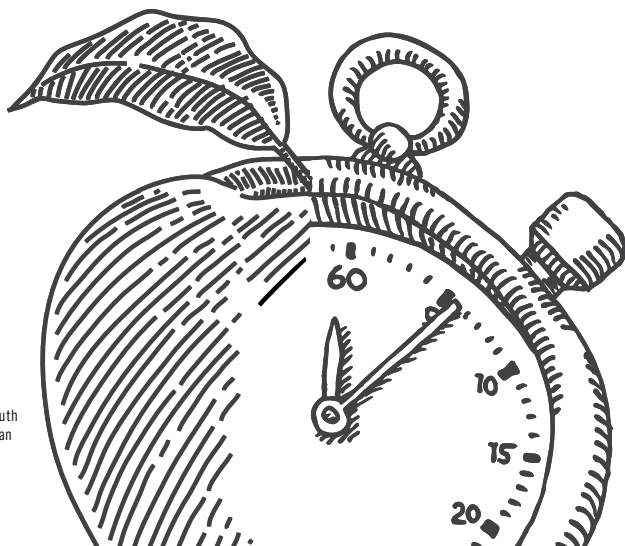


Being Well

IN THE LAW

A GUIDE FOR LAWYERS



HELP!

LawCare WA	1300 687 327
Lifeline (crisis telephone counselling)	13 11 14
Lifeline for Lawyers	1800 085 062
Suicide Call Back Service	1300 659 467

This document was developed by the Law Society of New South Wales, NSW Young Lawyers and Australian National University, and adapted by the Law Society of Western Australia on 28 February 2019.

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The Law Society of Western Australia is committed to doing everything it can to support lawyers and to foster a legal profession built upon a strong foundation of positive health and wellbeing.

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David Price
Chief Executive Officer
The Law Society of Western Australia

The Law Society of Western Australia's history of supporting lawyers stretches back to its inception, more than 90 years ago, in 1927.

Within the last three decades at least, discussions around health and wellbeing in the legal profession have come increasingly to the fore. Studies have demonstrated that legal practitioners have a heightened predisposition to encounter stress and depression in their working lives. The Law Society has consistently sought to face these challenges and to provide lawyers with the support and assistance they need.

In 1990, the Law Society established its LawCare WA programme, which arose out of discussions around stress in the legal profession at that year's Winter Conference in Broome. In July 1990, the Law Society instituted the Senior Advisors Panel to provide helpful guidance to practitioners. An independent counselling service was also established. In the years since, LawCare WA has grown into a comprehensive, holistic health and wellbeing programme, which may be accessed for free by members of the Law Society.

In 2011, the Law Society produced the landmark report *Psychological Distress and Depression in the Legal Profession*. Since the publication of that report, the Law Society has continued to play a key role in raising awareness of health and wellbeing issues in the WA legal profession, and this will continue to be a vital aspect of the Law Society's work in the future.

Part of that work is to make publications such as this one available to practitioners. *Being Well in the Law* is a toolkit and guide for lawyers, which was created in its original form by the Law Society of New South Wales, NSW Young Lawyers and Australian National University. My thanks to these organisations for permitting the original text to be adapted by the Law Society of Western Australia, to ensure it is relevant to the needs of WA lawyers and to reflect WA specific resources.

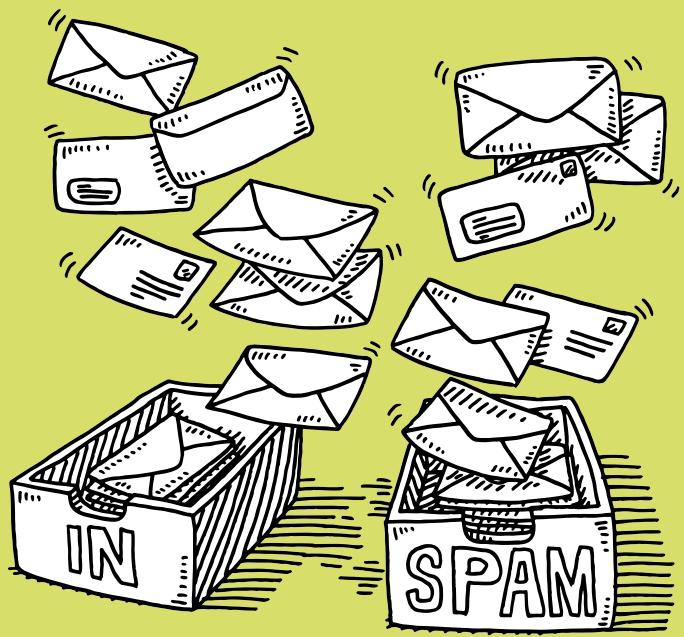
The concepts addressed in *Being Well in the Law* draw upon expert knowledge and include mindfulness, meditation and emotional intelligence. I encourage you to utilise the resources outlined in this publication, and to continue the positive conversation around health and wellbeing in the legal profession. The Law Society is committed to doing everything it can to support lawyers and to foster a legal profession built upon a strong foundation of positive health and wellbeing.



