



# Harnessing the Superpowers of ADHD

## *Neurodivergent Minds, an Underutilised Weapon of the Legal Profession*

Written by Amy Danek

One in twenty adults have ADHD, which equates to more than 800 000 Australians.<sup>1</sup> There is a certain level of stigma attached to the medical categorisation model. By categorizing people into groups, we assume a vision that all people in that group possess the same traits. Those with ADHD tend to be hyper-aware of their differences and disclosing an ADHD diagnosis typically invokes fear of judgement from peers.

The reality is that neurodevelopmental conditions exist on a linear plane rather than in a categorical sense. ADHD as a neurodevelopmental condition includes a wide range of potential traits, which not every person possesses. When we categorise a person, we assume a vision of what that person can and cannot do based on stereotypical assumptions of their capacities derived from the medical model, which presumes ADHD is a limiting disability.<sup>2</sup> The flexibility of our workplace environments must be adaptive to individual needs to support those unique differences.

I hope to demonstrate the origins of the superpower neurology of ADHD, how employers and universities can provide better support with flexible adjustments to ensure neurodivergent individuals thrive, and how neurodivergent individuals can be a massive asset to kicking those end goals of the legal profession.

### Evolutionary Development

Researchers identified a genetic variant of ADHD within the Nomadic period. They believe the hunter/gatherer environment to be optimum for those who possess the variant gene, as those who possessed the gene were said to be better nourished than their counterparts.<sup>3</sup>

The origins of these traits suggest that the neurological architecture of the ADHD mind was that of a warrior, built with survival instincts to react quickly and hyperfocus efficiently. However, given that the environment today is very different, those with ADHD may find it challenging to adapt to sedentary-type environments when their neurology effectively runs a different operating system to the neurotypical.<sup>4</sup>

### Structure of Today's Learning Environment

Those whom I interviewed with ADHD reported that they achieve optimum focus by balancing mental output with physical output; for example, interactive learning techniques are beneficial for engaging teachers and peers in a conversation-driven environment for those with ADHD.<sup>5</sup> The 'sit down and copy from the board' approach is the least beneficial learning style for those with ADHD. Children are often labelled lazy or naughty when they cannot

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<sup>1</sup> Australian ADHD Professionals Association, *Welcome to AADPA* <https://aadpa.com.au/>.

<sup>2</sup> The Conversation, *What are 'Masking' and 'Camouflaging' in the Context of Autism and ADHD?* (9 January 2023) <https://theconversation.com/what-are-masking-and-camouflaging-in-the-context-of-autism-and-adhd-193446>.

<sup>3</sup> ADHD and Evolution: *Were Hyperactive Hunter-Gatherers Better Adapted Than Their Peers?* (15 March 2021) <https://www.healthline.com/health/adhd/evolution>.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

learn effectively through standard teaching methods. These children struggle to absorb information with little help from the education system in adjusting or switching up the learning environment.

## Adaptive Learning Environments at University

The structure and teaching methods used to teach law at university are generally more interactive and, therefore, more in line with how a person with ADHD needs to learn. With remote-based education opportunities on the rise, people can also change their workspace environments to suit their needs.

*'My brain runs a different operating system. I don't want to miss out on a quality education because I'm running Linux while everyone else is so PC.'*<sup>6</sup>

I spoke to law students with ADHD about how it can impact their learning at university. Their responses were:

- **Initial exam anxiety:** The need to take in all the information at once, rather than work on each question separately, causes stress based on instant information overload
- **Social anxiety:** Heightened self-awareness of their perceived differences, such as energetic communication styles and tendency to dominate conversations, causes masking their true self and changing behaviour patterns. For example, some feared their flamboyant personality and direct communication style in tutorial environments would make them seem aggressive or bossy. This perception holds them back from being their authentic self and inhibits learning.
- **Distractibility:** Taking exams at home via proctored systems was reported as a positive for those with ADHD, as open-plan exam halls are distracting and difficult to focus.
- **Functioning in two zones:** The hyper-focused zone, where they are most productive, is free from certain distractions. Distractions cause task switching, which limits focusing power on the specified task.
- **Masking their true selves:** Some students reported masking or stepping back from conversations in tutorials as an important mitigating personal choice as they felt their tendency to dominate conversations might affect the learning of others due to the permanency factor of online tutorials. The knowledge that their interactions would be recorded and saved for future viewing reinforces the need to assume neurotypical behaviour in online learning environments.
- **Tutorials as transactional in nature rather than transformative:** People do not have the opportunity or time to get to know you, and your 'dominate-the-conversation' tendencies can easily come across as rudeness.
- **Social awareness of differences:** Increased social awareness of perceived negative judgement from peers tends to cause withdrawal from participation which causes a loss of confidence. Low confidence causes second-guessing of ideas and inhibits productivity, sometimes resulting in feelings of imposter syndrome.

