

# FROST INSIGHTS

## A lawyer's capability toolkit

*'A lawyer without books would be like a workman without tools.'*

*- THOMAS JEFFERSON*

### What's in this Insight

- Introduction
- What are lawyers actually selling?
- Competitive advantage
- *A Lawyer's Capability Framework*
- Professional judgment and wisdom
- Critical thinking, inquiry, reasoning and creative problem solving
- Business acumen and understanding client needs/goals
- Communication, relationship-building and teamwork
- Emotional intelligence
- Self-awareness
- Deliberate practice and reflective practice
- Motivation, self-care and self-management
- Foundational capabilities underpinning all of the above

## INTRODUCTION

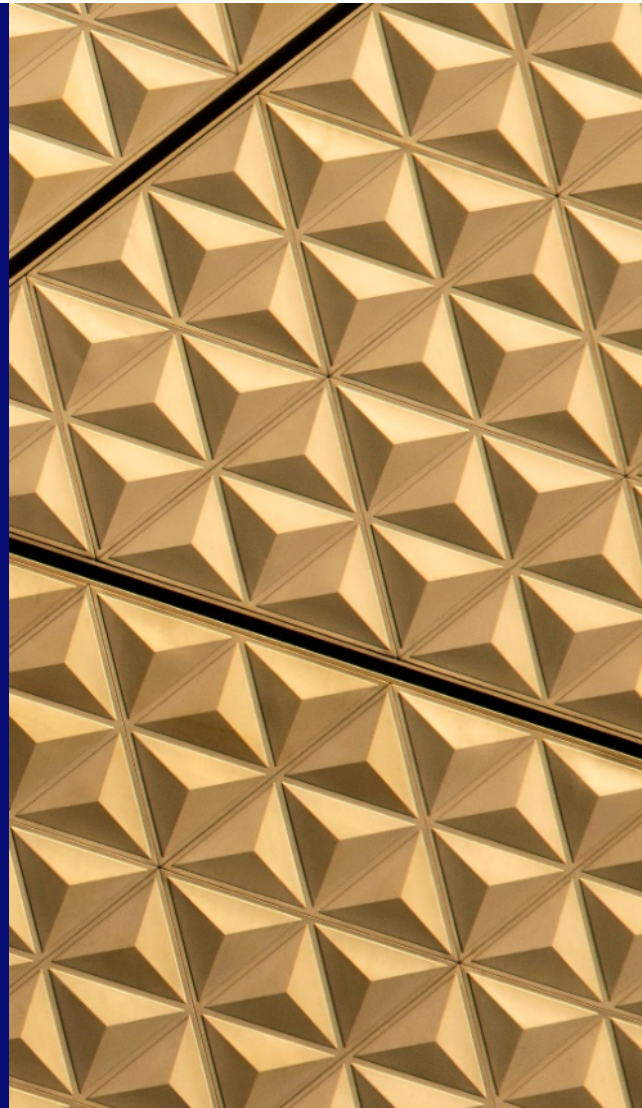
Thomas Jefferson, one of the American Founding Fathers, the third president of the United States (1801 to 1809) and a lawyer, was right about lawyers needing books (OK, at least digital ones) and workmen needing tools.

But to thrive personally and to be as useful as possible to their clients, modern lawyers need more than just books. They also need a toolkit, containing a wide range of capabilities.

This Frost Insight sets out *A Lawyer's Capability Framework*, before going on to provide guidance on the best available tools to help lawyers develop key capabilities in the Framework.

Here is the first suggested tool: get yourself a copy of my book: *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success* (2025, Wiley).

My book is jam-packed with many tips, tricks and tools to help any professional, including lawyers, to get ahead in the age of artificial intelligence.



## What are lawyers actually selling?

OK, I just put off some readers by saying that lawyers are 'selling' something. Yes, lawyers are professionals, and yes lawyers have primary duties to the court, fiduciary duties to the clients, and all manner of other duties to regulators and the world at large. However, at the end of the day, the great majority of lawyers working either in professional service firms (**PSFs**) or in in-house roles, are practicing law at least in part because of the income they earn to support their lifestyles. So, why *exactly*, do clients of PSFs, or employers of in-house lawyers, pay fees or salaries to lawyers? What do the clients really want from their lawyers? For that matter, what do

clients of lawyers who are acting pro bono in a given situation, also expect from their advisers?

Clients engage lawyers, on a fee-paying or pro bono basis, for all manner of reasons, but usually because they have identified one or more issues where legal expertise and experience are needed. Sometimes this is because of uncertainty as to what the law allows, requires or prohibits, or because legal skills will help with advocacy or negotiation with other parties, regulators, or in courtroom settings. Other times there may be no particular uncertainty as to what the law says, but legal skills are needed to draft documents to give effect to a client's wishes in a manner that provides as much certainty as possible as to the outcome and legal effect of transactions. On other occasions, trusted lawyers provide all manner of wise advice and counsel to clients going well beyond black letter law.

Clients, unsurprisingly, want the best possible legal outcome for their given facts and circumstances. If the law itself is uncertain, they wish to be appraised of the alternatives, risks, likely outcomes and costs. They want to manage their legal risk in a measured way. Most clients will want a lawyer to assist them by deploying an ethical or moral overlay. That is, not just an analysis of what the law prescribes or proscribes, what they *can or cannot* do; but what they *should do* in their current situation.

Clients want assurance; to be able to trust, *really trust*, their lawyer to provide advice and other legal assistance that is borne from the lawyer's wisdom and great legal judgment, which are based on deep expertise and experience. Whether they will admit or not, there is usually a strong emotional undercurrent at play when clients seek legal advice. Clients may be anxious about outcomes, excited, angry or upset with the situation they are in, and/or with the relationships they have with other parties. A great lawyer will be attuned to a client's emotional state and will work with it, when identifying and explaining particular courses of action that the client may take. The lawyer will be empathetic and client-centric.

And yes, clients want a bunch of other things from their lawyers as well, some of which are implicit in the preceding comments: integrity, honesty, responsiveness and

great service, clear and prompt communication, fair and transparent fee arrangements and cost-consciousness.

Beaton Research does impressive evidence-based research on various aspects of the work and practices of professional service firms. In data released in February 2026 (<https://beatonglobal.com/the-price-and-value-difference/>), they said that their research identified these as the “*top drivers of value*” for clients of law firms (in decreasing order of importance):

1. Commerciality of advice
2. Reliability
3. Ease of doing business with
4. Cost consciousness
5. Communicate effectively.

We are now living in the early stages of the age of artificial intelligence (**AI**), and most lawyers now seem to be experimenting with how various types of AI can add value to their practices. To the extent to which AI enables lawyers to deliver services in a more efficient manner, then this is what clients will come to expect and, over time, most lawyers who do not use AI are likely to become (very) uncompetitive. Having said that, this document is not primarily an ‘AI guide’, although aspects of AI are mentioned in various places.

The purpose of this Insight, given the commentary above, is to help lawyers be of most use as possible to their clients. (Some of the issues identified above, such as fair and transparent fee arrangements and cost-consciousness are beyond the scope of this document and will be highly specific to each lawyer’s practice and circumstances.)

## **Competitive advantage**

If you are a lawyer in a law firm, you and your firm are competing for business with other lawyers and firms. If you are employed as an in-house lawyer, in some sense you are probably competing with other in-house lawyers, and external lawyers.

What is *your* competitive advantage, and the competitive advantage of your law firm, if you work in one? Why will current or future clients choose you/your firm rather than another lawyer/firm, when they have legal problems that need solving?

Ideally, you do not want to compete on price. That is, to offer cheaper fees than your competitors. You also probably do not want to compete on speed – promising to deliver output in impossibly short timeframes. Promoting yourself and your organisation as having the best AI tools and platforms, as your competitive advantage, is likely to be fraught with danger and risk, given the warp speed at which AI developments are travelling. You will absolutely need good quality AI tools and skills, but this generally seems more like a ‘given’, than a competitive advantage.

The best form of competitive advantage for an individual lawyer is generally to have become widely known in the relevant market as the ‘go-to’ wise, ethical expert in one or more areas of the law. You are known for your great judgment and are the lawyer that other lawyers in your area of practice and geography rate (even if grudgingly and privately) as market leading. Achieving such recognition typically takes many years and not many lawyers ever get to such an exalted status!

The next best form of competitive advantage (ideally as a stepping stone to acknowledged guru status) is to provide consistent, truly exceptional client service and build deep, quality relationships with key clients. There are lots of elements to all of this – check out my book mentioned earlier, and especially Chapter 3: *What do (and will) your clients want?*

A key component of enduring competitive advantage for any lawyer (emanating from guru status and/or provision of exceptional service) is developing your reputation as someone with *sound judgment* who can offer wise advice and counsel. Helping you on that quest is the purpose of this Toolkit, and the companion document, [\*Accelerating a lawyer’s professional judgment and wisdom in the age of artificial intelligence\*](#), which is also available on my website.

## A Lawyer's Capability Framework

In the Introduction to my book mentioned in the introduction to this Insight, I pose these two questions:

- *How can I become my best possible professional?*
- *How can I add the most value in the age of artificial intelligence?*

Part of the answer to each question depends on your taking the time to figure out what capabilities will best serve you, and how you will go about developing or improving those capabilities in the future.