David Price

Chief Executive Officer

The Law Society of Western Australia



Being well in the law

Wellbeing is a term that has rapidly entered the dialogue of legal practice.

Law schools across Australia have implemented mental health and wellbeing components into law degrees. Law firms, government agencies and corporations alike have recognised the importance of wellbeing and offer a range of information sessions and wellbeing services to employees.

Despite this, studies continue to indicate that – like Australian law students – solicitors and barristers exhibit higher levels of psychological distress and disproportionately higher experiences of depression than members of the general population.¹ These statistics raise the question: How can a law student or newly admitted lawyer not only survive but thrive in legal practice?

This guide has been prepared as a toolkit to help you and others be well in the law. Experts from the Australian National University (ANU), the University of Sydney and the Law Society of New South Wales have collaborated to equip you with information and practical skills that will be invaluable in practice.

Endnotes

¹ Sharon Medlow, Norm Kelk and Ian Hickie, 'Depression and the Law: Experiences of Australian Barristers and Solicitors' (2011) 33 *Sydney Law Review* 771.



A closer look at wellbeing

STEPHEN TANG AND COLIN JAMES, ANU LEGAL WORKSHOP

Wellbeing is a complex topic. In today's legal landscape, wellbeing is labelled and addressed in different ways.

You may broadly understand wellbeing as eating well and exercising, practising yoga and meditation, and trying to implement a healthy work-life balance. In reality, however, wellbeing is grounded in much more than these things.

WHAT IS WELLBEING?

Navigating wellbeing

You may have encountered two approaches to wellbeing:

1. The first reduces wellbeing to a bite-sized issue promoted by activities that bring about happiness and decrease stress. A common problem here is that these strategies may be unrealistic for busy lawyers, and may not address the real problems.
2. The second is the very serious approach, involving conversations about mental illness, substance abuse and suicide. These conversations can sometimes be so laden with the language of crisis that they overemphasise problems and diagnoses and, consequently, overlook the actual experiences of many people. Furthermore, hammering the rhetoric of crisis can sometimes lead to another layer of distress about distress itself. The result is that these strategies can backfire and increase – rather than decrease – the stigma of mental illness.

Based on these two popularised approaches, there is sometimes the assumption that being a lawyer means you are part of an inherently psychologically unhealthy profession. This is not necessarily correct. Most Australian lawyers are well, competent, capable and effective – but many lawyers struggle with mental health issues.

With this in mind, this guide defines wellbeing as an experience of thriving, and an ability to understand and remedy distress and impairment.

Wellbeing is being a lawyer

Wellbeing is often considered separately to the traits that make up a lawyer. However, wellbeing should be considered as an integral part of being a lawyer. Compartmentalising wellbeing as separate to other parts of being a lawyer – being a competent, confident, ethical professional, for instance – undermines the possibilities of an integrated experience of feeling happy and fulfilled at work, with the potential for change and growth.

From a psychological perspective, compartmentalising wellbeing turns mental health and wellbeing into an individualised problem, implicitly assigning responsibility and liability to the person as a “sufferer” (or, worse, having the person reduced to a diagnostic label).

