recognised that boundary setting 'comes from the top', with senior colleagues required to 'lead by example' (Adam, FG1) by 'modelling' (Vivienne, FG2) reasonable work habits and working hours.

## Gendered dynamics, discrimination, and disrespect

In Phases 1 and 2 of this research, we interrogated perceptions of equality, opportunity, and flexibility in the legal profession. We found that senior stakeholders and survey respondents perceived that significant gendered inequalities remain in the legal profession, exemplified by incidences of sexual harassment and bullying, unequal access to prestigious cases and promotion opportunities, differential treatment from clients, and lack of support for flexible working and work-life balance. Driven by our survey findings, which found that 82% of women said that women and men are not treated equally in the legal profession, we asked focus group participants to discuss whether they perceived that women and men were treated equally in the law. Overwhelmingly, participants expressed that there is 'definite inequality' (Roxanne, FG4) in the profession, with women already 'disadvantaged' (Katherine, FG1) or 'starting 10 steps behind' (Katherine, FG1). Women lawyers were particularly vocal about their experiences working in the legal profession as being 'riddled with discrimination' (Roxanne, FG4), citing differential treatment due to their gender, or assumed skills and abilities. For example, Roxanne (FG4) told us that in the past, she has been overlooked for cases due to her gender, as illustrated here:

*I've been told that I'm not appropriate. I can't work on a case because of my gender. I have been told that it would be better suited to a boy, or it'd be better suited to another practitioner because they are male. (Roxanne, FG4)*

## Gendered discrimination

Several focus group participants described a scale of subtle to more overt gender discrimination being embedded within the legal profession. They argued that women and men were held to 'different standards' (Myles, FG3). Stereotypically masculine qualities, such as assertiveness and aggression have long been valued in the legal profession,<sup>28</sup> with several lawyers recognising that these behaviours were deemed 'virtuous' (Myles, FG3) is displayed by men. Conversely, women lawyers were likely to gain a 'reputation' (Olivia, FG2, Valerie, FG3) for adopting the same behaviours. Vivienne, a mid-career lawyer (FG3), described the ways in which men are considered 'more authoritative' in the profession:

*It's about the perception of authority that men take up more space, they're given space to talk more, they're listened to more and they're perceived as more authoritative. And, sometimes women can be perceived as shrill or feisty or argumentative. Whereas those adjectives aren't used to describe men who are combative or tenacious or good on their feet. (Vivienne, FG2)*

Some participants thought that gendered bias was still in evidence in relation to women's career and family choices. Leah (FG4) noted that if unable to 'dedicate yourself' to your work due to family commitments, women lawyers started to be viewed differently by senior leadership. More broadly, Christina (FG2) argued that because they shouldered more of the domestic burden, women were not viewed as a sensible investment for law firms:

*I think the way that a lot of organisations look at it right, is it's an investment in their future with you. And they look at women, and they go, well, most likely you're of an age, you're going to have children and you're going to get married; you're going to go off and be part-time. You're going to go on maternity leave for a while. Giving you that extra 40 grand is not investment in our business' future because we're going to have to make up for you. I'm not saying it's right. That's just what they do. (Christina, FG2)*

When we asked what would need to change to improve discrimination and equality in the legal profession, our focus group participants discussed pay transparency as one way forward. For several women lawyers in our focus groups, they found it 'very hard to tell' (Fiona, FG5) if they were being paid more or less than their male colleagues. By publishing the salaries of lawyers across an organisation or at the industry level, pay transparency was thought to present a pathway to gender parity:

*Some further transparency in relation to people's pay would be of benefit to both genders actually. (Eleanor, FG4)*

Focus group participants spent considerable time discussing the ways in which unreasonable billable hours were driving gender inequality in the legal profession. Several participants called out billable hours as having a 'toxic' influence (Elaina, FG1), and producing 'unnecessary stress' (Elaina, FG1) and 'pressure' (Valerie, FG3). Valuing time over results was viewed as a 'market failure' (Julian, FG6), with the hours worked often not translating to good, quality outcomes. With caring responsibilities still "unfairly shouldered by women" (Myles, FG3), the long-standing

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<sup>28</sup> Bolton and Muzio (n 17).

billable hours model of legal work was also viewed by lawyers to be disproportionately negatively impacting women lawyers: 'it's going to always reward the person that can stay there the longest.' (Anita, FG5). Anita noted that the billable hour model also disincentivised men from assuming caring roles:

*If we continuously value the worker that replies and works at all hours, we will struggle to enable women in carer roles and to encourage men to take on those roles too. (Anita, FG5).*