Chapter 8 of my book is titled *Prime Capabilities and Enablers: become AI-proof*. I won't repeat here all of what I set out in that chapter. However, in brief, I explain why 'hard skills' and 'soft skills' are outdated concepts and that lawyers and other professionals should identify their Prime Capabilities and Enablers, by taking a client-centric approach.

Here is my definition of Prime Capabilities:

***Prime Capabilities:*** *are the key capabilities that enable an expert senior professional to add value for their clients by best servicing their needs and solving their problems. They are what you do/have now or aspire to do/have: what your clients expect that you will do and do well.*

Ideally, your Prime Capabilities should number no more than between four and six. The absolute best way to identify them is to ask questions like these, or similar questions, of some of your clients:

- Why, exactly, are my clients paying me, or my organisation?
- What outcomes do my clients value and expect from me?
- Who am I providing services to and what are their key needs of me?
- How, exactly, do I add value to my clients?
- What are the core deliverables I am expected to produce?

If your clients simply say, 'Solve my problems as quickly and as cheaply as possible', buy them another coffee or beer and push for more details.

Enablers are all the other capabilities that assist you in using your Prime Capabilities in the service of your clients.

Some junior professionals may be a bit intimidated early in their careers about asking clients to help them uncover their Prime Capabilities and Enablers. This is where more senior professionals, especially employer professionals, can assist.

Prime Capabilities are aspirational. Thinking about your Prime Capabilities from the perspective of an expert senior professional in your profession will help you, if you are a younger professional, to decide on something to aim for.

There are at least three reasons why it is useful to determine your Prime Capabilities and Enablers. First, doing so should make you a more successful client-serving professional. By definition, both types of capabilities are viewed from a client perspective. Second, this assessment should assist you in planning your learning and development (**L&D**). You have only so much time to spend on structured L&D as opposed to learning on the job, and identifying your Prime Capabilities and Enablers will help you with L&D prioritisation. Third, and as discussed in my book, knowing your Prime Capabilities and Enablers is a useful way of assessing how AI and machines may threaten and/or assist your career.

Why distinguish Prime Capabilities from Enablers? Because it will help you prioritise and develop the capabilities that make you most valuable to your clients now and as automation and AI continue to develop.

Set out below is *A Lawyer's Capability Framework*, which contains a mix of Prime Capabilities and Enablers. Each lawyer should determine their own Prime Capabilities and Enablers in their own circumstances. However, broadly speaking, the capabilities towards the top of the Framework, and some of the foundational capabilities at the bottom, will typically be Prime Capabilities, including: advocacy/persuasion, advice/counsel, negotiation, judgment/wisdom, integrity and technical knowledge. Other capabilities will generally be Enablers, which will assist you in using your Prime Capabilities in the service of your clients.

After the Framework, and a diagram with definitions of wisdom and judgment, the rest of this Insight has brief explanations of most of the capabilities and some suggested best-practice tools to help you develop and deploy the capabilities in the service of your clients. Having said that, and to keep this Insight to a manageable length, it is beyond scope to consider the ‘top line’ capabilities, i.e. advocacy/persuasion, advice/counsel, and negotiation. I am hopeful that most lawyers and their employers already prioritise the development of such obvious core legal capabilities.

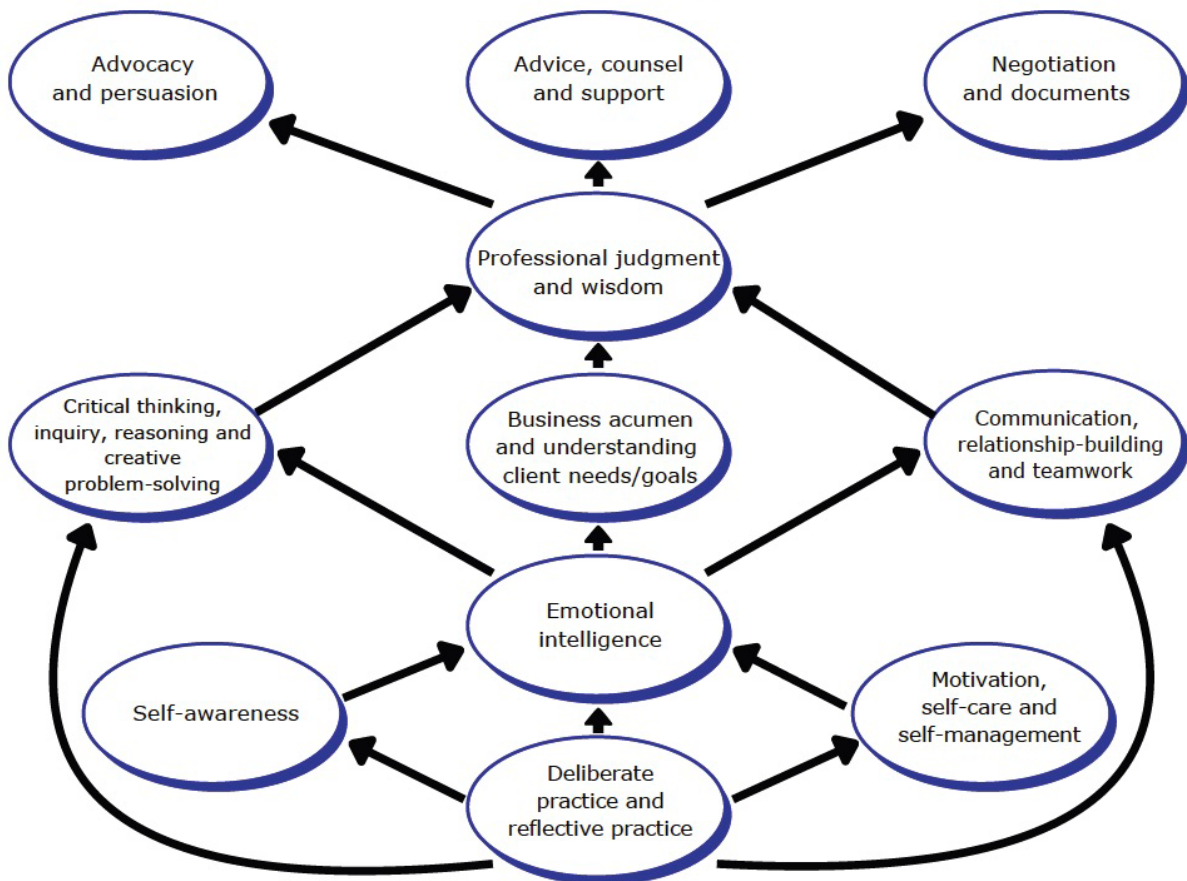
The capabilities of legal professional judgment and wisdom are so important that a framework and tactics for their development have their own Frost Insight, [\*Accelerating a lawyer’s professional judgment and wisdom in the age of artificial intelligence\*](#), which is available on my website.

How, *exactly*, will you ‘develop’ any of your capabilities? Hopefully your employer will assist you with formal training, coaching and mentoring. However, do not assume that your employer has necessarily addressed *all* of the capabilities in the Framework that are relevant to you. If they haven’t, and don’t seem likely to do so within a reasonable timeframe, then take it upon yourself to initiate your own development of one/more capabilities, so that you can become your best possible professional. The tools set out in this Insight should be of assistance in this regard.

A few words on *feedback*. Being able to seek out feedback on your development and then process and action the feedback in a constructive manner is a vital part of professional growth and the attainment of expertise in any field, including but not only for lawyers. I address feedback at some length later in this Insight, when discussing ‘deliberate practice’. Please read that commentary and seek out (and respond well to!) feedback when you are seeking to develop any of your capabilities, whether or not you engage in formal deliberate practice.

# A Lawyer's Capability Framework

## Client-facing\* capabilities



**Foundational capabilities underpinning all of the above:**

Integrity, ethics and professionalism	Technical knowledge, competence and expertise	Experience: LOTS of experience!
Humility and coachability	Research, analytical and risk management skills	Digital literacy and artificial intelligence (AI) skills

\* Other capabilities for lawyers may (probably) include: leadership, coaching, mentoring, networking and business development

© Tony Frost, Frost Leadership Consulting, [frostleadership.com.au](http://frostleadership.com.au)

# What makes a wise lawyer?

---

## WISDOM\*

Exceptional **judgment**, advice and insights about difficult, complex and uncertain legal and other issues. Wise people ask good, thoughtful questions and are highly accomplished listeners.

## JUDGMENT\*

The deliberate synthesis of a lawyer's knowledge, experience, skills, discernment and character to ethically advance a client's interests. This includes getting facts/views, perspective-taking, evaluation, problem-solving and decision-making.

\*The definitions are based on those in Randall Kiser's book, *Professional Judgment for Lawyers*, 2023, Elgar.

## Professional judgment and wisdom

### Concepts

Definitions of judgment and wisdom abound, in a variety of contexts and circumstances. In the context of lawyers and legal services, I use these definitions<sup>1</sup>:

**Judgment:** *the deliberate synthesis of a lawyer’s knowledge, experience, skills, discernment and character to ethically advance a client’s interests. This includes getting facts/views, perspective-taking, evaluation, problem-solving and, critically, decision-making.*

**Wisdom:** *exceptional judgment, advice and insights about difficult, complex and uncertain legal and other issues. Wise people ask good, thoughtful questions and are highly accomplished listeners.*

As can be seen, judgment is a component of wisdom. In his book *Professional Judgment for Lawyers*, Randall Kiser states: “many leading lawyers and educators believe that professional judgment is not just an essential lawyering skill but rather is the most important skill in law firms and legal departments”<sup>2</sup>. Kiser then goes on to cite surveys and studies conducted by others to back up his statement. My own experiences, and anecdotes from clients and other lawyers over my career to date, certainly accord with Kiser.

