



# Legal Services 2020

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## Industry Developments and Workforce Issues

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**Employment Overview.**<sup>1,2</sup> The national labour market outlook<sup>3</sup> estimates an employment growth of 13.2% for Legal and Accounting Services over the five years to 2024. Most recent ABS figures<sup>4</sup> indicate that as at May 2020, the sector employed 290,200 people nationally. Western Australia employed 26,000 people and while numbers have fluctuated over the past year, this represents a growth on the previous two quarters: 23,200 in the February quarter and 23,400 in the November quarter. Compared to May 2019 (27,400), current numbers represent a decrease of 5.1%, however, at that time much of the influx in activity was generated by the financial services sector (particularly banking) coming off the Royal Commission into Misconduct in Banking, Superannuation and Financial Services Industry and the need for a tighter organisational legal and regulatory framework.<sup>5</sup>

**Economic Conditions.** IbisWorld<sup>6</sup> expected Australia's legal services industry revenue to grow at an annualised rate of 2.1% over the five years through 2018-19 to reach \$21.3 billion. The last few years have seen a period of constrained legal spend with increased competition from big firms and emergent mid-tier firms offering specialist services. The slower economy and patchy activity saw some firms trimming numbers and others experiencing substantial growth, particularly through value-add services such as legal work related to mergers and acquisitions, initial public offerings and restructuring initiatives.

The sector remains a highly competitive, cost conscious environment with corporate clients looking to reduce their legal spend.<sup>7</sup> Competition from large accounting firms is anticipated to increase over the next five years, as these firms continue to expand their range of legal services. The largest market for legal services in Australia, according to IBISWorld, contains corporate and business client accounts. Of these, the largest are the banking, finance and insurance sectors.

Legal practitioners working in the personal legal services industry provide services related to personal injury law, family law and property law. While some large law firms are recognised for their personal injury and class action services, this sector is typically characterised by sole proprietors and small firms. A rise in mortality and divorces is forecast to continue rising over the next 5 years (2020-2025) and with it an increased demand for services related to family law, wills and estate planning.<sup>8</sup>

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<sup>1</sup> Industry advice provided to the Financial, Administrative and Professional Services Training Council, 2019

<sup>2</sup> These figures do not take into account any impact caused by COVID-19. It reflects data collected prior to the effects of the pandemic which is having a substantial negative impact on the current labour market.

<sup>3</sup> Australian Government, Department of Jobs and Small Business, Labour Market Information Portal, [Employment Projections, 2019 Industry Projections – five years to May 2024](#), May 2019.

<sup>4</sup> Australian Bureau of Statistics, Labour Force Australia Detailed Quarterly, [Data Cube EQ06 Employed persons by industry group of main job \(ANZSIC\), Sex, State and Territory](#), February 2020.

<sup>5</sup> PwC Skills for Australia, [Industry Skills Forecast and Proposed Schedule of Work Draft for consultation, Financial Services](#), April 2019.

<sup>6</sup> IBISWorld, [Legal Services - Australia Market Research Report](#), accessed July 2020.

<sup>7</sup> Financial Review, [Lawyers fear slowdown after Hayne 'sugar hit'](#), 28 June 2019.

<sup>8</sup> IBISWorld, [Personal Legal Services - Australia Market Research Report](#), accessed July 2020.



Intergenerational family succession is another area set to explode thanks to the 4 million baby boomers set to retire within the next 10 years. With close to two thirds of Australia's 2.1 million workplaces classified as family owned, this will see a rise in family disputes as generational succession gets messy.<sup>9</sup>

**Changing Billing Practices.** Westpac's Smart Industry Report<sup>10</sup> points to a rapidly developing buyer's market for legal work. Clients want more transparency around the cost of legal services, so while time-based billing remains standard practice in Australia, there is a growing shift to value-based pricing. This has prompted some firms to use alternate billing models: imposing stricter billing guides; enforcing spending caps; using data to analyse legal bills; and using technology to accurately scope, price and bill work.<sup>11</sup> Increasingly popular with clients and younger lawyers, the move towards a project-based fee model is creating a more collegiate and less competitive environment than in a traditional firm. Similarly, price fixing quoting means lawyers and clients know where they stand and can lead to better outcomes.<sup>12</sup> The sector is seeing legal firms pairing with legal software platforms such as LawPath to offer standard fixed-price services online to small and emerging businesses.<sup>13</sup>

