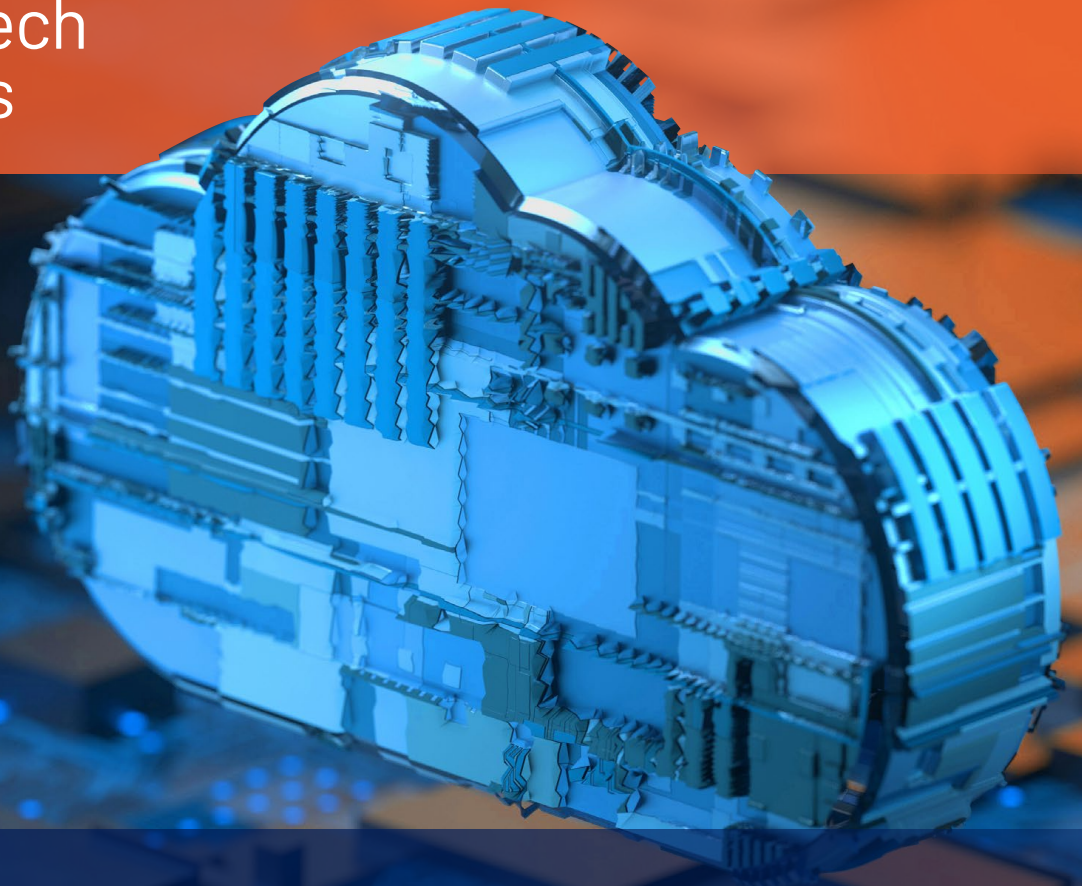


BRIEF

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The Law  Society®
— OF WESTERN AUSTRALIA —
The voice of the legal profession in Western Australia

Interview:

Law Society Council Member Dr Brett Davies

Adjunct Professor, UWA Law School

*Interviewed by Thomas Camp,
Junior Council Member, Law Society of Western Australia,*



Why did you decide to run for the Law Society Council?

Dad came across from Middlesex as a 10-pound Pom. Because of the war he did not get past grade 7. He died 7 years ago never speaking of the bombing of his parent's home in London. He never spoke of his time in the air force. His trade was one of butcher.

Mum, while Dux of her third year at a Fremantle high school, was forced to leave school as she was a woman. Later, as the senior stenographer at Royal Perth Hospital she was forced to resign. Her only crime was that she was getting married. At 27 years of age, she was paid less than the 18-year-old male office boy.

As a lawyer, and butcher's son, I fight against injustice for my clients and, on a pro bono basis, those less fortunate members of the community.

But that is only possible because of the strong support provided by the Law Society of Western Australia to the legal profession.

I am proud to be able to start giving back to an organisation that is so protective and nurturing of the profession of law, justice and the community.

Since 1988 you have sat on ten Law Society of WA committees. This includes as the Convenor of Graduate and Academic Standards. What keeps you coming back?

I was the first of my family to go to a university. And I was the first to take up the profession of law. I therefore had few professional role models.

The Law Society of Western Australia was, and remains, an important support to me both professionally and personally.

The life of a sole practitioner is lonely. You have no partners to talk (and fight) with. With the Covid lock downs you are even more isolated. The Law Society of WA was remarkable at being able to move

seminars online, so quickly. And we had the ability to talk (and argue) with other practitioners online.

We all talk about mental health. The Law Society addresses such issues by action.

Having been a member of other Australian law societies, the Law Society of WA is the best run law society in Australia. And after being involved with the Law Council of Australia, USA and UK similar organisations is one of the best run law representative groups in the world.

The profession is under attack. And the single strong voice is the Law Society of WA. To protect and serve the community every lawyer should join the Law Society of WA. It is an honour to be a member.

You have been involved in a number of publicly listed law firms. What are the benefits of a law firm being listed on the Australian Stock Exchange?

I was the first person in the world to lodge a Prospectus to list a law firm on a stock exchange. However, Slater & Gordon got to the market before me. So, I was the second person in the world to list a law firm. My life of fame was not to be!