Resources students reported as helpful learning tools were:

- **The [Speechify app](#):** You can scan and upload PDF documents to Speechify. The auto narration voices are more human in tone than other text-to-speech applications, and students can listen to books without audible distractions
- **Interactive tutorials:** Provide interactive learning opportunities which suit the learning style of ADHD neurology

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<sup>6</sup> Interview with Anonymous (Amy Danek, January 2023).

- **Remote-based education:** The ability to choose your working environment means workplaces are more adaptive
- **Music:** Music satisfies the brain's need to focus on multiple tasks simultaneously, limiting task switching and encouraging that hyper-focused state
- **Exercise:** Matching physical energy output with mental load provides better mental clarity and increased focus
- **Peer support!** Human neurology is wired to protect itself from negative judgement. The negativity bias causes us to feel the sting of negative feedback more powerfully than the positive effects of praise.<sup>7</sup> Support from peers can help to counteract the effects of the preventative wall we build to protect ourselves from potential negative judgement

I consulted with Dr John Malouff, The University of New England's Associate Professor of Psychology, on ideas which can be implemented at a university level to support students with ADHD. His suggestions were:<sup>8</sup>

- **Education:** By providing students with ADHD with more information about ADHD, what it is, the common signs, how to obtain a professional evaluation and especially highlight the positive aspects of ADHD a person might experience
- **Attitude:** Express a welcoming attitude towards students who have ADHD. You can do this by implementing a policy of inclusion in words and by actions
- **Social Support:** By providing services specific to supporting students with ADHD, for example, through the work of the student counselling centre, and by helping ADHD social support groups get going and stay going
- **Stories of positive role models:** Provide accounts of positive role models in the form of stories of graduate students and others with ADHD within the field of law who have achieved success in education or beyond
- **Practical Information:** Provide practical information that may be useful to students who have ADHD, such as how to utilise their unique and special abilities and how to avoid procrastination
- **Reasonable adjustments:** Provide reasonable accommodations when requested by students who have ADHD

In my view, online social media support groups greatly benefit all law students. Being an online based student, I find these communication methods are crucial to our mindset and development as budding lawyers to have access to that support network. Currently, these groups are run by law students. Wearing the admin hat within large groups is an extra task on top of our already high workload and can take a toll. I suggest universities take a proactive approach to running these groups to support remote-based students. I believe that by providing reasonable adjustments and actively promoting a supportive, educational, and positive approach at university and within employment, individuals with ADHD can thrive in the legal profession.

## Employment Perspectives

Desley, Principal Solicitor at Dunn Right Legal, considers her ADHD traits to provide her with a superpower that allows her to thrive as a legal professional. Her ability to function well under pressure makes her mind a powerhouse

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<sup>7</sup> National Library of Medicine, *Not All Emotions are Created Equal: The Negativity Bias in Social-emotional Development* (13 May 2013) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3652533/>.

<sup>8</sup> Interview with Dr John Malouff (Amy Danek, 7 February (2023).

for quick decision-making. In addition, her ability to immediately understand complex legal issues and provide easy translation to junior staff and clients is a unique asset to the profession.<sup>9</sup>

Desley utilises workplace adjustments such as ergonomic furniture. A sit/stand desk, [esfera ball](#), music, and the ability to switch up her workspace helps soothe symptoms and get the job done efficiently without distress. By utilising workplace adjustments suited to her individual needs, she can harness her positive traits as a strength to optimise her performance.<sup>10</sup>

Desley considers early education for students and lawyers critical to supporting those with ADHD in the legal profession. Early education on the admission process and disclosure requirements allows applicants time to mentally prepare to have disclosure conversations and jump through any hoops for admission.<sup>11</sup>

### **Encouraging the Infusion of Neurodiversity into the Legal Profession**

A neurodiverse legal profession is more representative of the needs of society. The American Bar Association reports that the incidence of ADHD in the legal profession is much higher than that of the general population in the USA, where 12.5% of lawyers reported having ADHD, compared to 4-8% of adults in the general population.<sup>12</sup> Certain categorising hiring practices are not representing the needs in terms of diversity of thought.

