

LEGAL DESIGN

A QUICK REFERENCE GUIDE

Legal design has different meanings, emphases and applications. A working definition is that it is the use of design methods and tools to *rethink* and *improve* legal processes and *solve problems through innovation*, including complex problems. Legal design is associated with (and sometimes called) *human-centred design*, *client-centred design* or *design thinking*. Professor Margaret Hagan of the Legal Design Lab at Stanford identifies the benefits of legal design as: Improved Problem Solving, Client-centred Services, Better Communication, Richer Legal Profession, Better Legal Organisations and Work-Life, and New Products and Services (*Law by Design*).

Design Thinking

Is design thinking a mindset, a method, or a new field of design practice? There are different views and definitions of design thinking, attributed to its history and changing forms. Usually the design thinking process and its key elements are represented graphically (Figure 1).

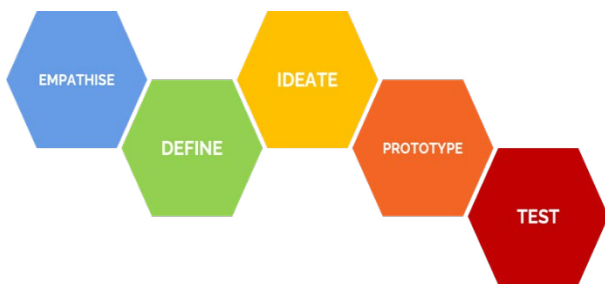


FIGURE 1 (STANFORD D.SCHOOL)

Abductive reasoning means the process of inferring a best available hypothesis from whatever data is known/available (Kolko, 2010). The type of problem that designers need to solve means that the problem itself *cannot be adequately defined* until there's been an attempt at *finding a solution*.

It's said that there is 'no such thing as the design process in the restricted sense of an ideal step-by-step technique' (Rowe, 1987) but among many different styles and approaches, there are commonalities. Professor Lucy Kimbell (2011) refers to:

- Having a human-centred approach
- Using iteration
- Using visual artefacts and prototypes
- Asking 'what if' questions

There have been shifts within design thinking itself, e.g. from *user-centred design* to *co-design*. *Co-design* describes a process of users and designers working and designing together (Sanders, 2002). There has also been a shift from product design to service design or designing for services (Kimbell, 2009).

KEY CONCEPTS IN DESIGN THINKING

There are different design thinking approaches but they usually all involve a blend of the following concepts:

1. INSIGHT

Empathise, Inspiration, Discover: Tim Brown, the Chair of IDEO, says inspiration is 'the problem or opportunity that motivates the search for solutions'. In design thinking, it is important to seek the views of those directly involved about the nature of the problem as they experience it, as well as the wider environment. It's important to understand the user's point of view in an emotional and not purely logical or rational way.

2. IDEA GENERATION

Define, Ideate, Develop, Prototype: Once the problem has been identified, if not completely defined, the next phase or phases concern wide-ranging generation of ideas. This rapid development of ideas and 'prototyping' – creating models to assist with the thought process – is a central part of design thinking. Expressing ideas quickly and roughly through visual elements and prototypes signifies the value placed on open-mindedness, 'exploration and experimentation' (Kolko, 2015). It also allows feedback to be quickly given.

3. IMPLEMENTATION

Test, Iterate, Deliver: If design thinking is to be applied to problems which are ill-defined, the goal of the design may need to shift as the process evolves (Simon, 1981). An important element in design thinking is the concept of iterating. Iteration refers to 'modelling, testing and modifying' – a repetitious process of tweaking to modify the outcome, ideally moving closer and closer to the optimal solution (Cross, 2006). The process of testing can illuminate issues and even restart the process, meaning that 'design never ends' (Brenner, Uebernickel & Abrell, 2016).

Legal Design

Legal design is the application of design thinking to legal services. It is a recent development in the history of design thinking, going back about ten years. Legal designer Charlotte Baker has written that 'any aspect of the law' can benefit from legal design, including internal workflows and legal organisations, as well as contracts and advice (2019). She refers to the following benefits:

- improving client relationships
- enhancing legal understanding
- fostering innovation within one's own organisation

Perhaps the most important message of legal design is to *focus on the needs and perspectives of the 'users' of the law*. Lawyers should try not to assume anything about a client's 'problem' and instead seek to approach everything from the point of view of the participants (Fonkem, 2019).

Prof. Hagan's legal design model is based on the d.School model, with five stages (Figure 2).