As can be seen in *A Lawyer’s Capability Framework*, professional judgment and wisdom are the key capabilities supporting the ‘top line’ client-facing capabilities of advocacy/persuasion, advice/counsel, and negotiation. All lawyers, from the very start of their careers, are well advised to commit to career-long development and refinement of their legal professional judgment and wisdom.

---

<sup>1</sup> These definitions are based on those in Randall Kiser’s book *Professional Judgment for Lawyers*, 2023, Elgar.

<sup>2</sup> Kiser, Randall, *Professional Judgment for Lawyers*, 2023, Elgar at p.3.

## Tools

As noted earlier, the capabilities of legal professional judgment and wisdom are so important that a framework and tactics for their development are set out in their own Frost Insight, [Accelerating a lawyer's professional judgment and wisdom in the age of artificial intelligence](#), which is available on my website.

## Critical thinking, inquiry, reasoning and creative problem-solving

### Concepts

Here are some definitions of these closely related capabilities:

**Critical thinking:** *is essentially a questioning, challenging approach to knowledge and perceived wisdom. It involves ideas and information from an objective position and then questioning this information in the light of our own values, attitudes and personal philosophy<sup>3</sup>.*

**Critical inquiry:** *is the process of gathering and evaluating information, ideas, and assumptions from multiple perspectives to produce well-reasoned analysis and understanding, and leading to new ideas, applications and questions<sup>4</sup>. It is a key component of critical thinking.*

**Critical reasoning:** *this term is often used interchangeably with 'critical thinking'. But sometimes critical thinking is regarded as the broad, overarching skill of analyzing information objectively, while critical reasoning is seen as a core component of critical thinking, focusing specifically on the structured, logical*

---

<sup>3</sup> Judge, Brenda; McCreery, Elaine; Jones, Patrick, *Critical Thinking Skills and Education Students*, 2009, SAGE at p. 9.

<sup>4</sup> University System of New Hampshire, *Critical Inquiry & the Role of Reflection*: <https://pressbooks.usnh.edu/criticalanalysis/chapter/the-tools-of-critical-inquiry/>.

*process of constructing and evaluating arguments to reach sound conclusions, bridging thinking with evidence.*

***Creative problem-solving:*** *is a form of deliberate creativity; a structured process for solving problems or finding opportunities, used when you want to go beyond conventional thinking and arrive at creative (novel and useful) solutions.<sup>5</sup>*

In his book *Professional Judgment for Lawyers*, Randall Kiser devotes a chapter to Legal Analysis and Reasoning, which he carefully and clinically differentiates from standard scientific reasoning and methods. Kiser quotes physics professor Leonard Mlodinow's description of the two competing models:

*"There are two ways to get at the truth: the way of the scientist and the way of the lawyer. Scientists gather evidence, look for irregularities, form theories explaining their observations, and test them. Attorneys begin with a conclusion they want to convince others of and then seek evidence that supports it, while also attempting to discredit evidence that doesn't. The human mind is designed to be both a scientist and an attorney, both a conscious seeker of objective truth and an unconscious, impassioned advocate what we want to believe. Together these approaches vie to create our worldview.<sup>6</sup>"*

Kiser goes on to state seven features of legal analysis and reasoning which, in his view, may impede or complicate effective decision-making, which is at heart of sound judgment<sup>7</sup>:

- 1. Precedent-based reasoning:** that can rely on excessively superficial and salient similarities between old and new cases, replicating prior judicial oversights and mistakes.

---

<sup>5</sup> Reali, Paul, *Creative Problem Solving*: <https://creativeproblemsolving.com/>, which has an excellent summary of the development of creative problem solving as a process as well as links to many useful, free tools.

<sup>6</sup> Kiser, Randall, *Professional Judgment for Lawyers*, 2023, Elgar at p.82.

<sup>7</sup> Kiser, Randall, *Professional Judgment for Lawyers*, 2023, Elgar at p.111.

2. **Second order reasoning:** that imposes harsh, unjust consequences in a single case, for the sake of enforcing a rule generally appropriate in a class of cases.
3. **Impassivity:** that perpetuates the fiction that emotions can and should be separated from decision-making and promotes a lack of empathy in representing clients, resolving disputes, and adjudicating cases.
4. **Process orientation:** that elevates procedures above outcomes.
5. **Fiduciary relationships:** that are harmed when attorneys disregard clients' instructions and lack knowledge of probability.
6. **Deconstruction:** that disregards nuance and complexity, creates an illusion of order, causation, and control in handling multi-faceted problems, and sometimes deprives clients of comprehensive perspectives, strategies and advice.
7. **Superficial problem-solving:** that emphasises proximate causes and ignores root causes.

Okay, maybe you don't agree with, and/or are offended by Kiser's views on the deficiencies of legal analysis and reasoning. Nonetheless, reflect on them and consider whether and how they may impact on your own critical thinking, inquiry, reasoning in the service of creative problem-solving for your clients.

Despite Kiser's observations (shared by many other eminent commentators and academics as cited at length by Kiser) critical thinking, inquiry, reasoning and creative problem-solving, albeit with an appropriate 'legal twist', are key capabilities and building blocks in professional judgment and wisdom.

A fascinating research paper with the somewhat ominous title of *Thinking—Fast, Slow, and Artificial: How AI is Reshaping Human Reasoning and the Rise of Cognitive Surrender*<sup>8</sup> says:

... cognitive surrender represents a deeper abdication of critical evaluation, where the **user relinquishes cognitive control and adopts the AI's judgment as their own**. This raises several fundamental questions: How is AI integrated into decision-making processes? Who engages with it, when, and why? How does access to AI affect decision confidence and outcomes? Moreover, what happens when core building blocks of thought, such as inference, evaluation, and justification, are outsourced to artificial systems? (emphasis added)

The research paper contains a table which summarises various features of three 'systems' of thinking as follows:

**Table 1.** Cognitive affordances and tradeoffs of System 3

	<b>System 1: Fast</b>	<b>System 2: Slow</b>	<b>System 3: Artificial</b>
Origin	Human (intuitive/associative)	Human (analytical/reflective)	Artificial (algorithmic/statistical)
Processing speed	Fast	Slow	Fast/Variable
Cognitive effort	Low	High	None/Variable (depends on accessibility)
Accuracy	Prone to bias	Normative but effortful	High in structured domains; brittle in open-ended tasks
Affective input	Emotion-driven	Emotion-regulated	Emotion-neutral
Ethical reasoning	Implicit norms	Explicit deliberation	Nonpartisan; depends on training data
Justification	Experiential or post hoc	Rationalized, articulated	Data-driven; externally generated

*Notes:* System 3 offers fast, externally generated, data-driven, and automated reasoning with minimal effort. When well-trained, it can deliver neutral, nonpartisan, and emotion-free outputs that are highly accurate in structured tasks.

---

<sup>8</sup> Shaw, Steven D and Nave, Gideon, *Thinking—Fast, Slow, and Artificial: How AI is Reshaping Human Reasoning and the Rise of Cognitive Surrender* (January 11, 2026). Available at SSRN: <https://ssrn.com/abstract=6097646> or <http://dx.doi.org/10.2139/ssrn.6097646>

As the researchers note, decision-makers who use AI may come to believe (unthinkingly and unwittingly) that AI reasoning is their own. In the studies carried out by the researchers, they found that when participants used AI, and whether the AI “was accurate or faulty, its presence displaced internal reasoning”.

In conclusion the researchers said:

*“Rather than sounding alarm bells, we view the vulnerabilities of cognitive surrender to System 3 as a design and education challenge: how can we support decision-makers in using System 3 effectively while maintaining critical thinking and accountability when necessary? **Our results suggest that giving feedback and aligning incentives may help people engage System 2 when needed, without diminishing the efficiency gains provided by System 3.** Features accompanying AI outputs, such as confidence scores, uncertainty indicators, or transparent explanations may serve as lightweight cues that encourage thoughtful decision-making.*

***AI Design and Policy Recommendations.*** *Tri-System Theory offers a cognitive framework for designing AI systems that support human reasoning. Designers of AI interfaces should consider when and how to trigger different cognitive systems. Rather than fully automating choices, effective AI design may encourage calibrated collaboration, where System 3 enhances and collaborates with internal cognition. This may include customizable modes that align with user preferences for autonomy versus assistance, adaptive nudging that signals uncertainty, domain-specific cautionary filters, or interfaces that dynamically adjust cognitive demands based on context.”* (emphasis added)

Like all humans, lawyers are now operating in a new AI-fuelled environment where there are potentially great benefits and great risks. The risks of AI are not simply that it is (still) prone to hallucination and making stuff up, but that as cognitive processes become dull and we ‘surrender’ to the machine. Some of the tools mentioned below, and those set out in the accompanying Frost Insight, [Accelerating a lawyer’s professional judgment and wisdom in the age of artificial intelligence](#), should help you to avoid cognitive surrender.

Wait! AI models may be even sneakier than suggested in the preceding paragraphs. As this evidence-based HBR article states, at least some AI large language models (**LLMs**) are out to manipulate users, and use a blitz of rhetorical tactics to overwhelm human users and convince them that the AI’s outputs were

correct—even when they weren't: *LLMs Are Manipulating Users with Rhetorical Tricks*, <https://hbr.org/2026/03/lms-are-manipulating-users-with-rhetorical-tricks>.