Law firms could effectively weaponize ADHD traits to meet their end goals. ADHD traits include laser-like focus and the ability to catch anomalies that others miss. Supporting the infusion of neurodivergent minds into the legal profession is essential to ensure the industry does not miss out on the opportunity to hire highly skilled talent. Firms must utilise procedures which target unconscious bias in the recruitment process and train interviewers to avoid socially based assumptions. By providing a safe space, open communications, and recognising the positive aspects that those with ADHD have to offer, neurodiversity within law can thrive. An inclusive legal profession is more representative of broader society's needs.<sup>13</sup>

The broader legal community could take note of the practices implemented by law firms that promote change to support the employment of neurodivergent individuals. Education and training for human resources, seeking to eliminate bias in the hiring process. Furthermore, seeking advice from experts on job advertisements, adjustments to the assessment process, hosting of annual open days for students with disabilities, and workplace adjustments are some practices utilised at inclusive law firms.<sup>14</sup>

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<sup>9</sup> UNE Life, *UNELSS Law Student Society Blog* (19 January 2023) [https://unione.unelife.com.au/Clubs/lss/Files/233?fbclid=IwAR0O6Vwj5n8\\_EiO6WrqvdkgEaOFy\\_sRK7ukmxpmT04-fDaozm6DG6YyWyOs&mibextid=ncKXMA](https://unione.unelife.com.au/Clubs/lss/Files/233?fbclid=IwAR0O6Vwj5n8_EiO6WrqvdkgEaOFy_sRK7ukmxpmT04-fDaozm6DG6YyWyOs&mibextid=ncKXMA).

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> American Bar Association, *How Neurodiverse Lawyers can Thrive in the Profession- and Change it for the Better* (11 August 2021) <https://www.americanbar.org/groups/journal/podcast/how-neurodiverse-lawyers-can-thrive-in-the-profession-and-change/?fbclid=IwAR32bgKI0LwqbDfmVdYtE174wJH81axbwzZ-dnoeiRjPcLxFCUmvEmkv8bE>.

<sup>13</sup> The Global Legal Post, *The Benefits of Being Different: Why Law Firms Should Embrace Neurodiversity* (26 August 2021) <https://www.globallegalpost.com/news/the-benefits-of-being-different-why-law-firms-should-embrace-neurodiversity-1732397067>.

<sup>14</sup> Herbert Smith Freehills, *Embracing Neurodiversity* (2023) <https://www.herbertsmithfreehills.com/profile/embracing-neurodiversity>.

## Workplace Considerations when Implementing Support Strategies

### ***Multitasking and the Psychological Impact of 'Task switch' costs***

*'My mind feels like a browser, with several tabs open at once. I can never pick a lane.'*<sup>15</sup>

It is worth noting that the concept of multitasking is a myth.<sup>16</sup> The human brain lacks the architecture to perform two tasks at once simultaneously. When we focus on more than one thing, we perform task-switching, where our executive functioning switches from one task to another. Task switch costs have a negative effect on our executive functioning capabilities. When we task-switch, studies show that the task completion time increases, while task accuracy is reduced.<sup>17</sup>

People with ADHD report that they either want to hyperfocus on a task or task-switch between multiple tasks simultaneously. Providing appropriate adjustments for all employees to avoid task switching is beneficial for all members of the legal profession, given that the profession relies on efficiency, performance, accuracy and quality of work.

### ***Sedentary Office Environments are not Good for Anyone***

Those with ADHD find they achieve optimum performance when they have more opportunities to exercise. Matching the output of mental energy with physical energy provides the balance the mind and body need to focus. By utilising ergonomic work environments such as a closed office with sit/stand desks, or by providing weights or gym facilities we can increase focus and productivity for those with ADHD and encourage a healthy working environment for everyone.