**Emergence of Fixed-Fee Online Firms.** Australia is seeing a number of growing digitally focused firms which include LegalVision and LawPath. Such fixed-fee online firms are providing competitive rates for price conscious clients. Sprintlaw is another firm which has simplified the process for customers offering around 100 legal products on a fixed-fee basis from starting up a business, drafting a contract, shareholder agreements, service agreements and employment contracts. Targeting start-ups and small to medium businesses, its membership model (starting at \$99 per month) provides access to phone consultations related to common legal queries, ranging from intellectual property advice to contract reviews. Work is directed to its team of remotely employed staff while 100 intelligence bots work to automate legal tasks to reduce the amount of time waiting for paperwork.<sup>14</sup>

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## Industry Workforce Priorities

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**Skills Demand.** According to Hays<sup>15</sup>, the Royal Commission has continued to fuel growth for lawyers and paralegals, particularly those with advisory and financial regulatory experience. Paralegals are increasingly sought to offer additional support in response to Royal Commission findings. Financial services lawyers are sought at all levels, as are litigation and dispute resolution lawyers to deal with the high volumes of work being sourced by banks, professional services organisations, and regulatory bodies. Experienced corporate lawyers are in demand due to growing demergers and acquisitions across financial services. There is also a shortage of experienced insurance defendant lawyers to meet demand. IT lawyers with experience across various IT contracts, data protection and privacy matters are also in demand, with a lot of candidate movement within professional service firms and large domestic banks.

In other areas, commercial property lawyers are needed due to strong improvement in property market conditions following further interest cuts. Construction lawyers are sought to provide contract advice and handle arising disputes. The need for commercial litigators with four to eight years of experience is set to increase in 2020, with smaller to mid-tier firms impacted by disputes and insolvency matters. Similarly, Western Australia's resurgence of the resources, mining and oil and gas industries has increased demand for in-house lawyers and company secretarial professionals. There is also greater demand for legal counsels with relevant industry experience. The demand for experienced employment lawyers is expected to continue throughout 2020 as workplace employment issues remain a growing area. There is also increasing demand for family law.

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<sup>9</sup> Lawyers Weekly, [6 Trends to look out for in 2020](#), 9 January 2020.

<sup>10</sup> Westpac, [Smart Industry Report: Emerging Industries. Towards 2030: A special report from Westpac How emerging industries are reshaping our future economy](#), February 2019.

<sup>11</sup> Lawyer Monthly, [4 major trends that are already changing the legal sphere in 2020](#), 4 February 2020.

<sup>12</sup> LSJ Online, [The slow demise of billable hours](#), 11 November 2019.

<sup>13</sup> The Sydney Morning Herald, [Virtual lawyers enter legal advice arena with startup dash](#), 9 January 2020.

<sup>14</sup> The Sydney Morning Herald, [Virtual lawyers enter legal advice arena with startup dash](#), 9 January 2020.

<sup>15</sup> Hays, [Hays Jobs Report - Legal](#), January to June 2020.



Majority of employment opportunities are for senior level roles favouring candidates with between two to eight years post admission experience. However, the demand for suitably experienced and skilled professionals in these areas has created a candidate-driven market. While there is still an oversupply of law graduates, this targeted shortage of experienced lawyers is seeing firms of all sizes recruiting more graduates, critical for the future skills pipeline.

**Technology and Automation.** Advances in legal technologies are improving employee productivity and streamlining operational processes. Applications range from data analytics and cost comparison to file sharing, collaboration software and blockchain-based access to legal aid.<sup>16</sup> Artificial intelligence and algorithm-based technology is driving greater efficiencies across research, trial preparation, contract management, panel evaluation and management, spend and matter management and e-billing. Tech-savvy lawyers will continue to embrace such solutions to deliver new high-value benefit to both firms and clients. Efficiencies gained through artificial intelligence and automation (for example document redaction, forms data capture and document automation)<sup>17</sup> mean fewer manual processes and allow for a redirection of effort towards customer service, strengthening client relationships and business development.<sup>18</sup>

Similarly, legal and compliance leaders can access tech-based solutions to help manage risk and facilitate the business's digital transformation. The next few years will see a rise in virtual legal assistants (AI-powered chatbots), positioned to field the increasing volume of internal questions that legal departments expect in the coming years. The need for dedicated legal technology experts is likely to see an expertise gap as companies seek to support the increasing automation of core in-house workflows. Companies are likely to increase spending on third-party risk management technologies to support due diligence and monitoring. Adoption of technology, automation and digitisation is seeing a growing focus on privacy and security. As this trend continues, companies will significantly increase investment in privacy tech.<sup>19</sup>