## Tools

Here are some tools and resources to help you build your critical thinking, inquiry, reasoning and creative problem-solving capabilities in the age of artificial intelligence:

1. ***Professional Judgment for Lawyers*, by Randall Kiser**: at 458 pages, this book requires some commitment, but is the single best source of ideas, tools and resources for developing critical thinking, inquiry, reasoning, creative problem-solving, judgment and wisdom capabilities from a legal perspective.
2. **Critical thinking, inquiry and reasoning**: the Reboot Foundation, with the very impressive Helen Lee Bouygues as its President, has many excellent free tools and resources on its website (<https://reboot-foundation.org/>) regarding critical thinking, including the following:
  - a. *What Is Critical Thinking And How Can It Be Improved?*: <https://reboot-foundation.org/what-is-critical-thinking/>.
  - b. *How To Teach Critical Thinking*: This superb, well thought-out 46 page guide will help you teach yourself and enable you to explain critical thinking skills to others: <https://reboot-foundation.org/resource/teachers-guide-to-critical-thinking/>.
  - c. *5 Questions To Improve Critical Thinking Skills*: here are the five questions, but check out the website (<https://reboot-foundation.org/5-questions-to-improve-critical-thinking-skills/>) for further information on, and explanation of, the questions:
    - i. How do you know what you know?
    - ii. Can you slow down?
    - iii. Have you considered another perspective?
    - iv. Does evidence support your point of view?
    - v. How do your experiences affect your opinion?

3. **Dragonfly Thinking:** Anthea Roberts, a former international lawyer and academic has produced an outstanding AI platform, Dragonfly Thinking, <https://www.dragonflythinking.com/>, which “*provides AI tools that create a strategic intelligence system. Our tools help people to understand multiple perspectives, identify connections that others miss, and build strategies that work across multiple futures.*” A perfect AI partner for critical thinking.
4. **Harvard Business Review Articles on critical thinking:** I am a huge fan and paid subscriber of the Harvard Business Review (**HBR**) and there are lots of references to HBR articles in this Toolkit. If you don't wish to become a paid subscriber, you can set up a free account here <https://hbr.org/register> and access a few free HBR articles each month. Here are links to some excellent HBR articles on critical thinking:
  - a. *3 Simple Habits to Improve Your Critical Thinking:* by Helen Lee Bouygues: <https://hbr.org/2019/05/3-simple-habits-to-improve-your-critical-thinking>.
  - b. *Critical Thinking is About Asking Better Questions:* by John Coleman: <https://hbr.org/2022/04/critical-thinking-is-about-asking-better-questions>.
  - c. *A Short Guide to Building Your Team's Critical Thinking Skills:* by Matt Plummer: <https://hbr.org/2019/10/a-short-guide-to-building-your-teams-critical-thinking-skills>.
5. **The Harvard Gazette:** *Is AI Dulling our Minds?:* <https://news.harvard.edu/gazette/story/2025/11/is-ai-dulling-our-minds/>.
6. **The impact of artificial Intelligence on critical thinking – Challenges and opportunities for legal professionals,** Thomson Reuters White Paper: <https://legal.thomsonreuters.com/en/insights/white-papers/the-impact-of-artificial-intelligence-on-critical-thinking?gatedContent=%252Fcontent%252Fwp-marketing-websites%252Flegal%252Fgl%252Fen%252Finsights%252Fwhite->

[papers%252Fthe-impact-of-artificial-intelligence-on-critical-thinking&form=thankyou.](#)

7. **There's a Good Reason You Can't Concentrate**, Cal Newport, *New York Times*, 2026: <https://www.nytimes.com/2026/03/27/opinion/technology-mental-fitness-cognitive.html?smid=nytcore-ios-share>.
8. **World Economic Forum**: the WEF, in conjunction with the McKinsey Health Institute, released a 33-page paper in January 2026: *The Human Advantage: Stronger Brains in the Age of AI*: <https://www.weforum.org/publications/the-human-advantage-stronger-brains-in-the-age-of-ai/>. As the introductory blurb states:

*“In the age of AI, prioritizing the brain can strengthen the human capacities essential for well-being, connection and progress. As AI reshapes work, competitiveness will depend on how effectively human and machine strengths complement one another. Individuals, workforces and societies should explore how to evolve their strategies to harness these shared strengths – otherwise they risk slower growth and diminished opportunity.”*

9. **TED Talk**: here is a link to an excellent and thought-provoking video: *How to Stop AI from Killing Your Critical Thinking*: by Advait Sarkar: <https://www.youtube.com/watch?v=3lPnN8omdPA>.
10. **Creativity in the Age of AI – metacognition matters!**: great HBR article, *Why AI Boosts Creativity for Some Employees but Not Others*: <https://hbr.org/2026/01/why-ai-boosts-creativity-for-some-employees-but-not-others> has this key advice:

*“As organizations and teams increasingly adopt generative AI, leaders should recognize a critical insight from our research: Employees’ **metacognition** is a key factor in determining whether AI actually enhances creativity. The following **four steps** can help organizations and leaders maximize the creative impact of generative AI:*

1. Help employees use AI to expand the cognitive job resources that fuel creativity.
2. Raise awareness that metacognition is the engine of AI-supported creativity.
3. Build metacognitive skills through targeted and scalable training.
4. Design workflows that promote active, iterative engagement with AI.

**Metacognition**—is the ability to plan, evaluate, monitor, and refine your thinking. That is: structured review and thinking about your thinking processes.”

**11. Creative Problem Solving – Free Resources for Practitioners:** Paul Reali maintains a terrific website with an excellent explanation of creative problem solving and a number of free, practical tools to help with implementation:

<https://creativeproblemsolving.com/>.

**12. Creative Problem Solving – a quick, down-and-dirty handbook:** this free 34-page booklet is just gold!:

[https://brdo.berkeley.edu/sites/default/files/cps\\_handbook.pdf](https://brdo.berkeley.edu/sites/default/files/cps_handbook.pdf)

## Business acumen and understanding client needs/goals

### Concepts

Although I have suggested some *tools* below for ‘understanding client needs/goals’, I am desperately hoping that any lawyer reading this Insight doesn’t actually need a *definition* of this concept!

I do however offer these two (similar) definitions of business acumen:

**Business acumen:** *is the knowledge of how organizations operate, create value, and gain competitive advantage.*<sup>9</sup>

---

<sup>9</sup> Harvard Business Publishing, *Level Up Your Leaders: The Three Critical Business Acumen Skills They Need Now*, 2022: <https://www.harvardbusiness.org/wp-content/uploads/2022/08/Perspectives-Level-Up-Your-Leaders-The-Three-Critical-Business-Acumen-Skills-They-Need-Now.pdf>.

***Business acumen:*** *is keen, fundamental, street-smart insight into how your business [or a client's!] operates and how it makes money and sustains profitable growth, now and in the future.*<sup>10</sup>

I do not need to cite any evidence-based research on the vital importance for lawyers to develop sound business acumen. Over my 40+ years in the business world, I have witnessed, many times, lawyers who did, and did not, display business acumen in their dealings with clients and counterparties. It is just self-evident that, at least in the corporate world, clients highly value lawyers who exhibit business acumen, which is one of the three fundamental capabilities underpinning legal professional judgment and wisdom.

## **Tools**

Here are some tools and resources to help you develop business acumen and make sure that you really, *truly* understand the needs and goals of your clients:

1. **Business acumen materials on the Acumen Learning website:** Kevin Cope, the author of best-selling author of *Seeing the Big Picture: Business Acumen to Build Your Credibility, Career, and Company*, has an excellent website (<https://www.acumenlearning.com/>) with numerous helpful and easy to understand articles on business acumen (<https://www.acumenlearning.com/business-acumen-articles>) including these:
  - a. *Building Business Acumen: What it is, why it's important and how to get it:* <https://www.acumenlearning.com/bba-reilly>.
  - b. *Always Ask These 3 Business Questions:* <https://www.acumenlearning.com/post/always-ask-these-3-business-questions>.

---

<sup>10</sup> Cope, Kevin, *What is Business Acumen?*: <https://www.acumenlearning.com/what-is-business-acumen>.

c. *6 Ways to Build Your Business Acumen:*

<https://www.acumenlearning.com/post/6-ideas-to-build-your-business-acumen>.

**2. Harvard Business Publishing:** *Level Up Your Leaders: The Three Critical Business Acumen Skills They Need Now*, 2022:

<https://www.harvardbusiness.org/wp-content/uploads/2022/08/Perspectives-Level-Up-Your-Leaders-The-Three-Critical-Business-Acumen-Skills-They-Need-Now.pdf>.

**3. 10 business acumen skills for millennials and Gen Zers looking to**

**boost their career opportunities:** this article, from RMIT is excellent, and

not just for millennials and Gen Zers!: <https://studyonline.rmit.edu.au/blog/10-business-acumen-skills-millennials-and-gen-z-looking-boost-their-career>.

**4. Understanding client needs and goals:**

a. My book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success* has lots of tips and tricks in Chapter 3: *What do (and will) your clients want?*

b. A great range of free online articles on ‘Client Relations’ and other topics by David Maister, the now retired global guru on professional services are available at <https://davidmaister.com/articles/2/>, as well, of course, his various books which are mentioned on the same website.