Several focus group participants suggested that the billable hour model must undergo an 'overhaul' (Melinda, FG6), emphasising that alternative methods were needed to measure productivity and effectiveness in the legal profession. Other lawyers suggested setting reasonable billable hours as to not perpetuate the ultralong hours culture, which has been recognised as a hindrance to gender equality. Some participants noted that they had observed a shifting attitude to the billing hour model to ensure that lawyers were working more reasonable, consistent hours, even in commercially minded law firms:

*So, they [law firm] are in pursuit of billable hours, you know, seven and a half billable hours in an eight-hour day with a one-hour lunch break sort of situation. But they, at the same time, they do encourage an open discussion. They have regular open discussions about how they can facilitate a good work-life balance. (Roxanne, FG4)*

Further, advocacy surrounding gender equitable parental leave, especially in large law firms, was viewed by lawyers as another key solution for improving equality in the legal profession:

*Finding a way to incentivise an equal split of child caring responsibilities... if we could get that equal across both genders, that would be amazing. (Anita, FG5).*

With this in mind, Samuel (FG5) noted that male lawyers needed more encouragement from law firms and other key stakeholders in the profession to take a more active role in caring for their families, with many 'too scared' to take paternity leave for fear of ending their career.

## **Gendered disrespect**

We probed focus group participants' views of whether and how discrimination manifests in the legal profession. Participants told us that gender-based disrespect was a common, and at times distressing, experience and they regarded it as a 'subtle and insidious' (Vivienne, FG2) part of legal profession working life. Women lawyers were quick to describe the forms of disrespect they had encountered in the workplace, including being interrupted or 'talked over in a conversation' (Ellie, FG2), exclusionary practices, and displays of intimidation. Being talked over or trying to find one's voice was an especially common experience among many women lawyers, regardless of level of seniority:

*I think one of the biggest ways in which I experience it [disrespect] is being heard. Actually, getting a voice, even when you're sometimes the more senior person. (Melinda, FG4)*

Focus group participants described other disrespectful behaviours such as inappropriate remarks about appearance, unwanted touching, and advances. Camille, a mid-career lawyer

(FG4), described her direct experiences of sexual harassment throughout her career in the legal profession:

*I've had people comment on my looks as if that had something to do with my profession and my career and the reason why I was showing up every day. I've had men touch my legs under the table who are in senior positions and solicitors. I've had men try to get me to come back to their apartments. (Camille, FG4).*

Many focus group participants recognised the insidious nature of sexual harassment in the legal profession, which was perceived to occur in 'really casual ways' (Eden, FG4), and was easily 'swept under the rug' (Eden, FG4). Lawyers noted that in their experience perpetrators of sexual harassment were rarely held accountable for their actions, with complainants often asked to 'stay silent' (Roxanne, FG4) or themselves being moved to different roles, departments, or law firms:

*I've seen so many examples of senior partners who have been at firms for 30 years and, you know, all of the young women have these conversations. You know, when you're working late at night or you're out together of, stay away from that person. There's no point in going to HR if nothing happens because there's been plenty of complaints and it's the complainant that gets flipped. He's still there. (Elaina, FG1)*

As such, several focus group participants expressed concern about the current complaint process available to lawyers, which was viewed as being largely ineffective, given that perpetrators were still in power. Lawyers called for improved processes or mechanisms in which to make complaints easier and more transparent, all while ensuring that the complainant still had job security:

*Just having that mechanism would make, you know .... there's been lots of times that I've wanted to say something, and I don't, because I don't want to get in trouble with HR. If I can't say something and I feel that way, how does every other woman in the company feel? So, it's just having that ... just an outlet. Something that is going to go somewhere but it's not going to come back on you. (Rose, FG1)*

When asked about the drivers enabling discrimination in the legal profession, several participants spoke about the 'boys club' culture (Olivia, FG2, Eden, FG4, Roxanne, FG4), described as being comprised of 'sandstone warriors' (Roxanne, FG4) with 'very old-fashioned' views. While the 'boys club' was not exclusively reserved for lawyers from the 'older generation' (Julian, FG6), this culture was seen to perpetuate gender stereotyping and disrespect:

*If you had to ask a male, particularly some of the more sort of old school ones, they would go, oh, it was just a compliment. Take it as a compliment. And so, what we perceive as inappropriate, I don't think all males would necessarily agree is inappropriate. (Slyvie, FG4)*

The 'boys club' culture was also viewed by participants as excluding women lawyers from networking opportunities, therefore stifling their career prospects:

*I've seen networking lunches organised that are just for the boys to go hang out with some boys from some local accounting firms. And it's not appropriate for me to go because it's just, it's a boy's lunch*

*and it would make more sense for them to all... like little things like that that seem ridiculous and that you wouldn't think still happen. But I think that there is still quite that that culture of men networking and being able to progress their careers through these kinds of social hangouts that are kind of only really appropriate for men to participate in. (Eden, FG4)*