Discovery is a data collection phase. It involves research but also *direct observation* and *talking with* people, whether they are potential clients or service providers. The idea is to think as broadly as possible (engage in *divergent* thinking).

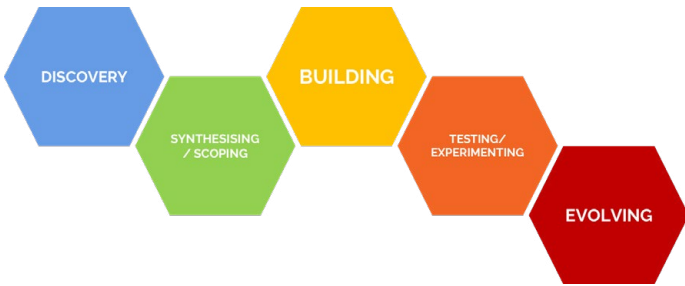


FIGURE 2: HAGAN'S LEGAL DESIGN MODEL

Synthesising/Scoping is a narrowing process where the information gathered in the Discovery phase is filtered and organised, to focus in on the 'real problem'. This could involve identifying user groups, mapping and ranking exercises.

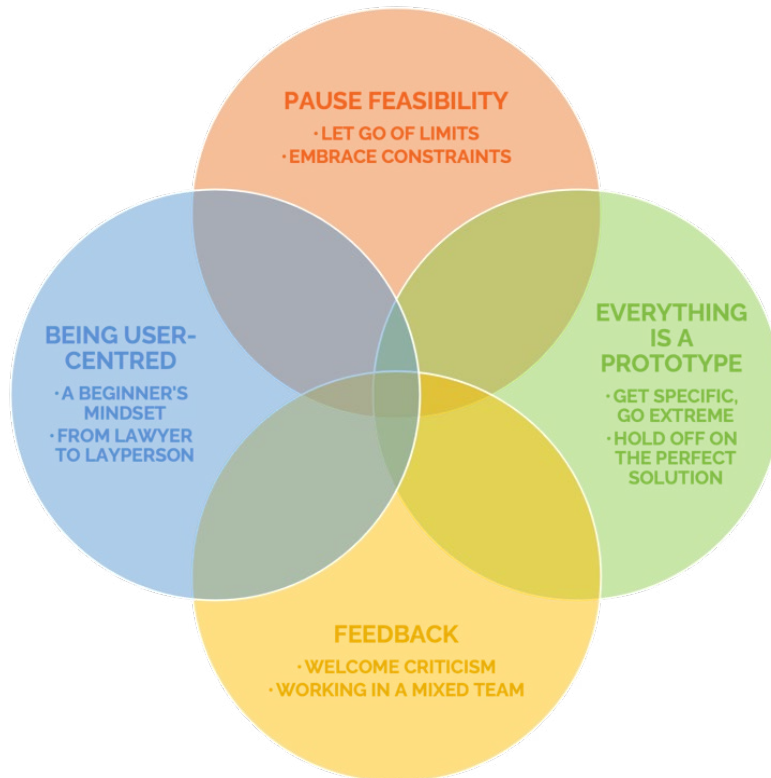
Building is the phase of, if not physical building, brain-storming, using visual tools such as drawing diagrams, and maybe 'prototyping'. The goal is to explore many potential solutions. Prof. Hagan refers to '*pausing feasibility*' – creating a space to imagine that anything is possible, to think as broadly and creatively as possible. These ideas must then be narrowed down again – both in number and in complexity – before a process of mocking up and sorting ideas.

Testing/experimenting is closely allied with building and refers to *testing and critiquing* the ideas and prototypes that have been created. Moving quickly into testing is a hallmark of design thinking methods. The aim is to quickly generate feedback and to test again, in a cyclical process, as necessary.

Finally, **Evolving** (involving piloting, scaling and investing) is the phase where the refined prototype/idea is tested, possibly leading to scaling up and implementation.

DESIGN TOOLS

- **Design methodologies or mindsets:** Overall rationale for the approach, or general strategy. Prof. Hagan's *core mindsets for legal design* are summarised in Figure 3.
- **Design methods or practices:** Means of approaching the strategy or *design mindset*
- **Design tools or techniques:** Programs, activities or exercises used to facilitate the *design methods*. This might include exercises such as journey mapping, user profiling, brainstorming, meetings or communications with clients, feedback sessions, role-play, storytelling, creation of mock-ups, "how-might-we" questions... and many more.



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