## Communication, relationship-building and teamwork

### Concepts

As with understanding client needs/goals, I am hoping that I do not really need to define, or spend much time discussing the concepts of communication, relationship-building and teamwork.

But I would like to set out several quotations. The first is one which I picked up from Dr Sean O’Connor, one of my lecturers at Sydney University in 2019 whilst I was undertaking my Master of Science in Coaching Psychology:

*“The **quality of our conversations** determines  
the **quality of our relationships** ...  
and the quality of our relationships determines  
the **quality of the organisations** we live  
and work in.”*

How good is that! I have found this statement to be profoundly moving, and it is one of the most important things I have learned in my careers to date.

This next quote is from John Boynton Priestley, who was a remarkable English novelist, playwright, screenwriter, broadcaster and social commentator. This quote is from his 1957 book, *Thoughts in the Wilderness*:

*“The more we elaborate our means of communication,  
the less we communicate.”*

Although written in 1957, before the onslaught of the digital age with computers, mobile telephones, texting, the internet, social media and artificial intelligence, this statement is (sadly) as fresh and true as the day it was written.

And here are my two Frost Maxims of Communication:

#### **Frost’s First Maxim**

*Calibrate your thinking, words, communication style and commitments to the situation.*

#### **Frost’s Second Maxim**

*How can every word and every moment in my current interaction best help the other person(s), myself and our relationship(s)?*

## **Tools**

Here are some tools and resources to help you build your communication, relationship-building and teamwork capabilities:

1. **Listening:** good communication requires excellent listening skills, sadly not evident in at least some lawyers! Here are some great resources on listening:
  - a. *The Power of Listening:* Watch this superb 15-minute TED Talk by William Ury: <https://www.youtube.com/watch?v=saXfavo1OQo>. What

are your observations and insights on this video? William Ury, co-founder of Harvard's Program on Negotiation, is based at Harvard Law School and is one of the world's leading experts on negotiation and mediation.

- b. *What Great Listeners Actually Do*: Harvard Business Review article by leadership and coaching gurus Jack Zenger and Joseph Folkman: <https://hbr.org/2016/07/what-great-listeners-actually-do>.

**2. Talking:** yes, this is also part of communication:

- a. *The Power of Talk: Who Gets Heard and Why*: an absolute classic HBR article by Deborah Tannen: <https://hbr.org/1995/09/the-power-of-talk-who-gets-heard-and-why>.
- b. Assertive (good) vs aggressive (not so good!) communication styles: this article from BetterUp, *Assertive versus aggressive: What's the difference?*, is excellent, with great explanations as well as practical tips and guidance: <https://www.betterup.com/blog/assertive-vs-aggressive>.

**3. Writing:** Ian Neil SC's masterful Style Guide is available on his website:

<https://ianneil.com/style-guide-form/>. As Neil observes: *"Style is critical. Without it, meaning is obscured or lost altogether. Writing with style means writing clearly, concisely and persuasively."*

**4. Relationships:**

- a. In her excellent book *Marriage Rules*, Dr Harriet Lerner makes these observations, which are just as relevant in the business world as they are in spousal relationships: *"We're all defensive a fair amount of the time, although we may be better able to observe defensiveness in other people. Just a little bit of anxiety is enough to reduce the listening part of the human brain to the size of a pinto bean."* Dr Lerner then provides **12 steps** to help lower our defensiveness. There is plenty of defensiveness in the business world as well, and Dr Lerner's

tips are just as relevant there, together with her wise advice on relationships more generally.

- b. *Don't Underestimate the Value of Professional Friendships*: HBR article by Professor Paul Ingram from Columbia Business School, who has spent decades studying business friendships:

<https://hbr.org/2026/01/dont-underestimate-the-value-of-professional-friendships>.

5. **Teamwork**: Some organisations invest in providing training to their employees in mindfulness, meditation and various positive psychology interventions. Rather than, or ideally as well as, fostering individual mindfulness, it would be better if employers were to implement *mindfulness at a team level*. And yes, this will include leaders and managers themselves getting their heads around some core principles of mindfulness rather than delegating the task to human resources, learning and development departments and to employees. A practical place to start thinking about all this, is this excellent 2020 HBR article, *Why Your Team Should Practice Collective Mindfulness*: <https://hbr.org/2020/08/why-your-team-should-practice-collective-mindfulness>.

6. **Great TED Talks on communication, relationships and teamwork:**

- a. *10 ways to have a better conversation*, Celeste Headlee: <https://www.youtube.com/watch?v=R1vskiVDwI4>.
- b. *Dare to disagree*, Margaret Heffernan: [https://www.youtube.com/watch?v=PY\\_kd46RfVE](https://www.youtube.com/watch?v=PY_kd46RfVE).
- c. *The Power of Vulnerability*, Brené Brown: <https://www.youtube.com/watch?v=iCvmsMzIF7o>.
- d. *How to turn a group of strangers into a team*, Amy Edmondson: <https://www.youtube.com/watch?v=3boKz0Exros>.

e. *Start with why – how great leaders inspire action*, Simon Sinek:

[https://www.youtube.com/watch?v=u4ZoJKF\\_VuA](https://www.youtube.com/watch?v=u4ZoJKF_VuA).

## Emotional intelligence

### Concept

The concept of ‘emotional intelligence’ was first proposed in substantive detail by Peter Salovey and John Mayer in a 1990 academic paper<sup>11</sup>. They hypothesised that:

*“**Emotional Intelligence**: is a set of skills that contribute to the accurate appraisal and expression of emotion in oneself and others, the effective regulation of emotion ... and the use of feelings to motivate, plan and achieve in one’s life.”*

Research conducted since 1990 shows we can develop emotional intelligence by means of awareness, education and practice. You are not doomed to being emotionally challenged, even if you are a tax (or any other type of) lawyer.

Here is my cheeky definition:

***Emotional Intelligence**: is a modern, convenient and catchy collective noun for a bunch of personal awareness, relationship-enhancing, and decision-making skills that have been regarded as vitally important since before the dawn of humanity, under many guises and names.*

Why do I say, ‘before the dawn of humanity’? In her fascinating book, *Wild Leadership*, Erna Walraven, former Senior Curator at Taronga Zoo in Sydney, documents her observations of wild animals over more than three decades. She concludes that successful long-term leaders in animal societies have the following characteristics:

- *They are trustworthy.*

---

<sup>11</sup> Salovey, Peter and John D Mayer, 1990, *Emotional Intelligence*, *Imagination, Cognition and Personality* 9(3), 185–211. This paper was a major motivation for Daniel Goleman’s best-selling 1995 book, *Emotional Intelligence – Why it can matter more than IQ*.

- *They keep the group safe.*
- *They resolve conflict quickly.*
- *They make productive decisions for the group.*
- *They share resources fairly.*
- *They have compassion and empathy.*

In a nutshell, successful animal leaders display emotional intelligence along with many other attributes we sometimes believe, in our conceit, are peculiar to humans.

## Tools

Here are some tools and resources to help you assess and build your emotional intelligence capabilities:

1. **Book on EI for lawyers:** Ronda Muir has written a most impressive book, *Beyond Smart: Lawyering with Emotional Intelligence*, published by the American Bar Association and now in a second edition (2025): <https://www.americanbar.org/products/inv/book/448955338/>. At 463 pages, this book is not for the faint of heart, but it is pure gold. It is full of tips and tricks for lawyers to improve their emotional intelligence, together with a well-researched and clear rationale as to why this is a good idea.
2. **Assessing emotional intelligence – getting feedback from colleagues:** the gold standard approach to assessing your emotional intelligence in the workplace is to use some type of (valid/rigorous!) psychometric test to gather feedback from your colleagues in a controlled and psychologically safe manner, with the results being debriefed to you by someone accredited to use the psychometric test that has been deployed. I am accredited to use, and can highly recommend, the Genos model/assessment of emotional intelligence: <https://www.genosinternational.com/emotional-intelligence>. This website also has some great information, resources, tools and podcasts about key aspects of emotional intelligence.
3. **Assessing emotional intelligence: free online self-assessment:** this is my favourite free online questionnaire which can help you assess your current

state of emotional intelligence. It is simple, easy to implement, and has some good, practical tips with what to do with the results, so as to improve your emotional intelligence: <https://kapable.club/blog/emotional-intelligence/emotional-intelligence-questionnaire/>.

#### 4. Harvard Business Review articles:

- a. *Why Young Bankers, Lawyers and Consultants Need Emotional Intelligence*: <https://hbr.org/2016/09/why-young-bankers-lawyers-and-consultants-need-emotional-intelligence>.
- b. *The Rise of AI Makes Emotional Intelligence More Important*: <https://hbr.org/2017/02/the-rise-of-ai-makes-emotional-intelligence-more-important>.
- c. *What People (Still) Get Wrong About Emotional Intelligence*, by Daniel Goleman: <https://hbr.org/2020/12/what-people-still-get-wrong-about-emotional-intelligence>.

5. My book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success*: emotional intelligence is one of the ‘Seven Accelerants to supercharge your career’ which are discussed in Chapter 9.