One lawyer, Eden (FG4), remarked that these cultural attitudes start with the people that are making decisions. Given that the vast majority of senior leadership positions in the legal profession are occupied by men,<sup>29</sup> many of our focus group participants suggested having increased quotas for women entering positions of leadership within firms, as well as more distinct pathways created for women lawyers transitioning to the Bar. Eleanor (FG4), a mid-career lawyer noted that overall, concerted efforts were required in encouraging women to transition to the Bar:

*We don't see enough encouragement of women to practise as barristers, and that's reflected in the incredibly small number of women who do make that transition. (Eleanor, FG4)*

## Summary

Our analysis of focus group data suggests that the legal landscape has changed considerably after the COVID-pandemic. In our groups, participants told us that they are seeking legal careers that divert from the traditional notions of success. Once the holy grail of large law firms, reaching partnership has lost its pull for many lawyers. Focus group participants told us that they place greater emphasis on careers that are well-balanced, which is a key feature of the 'sustainable' legal career. However, the allure of the 'successful career' was difficult to attain, with the profession's ultralong hours culture, billable hours model, and highly competitive working environment presenting barriers to work-life balance. The uptake of digital technologies in the legal profession have dramatically changed industry behaviour, including the ability to work from home. Hybrid and remote working were highly valued by focus group participants, who indicated that it may facilitate a more balanced life, especially for lawyers with caring responsibilities or lawyers living in non-metropolitan areas. However, with 24/7 connectivity and the proliferation of digital platforms used for legal work, so too did the expectation to respond immediately, and at all hours. Focus group participants spoke about how pressures to respond immediately to colleagues, managers, and clients were intensifying their already hefty workloads. Focus group participants identified that client expectations for immediate responsiveness had risen markedly alongside the proliferation of these technologies. Thus, paradoxically, hybrid and remote working arrangements, while heralded as revolutionary and positive by many, were simultaneously dissolving the boundaries between work and home life with negative consequences. Focus group participants also recognised that while setting defined boundaries with colleagues and clients was necessary, it was not always easy to implement, especially in the absence of organisation and industry leadership or industry frameworks. Finally, focus group participants acknowledged that gender-based discrimination in the legal profession could be overt or manifest in more subtle

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<sup>29</sup> College of Law, *The state of gender equity in the Australian legal profession* (21 November 2022) <<https://www.collaw.edu.au/news/2022/11/16/gender-inequality-in-legal-profession>>

ways, such as being overlooked for a case, being held to different professional standards, or being viewed differently for choices in relation to career and care. Focus group participants identified pay transparency, having a reasonable billing hour model, and equitable parental leave policies as solutions to improving gender equality in the legal profession. Gender-based disrespect, including sexual harassment remains an enduring problem in the legal profession according to focus group participants. They identified poor policy development and ineffective complaints processes as being part of the problem. As such, focus group participants urged for the development of a more robust framework. Masculine norms and gender bias were thought to be maintained by an enduring 'boys club' culture, which was often viewed as a roadblock to women's advancement in the profession. Quotas for women entering positions of leadership within firms and distinct pathways for women lawyers transitioning to the Bar were identified by focus group participants to be potential remedies to many of the extant challenges they identified.

## Conclusion

The findings presented in this report are the product of a three-phase research project, designed and operationalised over three years from 2020 to 2023. Through senior stakeholder interviews, a survey of practicing solicitors and focus groups with early- and mid-career lawyers, this report set out to answer: what are women's and men's hopes and concerns for the legal profession, and how do we build upon their current workplace experiences to construct a more gender-equitable future of work?

The extraordinary pace of technological advances in the legal profession in combination with the COVID-19 pandemic, has meant that lawyers have had to quickly adapt to new ways of working. In our survey, respondents indicated that they were not sure how these changes would impact legal work, however they did not see themselves as being replaced by technologies. Instead, many lawyers perceived technology as creating efficiencies, rather than replacing them. Corroborating these results, we found that lawyers see technology as enhancing productivity and building career prospects. In line with our focus group findings, the uptake and use of technology in the legal profession has presented exciting opportunities for lawyers, such as being able to be supervised remotely, opening access to online hearings, and building unprecedented access to flexible modes of working. While our senior stakeholders cautioned that these changes could have significant consequences for women in the legal profession, technological advancements, such as hybrid and remote working, provide women with greater flexibility. We found that increased flexibility enables the reconciliation of family/home demands with work and career pressures. Conversely, as these flexible lawyers are always connected – by mobile phone or computer – the boundaries between the work and home domains have become increasingly blurred. Across all phases of this project, research subjects identified the potential negative consequences of technologically enabled hybrid and remote working. Without organisation and industry leadership in relation to digital workloads, the culture of ultralong hours and overwork may be exacerbated. With hybrid and remote

working arrangements viewed by our research subjects as being a crucial factor for progressing gender equality in the legal profession, we must ensure that these gains are not lost, rather, that appropriate safeguards, frameworks or organisation and industry leadership is put into place.