A problem with traditional law practices is the competing and conflicting interests in the partnership. That really comes to a head when the debate turns to investment. That's what a public listed law firm gives. There is internal funding where a listed law firm can retain earnings and reinvest.

You served for 16 years as Deputy Convenor of our Law Office Management Committee. You were National Chair of the Law Council's Australian Law Management Group. Why the fascination on how law firms operate?

I have sat at the feet of some brilliant and innovative Managing Partners including Julie Bishop and Jeremy Birman. I was involved in the Law Society's 1999 Lawyers Exit Survey. This on why WA lawyers leave

the profession. It opened my eyes.

After my own ASX listing, while in London completing my doctorate, I worked with large law firms on potential IPOs on the London Stock Exchange. As big as the London law firms are they are still minnows compared to the behemoth accounting houses.

There is an interesting debate as to why accounting houses can run worldwide professional service businesses. While even the biggest law firms in the USA and London still run as cottage industries.

But why do you believe the listing on a Stock Exchange can improve law firms?

To escape, what I see as a cottage industry mentality, I believe that a law firm can take many directions.

Listing on a stock exchange may be one advantage. The member law firms may grow faster, as they move away from a 'partnership' style of practice and become more 'corporate'.

Partnerships typically require a great deal of consensus. The majority of partners may not be prepared to act against the will of the minority.

Partners may also be reluctant to invest for the future, particularly as they approach retirement. Some partners that wish to retire may not do so because they receive little capital reward for their ownership in the law firm. They may wind down their involvement in the practice, while still seeking full partner drawings. There can be confusion between the rights of an owner and that of a manager in the law firm.

A positive of non-lawyers owning law firms is that they come with a different strategic view of how a business should be run. I say this as a lawyer myself – some lawyers are not always particularly good businessmen.

As lawyers we are good at running cases

and generating income. But in terms of running a business, identifying procedures to be streamlined, and investment in systems to deliver legal services in different ways, lawyers often do not lead that change.

Any downside of publicly listing a law firm?

There are many downsides of being in a listed vehicle.

Of course, whether you are sole practitioner or operating in a company (listed or not) our highest duty as lawyers is to the courts and then our clients. The shareholders (whether they be yourself or a great number of the public) come third. That is a message your Board of Directors and your shareholders have to get used to.

What inspired you to complete your doctorate on the reform of the tax laws for business succession planning?

As a tax lawyer I am sick and tired of small business owners (my clients) having to do what the ATO tells them – without question. Even ATO press releases seem to take on the force of law.

Taxation laws are often portrayed as external factors outside the control of a small business. In contrast, larger businesses have greater resources to invest heavily in external affairs and direct lobbying. This is to secure changes in the law to suit their purposes.

I wanted to be an advocate for people that have no voice – the small business owner.

Therefore, for three years of my life, I did the research on reforming Australian business succession planning taxation laws.

Small businesses are the number one employer in Australia. Yet when a business

partner dies the small business often fails. The UK and the USA have thoughtful tax relief structures for small business succession planning. My research compares the Australian laws with those jurisdictions.

You are, and have been, involved in a number of community boards. What motivates you to be involved in those sorts of activities outside of your everyday work?

I grew up in a Noongar family. Dad's second wife was a proud Noongar lady. My second mum.

And they had a daughter. My half-sister.

I have the greatest respect and love of the Noongar people and their generosity. I am in awe of the oldest race on the Earth being able to live on this planet without damaging it.

Sadly, the whitefella, including myself, continue to environmentally damage Australia and the delicate environment of Mother Earth.

The Australian government gave me the gift of a law degree. In fact, I hold 6 university degrees. They were all free!

It is the duty of those lucky enough to be legal practitioners (especially if your degree was free) to give back to the community.

I follow and give time to things I am passionate about.

Since you were admitted in 1988, how have you changed the way you practice?

In the 'good old days' you could be a generalist. The law firm Robinson Cox had a wonderful rotation system in the first two years of my practice. And I fantasied of working in all aspect of commercial and corporate law.

But, by 1994, it became obvious that I would be better off looking for a niche. I decided to only practice in tax and superannuation. My colleagues laughed at me for being too specialised.

Now when I tell my students that I practice in both tax and super they believe me to be too general!

I think even an Articled Clerk can become the world leader in one small aspect of the law.

I believe you need to specialise more than ever in law.

Can I ask a cheeky question. You sit on UWA Senate. Your new Chancellor is our very own former Chief Justice of the High Court of Australia, the Hon Robert French AC. Give us the gossip.

There are 16 strong willed people on UWA Senate. The Chancellor is quietly able to maintain order and good debate. He is an incredible catch for UWA. And we are lucky that he gives us his time so freely.

In the heat of battle on Senate I have referred to the Chancellor as "Chief Justice". To the howls of delight from the student reps on Senate!

As well as 5 degrees from UWA you also have an MBA from Murdoch. Is UWA and Murdoch going to merge? You have a foot in each camp!

Now that is getting a bit cheeky.

Both are wonderful world class Universities. One has its campus south of the river. The other is north of the river.

All things are possible.



Gifts in Wills help us get closer to our vision of a cancer free future for our community.

How are we going to achieve this?



By funding **world-class researchers** here in WA.



By **providing support** from the point of diagnosis through to treatment and beyond.



By empowering **healthier lifestyles** and shaping public policies for West Australians to reduce their risk of cancer.

To find out more contact us on **08 9212 4333** or visit **cancerwa.asn.au/getinvolved/a-gift-in-will**
Cancer Council Western Australia (Inc).
Level 1, 420 Bagot Road,
Subiaco WA 6008
ABN: 15 190 821 561

When writing a Will for a client please ask them to consider a charitable gift.