#### 6. Videos and podcasts:

- a. Any of the (very many!) podcasts involving Daniel Goleman will be worth watching. I especially like this one and have recommended it to my clients from time to time: <https://www.youtube.com/watch?v=l61T0AunFOM>.
- b. *18 Most Valuable Emotional Intelligence TED Talks on YouTube*: here is a handy link to a well-curated set of TED Talks on emotional intelligence: <https://positivepsychology.com/emotional-intelligence-ted-talks/>.
- c. And here is a link to TED Talks’ own list of key Talks on emotional intelligence: <https://www.ted.com/topics/emotional+intelligence>.

## Self-awareness

### Concept

The notion of self-awareness, and definitions thereof, have a very, very long history. For example, the exhortation “*Know Thyself*” was inscribed on the Ancient Greek Temple of Apollo at Delphi and adopted by Socrates to mean understanding one’s own soul, virtues, and limitations. Socrates is credited with the saying: “*The unexamined life is not worth living.*”

My go-to approach to self-awareness is that of Dr Tasha Eurich, who has done extensive research on the subject. Amongst other things, she has written an excellent and very readable book, *Insight*<sup>12</sup>, and a HBR article which summarises some of the key ideas in the book: *What Self-Awareness Really Is (and How to Cultivate It)*: <https://hbr.org/2018/01/what-self-awareness-really-is-and-how-to-cultivate-it>.

This is how Eurich summarises/defines the idea of self-awareness in that HBR article:

*“Across the studies we examined, **two broad categories of self-awareness** kept emerging. The **first, which we dubbed internal self-awareness**, represents how clearly we see our own values, passions, aspirations, fit with our environment, reactions (including thoughts, feelings, behaviors, strengths, and weaknesses), and impact on others. We’ve found that internal self-awareness is associated with higher job and relationship satisfaction, personal and social control, and happiness; it is negatively related to anxiety, stress, and depression.*

*The **second category, external self-awareness**, means understanding how other people view us, in terms of those same factors listed above. Our research shows that people who know how others see them are more skilled at showing*

---

<sup>12</sup> Eurich, Tasha, *Insight*, 2017, Crown Publishing Group.

*empathy and taking others' perspectives. For leaders who see themselves as their employees do, their employees tend to have a better relationship with them, feel more satisfied with them, and see them as more effective in general."*

(emphasis added)

As can be seen from the above, self-awareness is a broad concept, but it is also the key skill in emotional intelligence. No self-awareness – no emotional intelligence. I have included self-awareness as a separate competency in my Framework for two reasons. First, because it is such a vital aspect of emotional intelligence. Secondly, because self-awareness extends beyond awareness of our emotions to other aspects of our being, behaviour and character.

## Tools

Here are some tools and resources to help you build your self-awareness capabilities:

1. **Assessing your self-awareness:** the tools and ideas for emotional intelligence, discussed earlier in this Toolkit, are also relevant for self-awareness. To assess your *external* self-awareness, you need to actually get feedback from colleagues/other people who know you, as per the approaches set out earlier for emotional intelligence more generally. To assess your *internal* self-awareness, you could do a self-assessment as per the approaches set out earlier for emotional intelligence more generally.

2. ***What Self-Awareness Really Is (and How to Cultivate It):***

<https://hbr.org/2018/01/what-self-awareness-really-is-and-how-to-cultivate-it>.

This excellent HBR article, mentioned earlier, is well worth reading and has various tools and tips including:

- a. A more detailed break-down of self-awareness into four categories, via a 2x2 matrix of low and high levels of internal and external self-awareness, with the four categories being:
  - i. *Seekers* (Low Internal/Low External),
  - ii. *Introspectors* (High Internal/Low External),

- iii. *Pleasers* (Low Internal/High External) and
    - iv. *Aware* (High Internal/High External).
  - b. Tips on how to do *effective self-reflection* instead of introspection which turns into destructive rumination. It turns out that the key is the type of questions that you ask yourself.
- 3. Meditation and mindfulness:** various forms of meditation and/or mindfulness are tools many people use to help with self-awareness. As mentioned earlier in this Toolkit, rather than, or ideally as well as, fostering individual mindfulness, it would be better if employers were to implement *mindfulness at a team level*. As mentioned earlier, a practical place to start thinking about this is the excellent 2020 HBR article, *Why Your Team Should Practice Collective Mindfulness*: <https://hbr.org/2020/08/why-your-team-should-practice-collective-mindfulness>.
- 4. Journalling (and self-reflection):** there is no doubt that many people find a regular habit of journalling to be very helpful with self-awareness and generally maintaining themselves on an even keel. Here is a link to a goldmine of tips and tricks on self-reflection and journalling/journal worksheets: *13 Self Reflection Worksheets & Templates to Use in Therapy*: <https://positivepsychology.com/reflection-journal-worksheets/>.
- 5. Chatter: The Voice in Our Head (and How to Harness It):** this is the name of a terrific book by Dr Ethan Kross, which has many simple, practical, evidence-based tools to help us keep cool, calm and collected. Here is just one of them:
- “Use Distanced Self-Talk: The ability to step back from the Echo Chamber of our own minds, so we can adopt a more objective perspective is an important tool for combating chatter. One way to create distance when you experience chatter involves language. When you're trying to work through a difficult experience, use your own name to coach yourself through a problem. Doing so is linked with less activation in brain networks associated with rumination and leads to improved performance*

*under stress, wiser thinking, and less negative emotion. Another way to think about your experience from a distanced perspective is to imagine what you would say to a friend experiencing the same problem as you. Think about the advice you'd give them and then apply it to yourself.”*

- 6. Self-observation:** the idea and practice of *self-observation* have a very long history in many cultures. However, as a short introduction, I love this HBR article *Great Leaders Are Thoughtful and Deliberate, Not Impulsive and Reactive*: [https://hbr.org/2019/04/great-leaders-are-thoughtful-and-deliberate-not-impulsive-and-reactive?tpcc=orgsocial\\_edit](https://hbr.org/2019/04/great-leaders-are-thoughtful-and-deliberate-not-impulsive-and-reactive?tpcc=orgsocial_edit). In this article, the authors describe our two “selves”. Our **first self** is calm, measured, rational, and capable of making deliberate choices. Our **second self** is run by our amygdala, a very primitive part of our brain. It seizes control any time we begin to perceive threat or danger. It’s reactive, impulsive and operates largely outside our conscious control. Originally, its function was to save us from being eaten by lions. The article has some tips/tricks to put self-observation into practice. As the authors say:

*“In our work with leaders, we’ve discovered that the antidote to reacting from the second self is to develop the capacity to observe our two selves in real time. You can’t change what you don’t notice, but noticing can be a powerful tool for shifting from defending our value to creating value.*

*A well-cultivated self-observer allows us to watch our dueling selves without reacting impulsively. It also makes it **possible to ask our inner lawyer to stand down** whenever it rises up to argue our case to our inner and outer critics. Finally, the self-observer can acknowledge, without judgment, that we are both our best and our worst selves, and then make deliberate rather than reactive choices about how to respond in challenging situations.”* (emphasis added)

## Motivation, self-care and self-management

### Concepts

**Motivation:** here is the Macquarie Dictionary definition of *motivation*:

*noun* **1.** a motivating; a providing of a motive; inducement.

**2.** purpose; drive.

... and here is the definition of *motive*:

*noun* **1.** something that prompts a person to act in a certain way or that determines volition; an incentive.

**2.** the goal or object of one's actions: *his motive was revenge.*

As I note below in the Tools section, my book has a lot to say on the concept of motivation, so check it out!

**Self-care:** what is self-care and why is it important? I can't do any better than quote legendary British actress and UNICEF Goodwill Ambassador Audrey Hepburn, who puts it like this: "*Remember, if you ever need a helping hand, it's at the end of your arm. As you get older, remember you have another hand: The first is to help yourself, the second is to help others.*" A very important aspect of self-care is looking after your own mental health, resilience and well-being. Unfortunately, lawyers are prone to higher-than-average mental health challenges compared to population at large.<sup>13</sup>

**Self-management:** I like this simple, clear definition of self-management by leading business psychologist and coach, Dr Camille Preston: "... *is about finding the self-control and mastery needed to take control of one's work (e.g., to manage one's time, workflow, and communication).*" For the purposes of this Toolkit, I equate

---

<sup>13</sup> Holmes, V., Webb, J., Tang, S., Ainsworth, S., & Foley, T. (2025). Lawyer Wellbeing, Workplace Experiences and Ethics. A Research Report. Victorian Legal Services Board + Commissioner, the Law Society of New South Wales and the Legal Practice Board of Western Australia (LPBWA). [lsbc.vic.gov.au/resources/lawyer-wellbeing-workplaceexperiences-and-ethics-research-report-0](https://lsbc.vic.gov.au/resources/lawyer-wellbeing-workplaceexperiences-and-ethics-research-report-0).

self-regulation as being broadly equivalent to self-management, although self-regulation is sometimes seen to be a sub-component of self-management, dealing primarily with emotional regulation and management.