While our survey respondents told us that they did not feel adequately trained in technological skills, the COVID-19 pandemic, and periods of state-mandated work-from-home have propelled lawyers' use and adaption of new technologies, including digital platforms to communicate their work. How lawyers want from their careers, however, is changing. Our focus groups showed that lawyers perceive success to be associated with careers that are sustainable, enabling them to derive meaning from their work and enjoy work-life balance. We suggest that these changing perceptions of success have a direct link to experience of lawyers during the COVID-19 pandemic and their increased ability to work flexibly. However, the pursuit of a balanced life may be obscured from view due to the profession's overwork culture and expectations of delivering to what some see as unreasonable targets. A very significant consideration is how this impacts women, who now outnumber men in the profession and are more likely to assume caring responsibilities. Systemic change is needed to ensure that work-life balance is practically achievable for lawyers.

Across all phases of this project, we found that gendered inequality is perceived as a pernicious and intractable issue within the legal profession. Experiences of gendered discrimination, bias, and disrespect, including but not limited to sexual harassment remain common and this has strong negative impact on lawyers' careers. Lawyers who participated in our study viewed processes and policies dealing with these problems were inadequate, despite decades of discussion. In our focus groups, participants identified that they would favour the implementation of pay transparency, reasonable billing hours, and equitable parental leave policies to improve gender equality in the profession. This may assist with the cultural shift that is needed in the legal profession, from the idealised male career to a more gender-equitable approach.



# Appendices

## Appendix A.

*Table 1. Work specialisation of senior stakeholder's work specialisation*

<b>Category</b>	<b>Stakeholders interviewed</b>
Judicial member	3
Legal academic	4
Legal specialist, business	2
Legal specialist, human resources	2
Legal specialist, technology	3
Senior member, industry association (state, national, or international)	3
Senior member, regulatory body	1
Senior practitioner, government	4
Senior practitioner, non-profit	2
Senior practitioner, private sector	9
<b>Total</b>	<b>33</b>

## Appendix B.

*Table 2. Distribution of the survey sample by age and gender.*

	<b>Under 30</b>	<b>30 – 49</b>	<b>50 or older</b>	<b>Total</b>
<b>Men</b>	7%	23%	70%	100%
<b>Women</b>	14%	51%	35%	100%
<b>Total</b>	12%	40%	49%	101%

*Note: Total sample does not equal 100% due to rounding.*

## Appendix C.

*Table 3. Demographic descriptions of focus group participants.*

		<b>Category</b>	<b>Count (n)</b>
<b>Gender</b>		Woman	22
		Man	8
<b>Career stage</b>		Early career (5 years PQE)	17
		Mid-career (6 – 10 years PQE)	13
<b>Level</b>		Graduate lawyer	3
		Junior associate	5
		Associate	9
		Solicitor	3
		Senior associate	6
		Partner	2
		Principal	2
<b>CALD background</b>		Yes	10
		No	20
<b>Caring responsibilities</b>		Yes	5
		No	25
		<b>Total</b>	<b>30</b>

# Contact

**University of Sydney Business School and the  
Gender Equality in Working Life Research Initiative**

[www.sydney.edu.au/gewl](http://www.sydney.edu.au/gewl)

**Australian National University  
ANU Crawford School**

CRICOS 00026A



## Gender Equality in Working Life (GEWL)

Research Initiative at the University of Sydney is a multidisciplinary research initiative leveraging several decades of research expertise on women's working lives to establish an action-oriented, practical approach to building a gender equal future of work.

The GEWL Research Initiative offers unique, research-informed insights, developed using new workplace data, to produce targeted and effective gender equality interventions.

We provide nuanced, rigorous and 'next-generation' research, that explores solutions that are:

- **Fit-for-purpose.** Providing an understanding of the different impact on diverse groups, different jobs and with tailored insights and solutions, rather than one-size-fits-all.
- **Mutually beneficial.** Providing an understanding of shared valued outcomes for employees, business, and society.
- **Quantified.** Measuring the short- and long-term outcomes, costs and impacts with relevant analytics.
- **Innovative.** Drawing on evidence from new sectors, pandemic practices & international experience to develop different approaches.

Partnering with business, government and civil society GEWL undertakes rigorous engaged research on gender equality at work and in careers across sectors and industries to co-design evidence-based solutions to pressing problems..

For more information:

Gender Equality in Working Life (GEWL)  
The University of Sydney Business School  
University of Sydney

[sydney.edu.au/gewl](https://sydney.edu.au/gewl)