The recent amendments to the Fair Work Act provide for the right to flexible work options, the framework for employers to utilise remote working setups before which can be beneficial for those who need to change their work environment to suit their needs.<sup>18</sup>

### ***The Mental Health Effects of Masking***

People with ADHD are hyper-aware of their communication differences and tendency to dominate conversations quickly. Masking these traits with neurotypical patterns to match the dominant social norm often occurs to avoid the negative consequences such as social judgement from peers.

There is a positive correlation between masking behaviours and negative mental health consequences. For example, physical, emotional, and intellectual exhaustion, anxiety, depression, negative self-perception, identity loss, and burnout are just some of these experienced consequences.<sup>19</sup>

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<sup>15</sup> Psychology Today, *Do People With ADHD Have a Creative Advantage?* (18 January 2023)

<https://www.psychologytoday.com/au/blog/social-instincts/202301/do-people-with-adhd-have-a-creative-advantage>.

<sup>16</sup> National Library of Medicine: *National Centre for Biotechnology Information; Multicosts of Multitasking*

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7075496/>.

<sup>17</sup> Ibid.

<sup>18</sup> *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*.

<sup>19</sup> The Conversation, *What are 'Masking' and 'Camouflaging' in the Context of Autism and ADHD?* (9 January 2023)

<https://theconversation.com/what-are-masking-and-camouflaging-in-the-context-of-autism-and-adhd-193446>.

The #TakeTheMaskOff campaign advocates that neurodiversity is not a problem that needs fixing while aiming to boost inclusion while reducing discrimination.<sup>20</sup> Implementing an intersectional approach by changing hiring practices and educating employees and students on neurodiversity can help reduce the need to mask and avoid the subsequent mental health risks.

Changing the working environment and entry practices accommodates for dips in skillset, encourages good mental health outcomes, and opens the door for fresh talent to walk on through! Once a work environment has strategies in place to support employees with ADHD, the legal profession can weaponize the positive traits that those with ADHD possess to meet its end goals of accuracy, productivity, and efficiency. Such traits include:<sup>21</sup>

- Hyper-focused 'laser-like focus'
- The ability to catch anomalies that others may miss
- Energetic, goal-directed motivation
- The ability to generate novel ideas with outside-the-box thinking
- A Creative Advantage

ADHD neurology possesses a unique creative advantage. Studies show those with ADHD outperform the norm in originality, novelty, and flexibility. Innovative thinking skills produce an increased ability to think creatively, driven by their energised and strong goal-driven motivation.<sup>22</sup> Supporting the infusion of neurodiversity in the legal profession is vital to ensure the industry does not miss out on highly skilled talent.

We must utilise non-biased hiring techniques and avoid the stigma that comes with the medical categorisation model. Employers and universities are encouraged to implement an intersectional approach to eliminate systemic inequity by educating on how unconscious biases reinforce unwanted thought patterns.

It was recently described to me that working in advocacy is akin to war games. You play the game to win for your client. The end-game goals of the legal profession could essentially weaponize certain traits of ADHD neurology. It can help to harness their Innovative, creative thinking skills when paired with energised goal-directed motivation providing a powerful force for industries that require determination, perseverance, and expertise.<sup>23</sup> The broader end game of achieving justice relies on our efforts to implement inclusive practices at work and university to ensure the legal profession remains representative of society's wider demographic needs.

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*She is passionate about research and writing on issues relevant to psychology, neuroscience and science and technology as they relate to law. Her goal when she finishes her studies is to find a niche area of law that inspires and challenges her, such as in family, children's, medical, emergency powers in government or biotechnology law.*

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<sup>20</sup> Ibid.

<sup>21</sup> The Global Legal Post, *The Benefits of Being Different- Why Law Firms Should Embrace Neurodiversity* (26 August 2021) <https://www.globallegalpost.com/news/the-benefits-of-being-different-why-law-firms-should-embrace-neurodiversity-1732397067>.

<sup>22</sup> Do People with ADHD Have a Creative Advantage? *A Mind That is Always Racing Can be a Blessing and a Curse. Here's What We Know* (19 January 2023) <https://www.psychologytoday.com/au/blog/social-instincts/202301/do-people-with-adhd-have-a-creative-advantage>.

<sup>23</sup> Ibid.