

Innovation and technology at the NSW Bar

A step towards safeguarding the future of the profession

By Ting Lim, policy lawyer at the Bar Association

In May 2017, Bar Council resolved to establish the Innovation and Technology Committee in a response to a perceived need to articulate, consider, and strategically respond to the effect of fundamental and disruptive changes brought about by new technologies to legal practice and the administration of justice.

The committee consists of a small number of members – 6 to be precise (Michael Green SC (Chair), Dominic Villa, Catherine Gleeson, Anton Hughes, James Mack and Anna Spies) and in its first iteration, all members were selected by the President rather than by application.

The committee's terms of reference is as follows:

- To identify, investigate and monitor new technological advancements that may change the nature of a barrister's work and their practice;
- Educate members on the latest technology and ensure members are properly equipped to use and embrace developments that may boost efficiency and productivity;
- Assist members with incorporating the latest technology into their practice;
- Ensure members are aware of digital security requirements and guard against potential breaches of data security;
- Promote and ensure the ethical use of digital devices and services including social media, cloud based file sharing, data security, storage and deletion, hardware and software; and
- Provide advice to Bar Council on matters relating to technology as requested.

In addition to keeping abreast of gadgets and digital developments – the 'technology' – the committee will also aim to understand the impact of technology on the evolving environment of legal practice and how the 'market' is changing, which in turn has the potential to alter the manner of legal practice, the place of the New South Wales Bar in the legal profession and how justice is done and seen to be done.

Earlier in the year the NSW Law Society published its *Future of Law and Innovation in the Profession* report, also known as the 'FLIP' report, which made a number of recommendations on the areas the Law Society needed to focus on to assist the legal profession.¹ None of the recommendations involved improving

the manner in which barristers, solicitors and clients would work together in an increasingly changing and technological legal environment.

While the 'technology' aspect of the committee's name denotes a sense of modernism, it is the 'innovation' part of the committee's name where the most interesting work will be undertaken. Innovation suggests an element of experimentation. To the New South Wales Bar Association, it is an opportunity to better understand the bar's place among the legal profession now and into the future against the backdrop of technological developments, the precise impact of which is currently unknown. The ever-growing number of solicitors in NSW and the shift from traditional forms of advocacy to a preference by clients and courts for alternative dispute resolution methods has caused a redistribution of the legal work within the profession. This has altered the place and ultimately the role of a barrister in legal disputes. The extent of the alteration and whether it will continue is unclear.

Over the next 12 months the committee intends on commencing collaborative relationships with academics to conduct research and analysis on the changes in society that affect the administration of justice and the delivery of independent legal services. This involves understanding the current state of particular aspects of legal practice at the bar which can be divided into four distinct work areas:

1. investigating the changing demand for legal services;

2. identifying client needs and opportunities for practice in the evolving technological landscape;
3. considering how barristers might engage with technology in their practice and use it to better meet their clients' needs and expectations and the administration of justice; and
4. formulating strategies and improvements for practice which enhance the competitiveness of the independent Bar while meeting clients' needs and maintaining a conscious concern for the rule of law.

The committee intends on organising educational seminars for members some of which include topics on facial recognition, privacy, data security and confidentiality within the online environment.

If you have any topic areas or suggestions on the subject matters the Innovation & Technology Committee should focus on, please feel free to contact the Innovation & Technology chair, Michael Green SC or the policy lawyer at the Bar Association, Ms Ting Lim.

ENDNOTES

- 1 The Law Society of NSW, Commission of Inquiry, FLIP: The future of Law and Innovation in the Profession 2017 (available at: <https://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/1272952.pdf>)