**Workplace Culture.** Workplace culture is increasingly under scrutiny thanks to a surge of negligence claims against lawyers and increasing pressure on Australian employers to publicly disclose gender pay gaps.<sup>20</sup> Reportedly, sexism, bullying and toxic cultures are still rife in legal workplaces. In mid-2019 a global study of lawyers revealed these problems remain widespread in the legal profession. Almost 30% of Australian lawyers who responded to the survey reported experiencing sexual harassment in the workplace and more than 60% reported that they had been bullied at work. The recently released *Respect@work: Sexual harassment national inquiry report 2020*<sup>21</sup> also paints a grim picture of behaviour across Australian organisations. It notes that those working in sectors such as law have a higher risk of experiencing sexual harassment because workplaces are organised according to a hierarchical structure. Scandals in professional services and law firms emerged in the wake of the #MeToo movement and continue to unfold, such as the recently publicised finding of a former high court justice harassing six associates.<sup>22</sup> These may see firms focus more closely on leadership, workplace culture and diversity to ensure reputational integrity.<sup>23</sup>

**Traineeships.** Industry has no appetite for traineeships. It values people who have certificates in legal training and see it beneficial that their administrative support staff have skills and working knowledge in areas such as legal typing and use of typing (and legal) software, familiarity with and understanding of legal words and terms and capability in use of document management software. However, they still prefer applicants with more than 7 years of active experience over the paper qualifications.

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<sup>16</sup> Smart Company, [Australia is leading the legaltech revolution, but what does this mean for lawyers, firms and clients?](#)

<sup>17</sup> Accusoft, ["C" Change: Three Top Legal Technology Trends in 2020.](#)

<sup>18</sup> Lawyer Monthly, [4 major trends that are already changing the legal sphere in 2020](#), 4 February 2020.

<sup>19</sup> Gartner, [4 Legal Tech Trends for 2020](#), 6 February 2020.

<sup>20</sup> Lawyers Weekly, [6 Trends to look out for in 2020](#), 9 January 2020.

<sup>21</sup> Australian Human Rights Commission, [Respect@Work: Sequel Harassment National Inquiry Report \(2020\)](#), 5 March 2020.

<sup>22</sup> The Conversation, [Dyson Heydon finding may spark a #MeToo moment for the legal profession](#), 22 June 2020.

<sup>23</sup> LSJ Online, [How do you really change a workplace culture](#), 24 June 2020.



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## COVID-19

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*Revenue Downturns Impact Employment.* A slowdown of work across many areas of the legal profession has led to law firms implementing cost-cutting measures.<sup>24</sup> Cashflow issues with clients delaying bill payments and workflow concerns (particularly in the private sector transactional areas of practice) has seen reductions in employee hours with a corresponding decrease in pay. While reductions have affected staff differently depending on available work across different practice areas, many staff (including support services employees) have been asked to purchase additional leave as companies prepared for a significant drop in revenue. The early onset of COVID-19 restrictions saw some firms' revenue drop between 40% and 85%. While some workers have been redeployed to busy areas of work, others have been placed on leave of absence or made redundant. The recent axing of workers by PricewaterhouseCoopers and Deloitte include those working in legal services, with revenue downturns hit hardest across consulting, service fee and advisory parts of the business.<sup>25</sup>

More broadly, firms have instituted freezes or postponements of hiring, promotions and employee salary reviews. Bonus payments and partner profits have been reduced or restructured. Non-core expenditure has been placed on hold. Although the sector is seeing a gradual improvement which coincides with lifting of restrictions, many impacted staff are likely to be affected until the end of the year.

*Increased Use of Technology.* The social distancing measures and restrictions mandated by government have resulted in technology taking a larger role in the legal profession. Webinars and eLearning platforms have accommodated completion of CPD requirements. A shift to remote work settings has meant firms increased their use of existing technologies to reach clients and colleagues. There was a heavy reliance on telephone and video conferencing for the provision of services to clients. In the court system, some trials and evidence of witnesses was conducted via video link. Another change in the court system has been a shift from personal attendances to exclusive electronic lodgement of documents and submissions inviting the court's decision on each case without a physical presence or the ability for lawyers to make a verbal case to support their position. The primary shift to electronic lodgements of documents and submissions will create efficiencies and cost savings. It is likely that industry will review electronic lodgements to determine the extent to which this can be applied more broadly without hampering justice. According to IbisWorld, COVID-19 is expected to accelerate digital transformation and innovation processes of the legal sector, including the personal legal services industry. Industry operators are likely to have increased the trends of offering their services through telephone and video conferencing calls.<sup>26</sup>

*Working Remotely and Operating Costs.* Small law firms have seen their IT and administrative costs increase. Smaller firms buy and use systems and have upgrades imposed on them. The move to working from home has had a financial stress on smaller firms which have needed to ensure the systems and equipment needed are operational and able to respond to the 'industrial' needs of the job in a home environment. To make the transition and operations viable outside of an office, businesses have had to invest in equipment and installation of IT related enablers. One small practice has had a 50% increase in IT bills even though their external IT provider (outsourced) has upgraded parts of the system: PCs and software have needed to be upgraded; internet connections, nbn etc have needed to be reviewed to address issues of slow speed and processing capability, technology's inability to handle volume, system dropping out. This has meant work interruptions and downtime which add to the financial cost.