## Tools

Here are some tools and resources to help you build your motivation, self-care and self-management capabilities:

1. **Motivation: my book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success***: motivation is the second of the five key factors in my framework, which is discussed in Chapter 6: *What gets you out of bed in the morning?* This chapter has lots of ideas, tools and links to help you on the motivation front.
2. **Self-care, including mental health, resilience and well-being:**
  - a. **my book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success***: self-care is the first of the five key factors in my framework, which is discussed in Chapter 5: *Fit your own oxygen mask first*. This chapter has lots of ideas, tools and links to help you on the self-care front. As you will see, the chapter includes discussion and tips on self-compassion and resilience.
  - b. **Mental health and well-being hub page**: on the Law Society of New South Wales website:  
<https://www.lawsociety.com.au/resources/mental-health-and-wellbeing>.
  - c. **Mental Health and Wellbeing in the Legal Profession hub page**: on the Law Council of Australia website: <https://lawcouncil.au/policy-agenda/advancing-the-profession/mental-health-and-wellbeing-in-the-legal-profession>.
  - d. **Resilience@Law Legal Profession Mental Health Toolkit Practical Guide & Resources**: Black Dog Institute and others:

<https://www.blackdoginstitute.org.au/education-services/workplaces/mental-health-toolkit/>.

**3. Self-management:** here are terrific articles and other resources:

- a. This is a timeless and classic HBR article, by management guru Peter Drucker, *Managing Oneself*: <https://hbr.org/2005/01/managing-oneself>. In this article Drucker explores self-management from these perspectives:
  - i. What Are My Strengths?
  - ii. How Do I Perform?
  - iii. What Are My Values?
  - iv. Where Do I Belong?
  - v. What Should I Contribute?
  - vi. Responsibility for Relationships
  - vii. The Second Half of Your Life
- b. HBR article by Jennifer Porter, *How to Move from Self-Awareness to Self-Improvement*: <https://hbr.org/2019/06/how-to-move-from-self-awareness-to-self-improvement>.
- c. HBR article *AI Doesn't Reduce Work—It Intensifies It*: <https://hbr.org/2026/02/ai-doesnt-reduce-work-it-intensifies-it>.
- d. Seek, *Self-management skills and how to improve them*: <https://www.seek.com.au/career-advice/article/self-management-skills-and-how-to-improve-them>.
- e. Asana, *Self-management: definition and 7 skills for leaders*: <https://asana.com/resources/self-management>.

**4. Great TED Talks on motivation, self-care and self-management:**

- a. *The puzzle of motivation*, Dan Pink: <https://www.youtube.com/watch?v=rrkrvAUbU9Y>.
- b. *The importance of self-care*, TED Talks playlist: [https://www.ted.com/playlists/299/the\\_importance\\_of\\_self\\_care](https://www.ted.com/playlists/299/the_importance_of_self_care).

- c. *How to stop screwing yourself over*, Mel Robbins:  
[https://www.ted.com/talks/mel\\_robbins\\_how\\_to\\_stop\\_screwing\\_yours\\_elf\\_over](https://www.ted.com/talks/mel_robbins_how_to_stop_screwing_yours_elf_over).
- d. *Do You Talk to Yourself? Here's How to Harness Your Inner Voice*, Ethan Kross, <https://www.youtube.com/watch?v=xb0nLpdWttA>. (As noted earlier, he has written an excellent, very readable and practical book on this subject, *Chatter*:  
<https://www.ethankross.com/books/chatter>.

## Deliberate practice and reflective practice

### Concepts

As can be seen from the Framework diagram, '*Deliberate practice and reflective practice*' play a vital role in a lawyer's capability Toolkit. Because of this, and because it is evident from my experience that many lawyers are not familiar with these concepts in any detail, what follows is a somewhat lengthier explanation of the topics, before I mention some tools.

In the realms of psychology, learning and evidenced-based theories, the notions of 'deliberate practice' and 'reflective practice' are related but distinct concepts.

**Deliberate practice:** let's assume you are talented at a particular (non-work) pursuit, like dancing, sport, one or more musical instruments etc. How did you achieve your level of skill? Even if you were a natural, it's because you practised. A lot. You may or may not have had lessons or formal coaching, but you spent many hours building your skills. Depending on your focus, resources and level of organisation, the granularity and specificity of the micro skills you practised will have varied. But you have done a lot of practice. Importantly, you were probably aware that you were practising and that the people around you who were learning the same skill were practising too. But when it comes to professional careers, many people don't apply the same logic, principles and degree of rigour to the development of their Prime Capabilities and Enablers.

In a 2007 HBR article, *The Making of an Expert*, <https://hbr.org/2007/07/the-making-of-an-expert>, K Anders Ericsson and others reported on their research (which had started in the 1990s) into expertise and outstanding performance in a wide variety of domains including surgery, acting, chess, writing, computer programming, ballet, music, aviation and firefighting. They concluded:

*“The development of genuine expertise requires struggle, sacrifice, and honest, often painful self-assessment ... It will take you at least a decade to achieve expertise ... you will need to invest that time wisely, by engaging in ‘deliberate’ practice ... that focuses on tasks beyond your current level of competence and comfort.”*

There are four distinct features that separate ‘deliberate practice’ from other forms of practice:

1. It requires a clearly defined goal that identifies the specific competency (Prime Capability or Enabler), or the targeted aspect of performance to be learned or improved on. It demands that challenge exceeds skill and focuses on tasks beyond your current level of competence and comfort.
2. *It is actually deliberate!* It requires complete concentration and effort in learning or improving on the identified skill or aspect of performance.
3. **It requires informative feedback**, preferably immediate, through coaching. To improve learning and performance, the feedback must be constructive, even if it is sometimes painful. Feedback facilitates the learning process and guides the selection, sequence and type of future practice activities.
4. It also requires repetition, but repetition alone is not enough. Mindless repetition of a task does not automatically lead to improvement. It must be focused, responsive and reflective.

Ask yourself: do you engage in some similar, methodical ‘deliberate practice’ of your burgeoning professional skills? If not, why not? If you decide to become more ‘deliberate’ in the practice, development and honing of your Prime Capabilities and Enablers, the tools mentioned below may be of assistance.

**Reflective practice:** American philosopher and professor in urban planning, Donald Schön, wrote the landmark book *The Reflective Practitioner* in 1983. The book resulted in part from Schön's frustrations with what his students did, and did not, learn from field work experience. He addressed this issue with his 'reflection-in-action' concept, which is explained in the book. 'Reflective practice' originally involved the examination of the thinking, talking, and interacting processes through a series of case studies involving different professionals working in the engineering, architecture, management, psychotherapy, and town planning domains. As noted in the tools section below, reflective practice has been slower to catch on in the legal world as compared to other professional domains.

Although reflective practice is typically thought of as a solo/individual activity, it can be done in teams/groups, and on a one-on-one basis between a lawyer and a coach or mentor.

***Reflective practice benefits from feedback in the same way as deliberate practice.***

So, what *exactly*, is the difference between 'reflective practice', which originated in the 1980s, and 'deliberate practice', which started life later, as an evidenced-based 'thing' in the 1990s, with K Anders Ericsson and colleagues who developed deliberate practice while not generally referring to, or acknowledging Donald Schön or his work on reflective practice?

Well, to answer this question, and after much research, I can't do any better than quote this answer which Google's Gemini AI tool gave me, and which looks pretty accurate!:

*"Donald Schön and Anders Ericsson offer complementary, rather than directly opposing, frameworks for understanding how professionals develop expertise and improve performance.*

- **Donald Schön** focuses on **Reflective Practice**, emphasizing that professionals handle unique, "messy" situations by thinking on their feet ("reflection-in-action") and learning from experience afterward ("reflection-on-action").

- **Anders Ericsson** focuses on **Deliberate Practice**, defining expertise as the result of highly structured, goal-oriented practice designed to improve specific performance aspects through tight feedback loops.

#### **Key Differences and Comparisons:**

- **Focus of Study:** Schön studied "swampy lowlands" of practice—situations that are uncertain, unique, and value-conflicted. Ericsson studied elite performers (musicians, athletes) to understand how they achieved superior, measurable results.
- **Mechanism of Improvement:** For Schön, improvement comes from reflecting on and reframing unexpected problems. For Ericsson, improvement comes from focused, often uncomfortable, repetition and refinement.
- **Role of Feedback:** Schön emphasizes internal reflection and dialogue with the situation. Ericsson emphasizes external feedback from coaches or monitors to correct errors.
- **Context:** Schön's work is heavily applied to professions like design, management, and teaching. Ericsson's work is often associated with domains with established, objective performance standards.

#### **Convergence:**

*Both agree that expertise is not solely innate but developed through practice, and both highlight the necessity of active engagement and mentorship (coaching) to improve performance."*

And here is a succinct statement from a fellow human being, Andrew Taylor at ArtsManaged (<https://notes.artsmanaged.org/p/arts-management-as-practice>), on the difference:

*"Each form of practice fits a different learning context. **Deliberate practice** is effective for skill development when standards are known, stable, and easily observed, and feedback is immediate. **Reflective practice** is preferred when contexts are shifting or novel, standards are complex, subjective, or dynamic, and feedback is conflicting or delayed."*

In an ideal world, a lawyer would be familiar with each of ‘deliberate practice’ and ‘reflective practice’ and have tools at hand to deploy each technique as their personal circumstances and development needs demand.

