

Episode 66: Summary



Episode name: Don't Shove - Nudge: Promoting Better Choices in the Legal System and Legal Practice

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What area(s) of law does this episode consider?

Behavioural economics and how to best apply it to the legal field and legal practice.

Why is this topic relevant?

Behavioural economics takes a scientific approach to the way people make decisions. Drawing on economics, social psychology and even other disciplines like marketing and political theory, behavioural economics looks at the way systems are designed and how we interact with those systems, and then redesign those systems to help people make better choices.

From paying their taxes on time to taking parental leave at a law firm, behavioural insights are versatile in their application and, if harnessed correctly, can positively influence workplace culture and ensure that a system works as effectively for its users as possible.

What are the main points?

- 'Nudges' are designed to push people in the direction of the desired behaviour by leveraging heuristics and cognitive biases that behavioural science has shown affect human decision-making. For example, a letter asking you to pay overdue taxes is more likely to be successful if it points out that most other taxpayers like you pay in full and on time - this leverages our innate desire to behave in a way that most people find socially acceptable.

What are the practical takeaways?

- EAST is a framework for behavioural change initiatives that stands for *easy, attractive, social and timely*:
 - Make it as **easy** as possible for your target audience to make the desired behavioural change.
 - Make the behavioural change **attractive** by implementing thoughtful incentives. Sometimes pointing out what we stand to lose by not following the change can be a more effective incentive than trying to reward the behaviour; most people are inherently risk- and loss-averse.
 - Most people look to their peers to validate behaviour and choices, so make the change **social** by demonstrating the popularity of the behaviour, or by role-modelling the behaviour
 - Ensure that the nudge is presented at the most appropriate and salient time, when someone is already making a decision to change their behaviour or is already engaged in a related process. An example of timeliness might be providing employees with an opportunity to trace

and consolidate their superannuation accounts when filling out a new superannuation nomination form.

- Behavioural science and nudge theory is inherently experimental, so think experimentally in order to determine the actual cause of the issue. If people are not attending appointments at a hospital, it could be because they have forgotten, are double-booked or they don't value the appointment. Send different text messages to people with appointments and measure which has the best success. A simple method of experimentation that is appropriate for a law practice might be 'A/B testing': try just two alternatives at the same time, compare the results and determine which was most effective. If 'A' was the most effective alternative, build on 'A' by testing a new hypothesis with just two alternatives.