Big firms are better prepared as they work in shifts and they have already been outsourcing various non-legal, administrative functions such as typing, payroll, HR. Often their IT functions are inhouse. Their IT and software are specifically built for them and this inhouse capability makes them nimbler and

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<sup>24</sup> The Lawyer Mag, [How Australian law firms are responding to the COVID-19 pandemic](#), 25 April 2020.

<sup>25</sup> The West Australian, [Deloitte axing 700 workers in post-COVID-19 purge](#), 22 June 2020.

<sup>26</sup> IBISWorld, [Personal Legal Services - Australia Market Research Report](#), accessed July 2020.



more reactive. Their continued system improvement has made them better equipped to transition to remote working.

*WA Courts.* The effect of COVID-19 has extended to the courtroom. On 23 March 2020, the Chief Justice of the Federal Court of Australia released the Special Measures in Response to COVID-19 information note. The note focuses on the health and safety of practitioners, clients, judicial personnel and their families by requiring minimal in-person attendance at Court premises and implementing alternative measures for conducting proceedings. The note mandates that all hearings will proceed with the use of video conferencing technology or by telephone conferencing, with some matters to be addressed on the papers, if appropriate. Although these measures are being implemented temporarily due to the pandemic, it is likely that the COVID-19 pandemic could have longer-term implications on practice and procedure of the Courts.<sup>27</sup> The physical-distancing measures in place mean there are fewer cases as hearings are postponed, depositions cancelled or rescheduled, and deadlines extended.<sup>28</sup>

In Western Australia, both the Supreme Court and the District Court, has seen many cases suspended and adjourned due to the change in jury trials. Some trials have been brought forward significantly while others went ahead via video link. Given the regional lockdown measures imposed in this state, applications for all judge-alone trials were able to be made in exceptional circumstances but only in Perth. Such approved judge-alone trials required the judge to ensure all guidance and social distancing restrictions were adhered to, with the judge deciding about the conduct of the trial, including whether it would proceed via digital means. The District Court of Western Australia vacated all jury trials listed in Perth and in regional courts from 17 March 2020 until 3 July 2020.<sup>29</sup>

*Areas of Critical Advice.* Many firms stepped up information dissemination efforts to provide clients with clarity and guidance, particularly through difficult contract law changes. Another area experiencing growth are business owners seeking lawyers to help them incorporate or legally protect their businesses. Increases in defaults, forbearances and alterations to short term payment plans are also increasing workload. Similarly, the Law Society of Western Australia points to increased queries in family law and wills, employment law, leases, commercial law, property law, insurance and superannuation.<sup>30</sup> Other common legal advice sought includes inability to pay bills due to financial hardship, child support payments due to job losses, Centrelink issues, tenancy issues, disputes over refunds for cancelled events of travel plans, impacts on parenting and contact arrangements for children, and people experiencing racism due to perceptions about the origins of the virus.<sup>31</sup>

*Writing Skills.* Written communication skills, structure and the presentation of an argument have become even more critical when these cannot be supported with a physical presence and the ability to address the court. A submission is written by lawyers presenting their case with the aim to win. In the past, key points were woven throughout the document, with emphasis of them at the end. The ability to address the court would support relevant submissions when required. A lack of physical presence has meant the submissions now need to highlight the key points at the beginning of the submission. The ability to write strong cases with clear intended messages has become even more critical when relying solely on electronically lodged outcomes.

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<sup>27</sup> LSJ Online, [Adjournment and e-trials in the COVID-19 context](#), 1 June 2020.

<sup>28</sup> The Lawyer Mag, [How Australian law firms are responding to the COVID-19 pandemic](#), 25 April 2020.

<sup>29</sup> Lawyers Weekly, [The impact of COVID-19 on WA courts](#), 28 April 2020.

<sup>30</sup> The Law Society of Western Australia, [COVID-19 Information and Resources](#).

<sup>31</sup> Legal Aid Western Australia, [COVID-19](#).