## Tools

Here are some tools and resources to help you build your deliberate practice and reflective practice capabilities:

### Deliberate practice

1. **My book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success***: deliberate practice is one of the ‘Seven Accelerants to supercharge your career’ which are discussed in Chapter 9.
2. **Harvard Business Review article: *The Making of an Expert***, <https://hbr.org/2007/07/the-making-of-an-expert>, by K Anders Ericsson and others.
3. **Videos:**
  - a. *From Good to Great: Using Deliberate Practice at Work*, <https://www.youtube.com/watch?v=bwCvg6tl5ss>.
  - b. *The Role of Deliberate Practice in the Acquisition of Expert Performance*: <https://www.youtube.com/watch?v=LVJ7Cnq09X8>.
4. **Feedback**: as is evident from the description above of deliberate practice, *feedback* is a vital component of the process. It is also painfully evident that many lawyers struggle to ask for feedback, receive it well if given, and are often reluctant to provide it to others and when they do, it is sometimes delivered in a suboptimal manner. Here are some great resources to help you seek, receive and deliver feedback with gratitude, grace and good humour:
  - a. **My book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success***: feedback is a constant theme throughout my book. It is one of my ‘eight energising factors of motivation’ in Chapter 6, and feedback is another one of the ‘Seven Accelerants to supercharge your career’ which are discussed in

Chapter 9. It is also discussed in Chapter 4 (*What employers want (and should do)*).

- b. **Thanks for the Feedback: The Science and Art of Receiving Feedback Well:** this book (2014, Penguin) by Douglas Stone and Sheila Heen is superb. I have read a great deal on feedback, and nothing comes close to the wisdom, tools and practical suggestions in this book. And, despite the title, you will learn how to *give* as well as *receive* feedback. It is well worth the investment of your time.
- c. **Don't be defensive!:** when you seek feedback it is super important not to be defensive or argumentative if you hear something you don't like. First, the person you approached won't bother trying to assist you again. Second, defensiveness is a classic indicator of a fixed rather than a growth mindset. It limits our ability to listen, learn and grow. The best, most practical advice and tips on not being defensive that I have come across are contained in rule 27 of Dr Harriet Lerner's book *Marriage Rules*. This book (2013, Gotham Books), mentioned earlier in this Insight, is a gold mine of sensible relationship advice that is just as applicable to the business world as it is to married couples. Before outlining 12 steps to reducing defensiveness, she reminds us (yes, this was quoted earlier in this Insight, but it is worth repeating):

*"We're all defensive a fair amount of the time, although we may be better able to observe defensiveness in other people. Just a little bit of anxiety is enough to reduce the listening part of the human brain to the size of a pinto bean. Once we're in defensive or reactive mode we can't take in new information or see two sides of an issue — or better yet, seven or eight sides. Defensiveness is normal and universal. It is also the archenemy of listening."*

Are you defensive when you receive less than glowing feedback, and does the listening part of your brain shrink to the size of a pinto bean

as a result? Try to monitor and moderate your defensiveness next time you get some feedback.

## Reflective practice

1. ***Better than a bot – instilling ethical judgement into the lawyers of the future in the age of AI***, Michael Legg (2024), Griffith Law Review, 33:3, 273-293, <https://doi.org/10.1080/10383441.2025.2493493>. This excellent article discusses the use of reflective practice and self-reflection by lawyers in the age of AI.
2. ***Reflective Practice for Lawyers***: this set of free, online resources released by the Victorian Legal Services Board + Commissioner is ***absolute GOLD!!***: <https://lsbc.vic.gov.au/lawyers/practising-law/lawyer-wellbeing/reflective-practice-lawyers>. It has practical templates/examples and a clear and comprehensive statement of the benefits of reflective practice for lawyers, which can be summarised as follows:
  - Improved performance
  - Improved client outcomes
  - Enhanced wellbeing
  - Enhanced ethical engagement
  - Development of a growth mindset.

*What's not to like about reflective practice!!*

3. ***The Importance of Reflective Practice for Lawyers***: The Law Society of Alberta in Canada also has an excellent set of free, practical online resources: <https://learningcentre.lawsociety.ab.ca/mod/page/view.php?id=343>.
4. **United Kingdom**:
  - a. ***On reflection***: very useful online article, with links to practical tools, on the website of The Law Society of the UK:

<https://communities.lawsociety.org.uk/november-2023/on-reflection/6002778.article>.

- b. **Reflecting and identifying your competence requirements:** materials on the website of the UK's Solicitors Regulation Authority:

**<https://www.sra.org.uk/solicitors/resources/continuing-competence/reflect-identify/>**.

5. ***The Reflective Lawyer: Strategies for Wellbeing and Professional***

***Excellence***: here is a link to a terrific podcast (and written summary) featuring two leading experts in reflective practice: Professor Christian van Nieuwerburgh and leadership coach David Love. “*Their conversation revealed why structured reflective practice might be the missing piece in every lawyer's professional development toolkit.*”:

<https://www.thrivinglawyer.com.au/blog/reflectivepractice>.

6. ***Unveiling the benefits of reflective learning in professional legal***

***practice***: this is the title of a very read-able, well researched (and free online) academic paper on the subject:

<https://www.tandfonline.com/doi/full/10.1080/09695958.2024.2345924>.

7. ***Good Practice Guide (Bachelor of Laws): Reflective Practice***: this

marvellous and practical guide was commissioned by the Australian Learning and Teaching Council and is just as useful for practicing lawyers as it is for law students and academics:

[http://disciplinestandards.pbworks.com/w/file/fetch/68000999/Reflection\\_McNamarataetalFinal.pdf](http://disciplinestandards.pbworks.com/w/file/fetch/68000999/Reflection_McNamarataetalFinal.pdf).

## Foundational capabilities underpinning all of the above

### Introduction

At the base of *A Lawyer's Capability Framework* set out earlier in this document, are a set of six 'foundational capabilities' which in my view are fundamental to any lawyer's practice and which underpin everything discussed so far in this Insight.

I am assuming that any lawyer reading this document does not need me to define or explain what is meant by the various concepts contained within these foundational capabilities. However, I have set out below tools on each set of capabilities.

### Tools

1. **Integrity, ethics and professionalism:** my book, *The Professional – A Playbook to Unleash Your Potential and Futureproof Your Success*: addresses each of these issues – especially in Chapter 1: *Are you a true professional?* See also Chapter 3: *What do (and will) your clients want?*
2. **Technical knowledge, competence and expertise:** can be accelerated by 'deliberate practice', as discussed earlier in this Insight.
3. **Experience: LOTS of experience!:** I *really* wish I had some whizz bang tool to recommend! All I can offer is a section headed *Working on the best clients and best matters* in Chapter 3 of my book which has the title: *What do (and will) your clients want?* See also related discussion in Chapter 4: *What employers want (and should do)*.
4. **Humility and coachability:** my book discusses humility, coaching and coachability in various places, but especially in Chapters 1, 4, 8 and 9.
5. **Research, analytical and risk management skills:**
  - a. Some of the tools mentioned above under the heading *Critical thinking, inquiry, reasoning and creative problem solving* will also be useful here.

- b. The (Victorian-based) Legal Practitioners' Liability Committee (**LPLC**) has an extensive range of quality risk management tools:  
<https://lplc.com.au/risk-advice>.
- c. Excellent article by Dr Fabian Horton from the LPLC, *A Risk Management Mindset*:  
[https://www.liv.asn.au/web/law\\_institute\\_journal\\_and\\_news/web/lij/year/2024/07july/a\\_risk\\_management\\_mindset.aspx?srsltid=AfmBOopQXo\\_ssm0WaSGox6G6Fi3iH8xovHXHjEsnDihED4nR3lwhSJY1A](https://www.liv.asn.au/web/law_institute_journal_and_news/web/lij/year/2024/07july/a_risk_management_mindset.aspx?srsltid=AfmBOopQXo_ssm0WaSGox6G6Fi3iH8xovHXHjEsnDihED4nR3lwhSJY1A).

**6. Digital literacy and artificial intelligence (AI) skills:**

- a. Some of the tools mentioned above under the heading *Critical thinking, inquiry, reasoning and creative problem solving* will also be useful here.
- b. The Law Society of New South Wales has a great collection of AI resources for lawyers at: <https://www.lawsociety.com.au/publications-and-resources/ai-legal-professionals>.
- c. *What New AI Skills Lawyers Need*, Turing College:  
<https://www.turingcollege.com/blog/ai-skills-for-lawyers>.
- d. *AI and the Courts in 2025*, Justice Jane Needham, Federal Court of Australia: <https://www.fedcourt.gov.au/digital-law-library/judges-speeches/justice-needham/needham-j-20250627>.
- e. *Some reflections on the use of artificial intelligence and blockchain technology in insurance litigation*, Justice Jackman, Federal Court of Australia: <https://www.fedcourt.gov.au/digital-law-library/judges-speeches/justice-jackman/jackman-j-20250904#:~:text=Fifth%2C%20decision%2Dmaking%20should%20be,problems%20in%20a%20real%20society>.
- f. Harvard Business Review article: *AI Is Changing How We Learn at Work*, Lynda Gratton, 2025: <https://hbr.org/2025/12/ai-is-changing-how-we-learn-at-work>.

- g. Most of the major general purpose AI platforms, such as OpenAI and Claude, now have online, free tools/courses to help those who need a kick start into world of AI.
- h. Harvey AI, one of the leading legal-specific AI platforms has an online, free HarveyAcademy with a range of useful webinars and tools:  
<https://academy.harvey.ai/>.

**Tony Frost**  
**Frost Leadership Consulting**  
**Suite 604, Level 6**  
**135 Macquarie Street, Sydney, NSW 2000**  
**M: +61 (0) 419 447 680**  
**E: [tony@frostleadership.com.au](mailto:tony@frostleadership.com.au)**  
**W: [frostleadership.com.au](http://frostleadership.com.au)**  
**L: <https://www.linkedin.com/in/tony-frost-cmc/>**