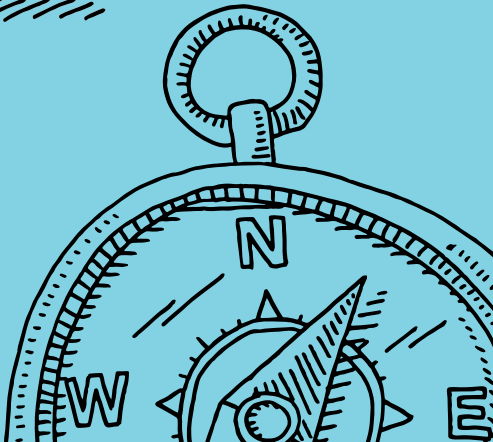
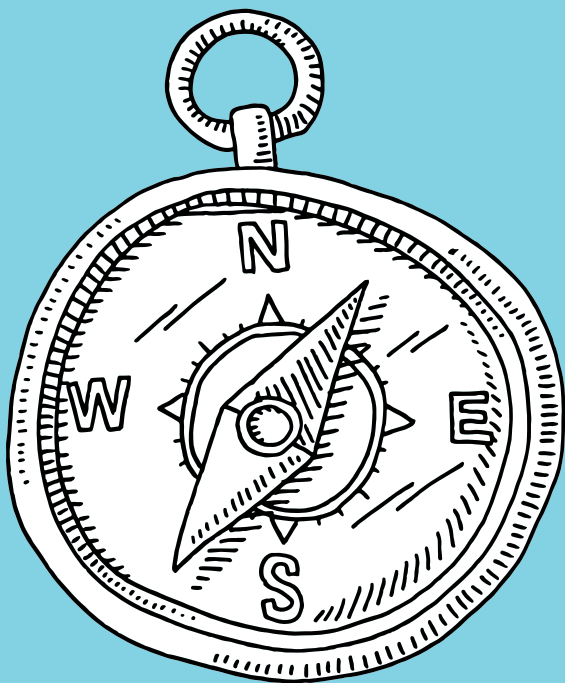
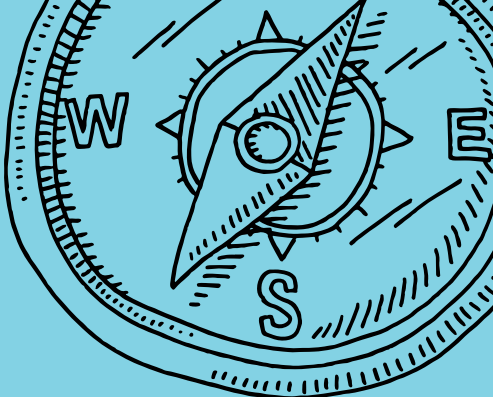
The reality is that it is not sufficient for the legal profession to view wellbeing as only relevant to individuals. The legal community as a whole must work towards overcoming stigmas and promoting cultural change and wellbeing broadly, consistently and effectively. We all share a responsibility to promote being well in the law.

“

*We all share a responsibility to
promote being well in the law.*

”





New lawyers – starting right

ASSOCIATE PROFESSOR TONY FOLEY, ANU LEGAL WORKSHOP

Empirical research on new lawyers¹ has found that the wellbeing of newly admitted lawyers is significantly shaped by their early experience of legal work.

As a law student or young lawyer, it is important for you to recognise what factors are highly influential in shaping your mental health and wellbeing in the early years of legal practice. This chapter will equip you with the knowledge to make a transition that will minimise psychological distress and promote your ability to thrive.

A SNAPSHOT OF THE RESEARCH

In an ongoing study first published in 2012², ANU researchers have tracked how well law students make the transition to practice, and how they develop their professional identity. They have conducted this study in two parts. The first part involved interviewing a group of new lawyers and their supervisors in private and public practice. Three recurring themes emerged that signalled a successful transition from law student to legal professional:

1. Developing confidence and competence in a practice that balanced autonomy with close mentoring and supervision: In other words, getting the right mix between autonomy, mentoring and supervision, and having that mix shifted as confidence increased.
2. Realising that practice is more than simply a rational and rule-based activity: Becoming comfortable with, or at least accepting, the fact that practice involves constant uncertainty about a lawyer's role, the law and dealing with real people and emotions was important.
3. Finding a comfortable value convergence between an individual's own values and those modelled and practised by their firms: This convergence might be constrained by commercial realities and pragmatic limitations, but working hard to find an ethical fit was important.

In the second phase of the study, researchers have conducted study more broadly across Australia.³ The focus of this phase is to identify connections between:

- the degree of professional thriving and the development of a positive professional identity
- the ethical and learning climate of the workplace and psychological wellbeing.

THREE ASPECTS OF TRANSITIONAL SUCCESS

The research has identified three aspects that are needed to successfully transition to legal practice:

1. Acquiring competency and confidence

Beginning to feel competent was seen as a prerequisite for satisfaction at work. When questioned about the best way to build competence, young lawyers described two things that were almost symbiotic:

- They expected to have “dramatic learning” experiences that made them feel they were being “thrown in at the deep end”
- They wanted mentoring or supervision that would act as a “safety net” to ensure they were ready for that exposure.

The first 12 months of practice involved finding the right balance between unsupervised practice and handholding, according to several young lawyers:

I'm a lot more autonomous now. I've got this one case that I'm working on which will come up for trial in February which is mine, instead of working with a senior lawyer. I am the lawyer in charge. But my supervisor still checks everything. But there's a lot less comments back and that's not necessarily because I am doing it exactly the way she would have done it. She'll say, "That's different but it's alright; go and do it that way".

Getting up in court for the first time just for a mention was good. My first appearance in the Supreme Court was probably a bit of an accelerant because I actually started to feel a little bit confident after that ... That was a terrific day; I got a real buzz out of that

My supervisor has tried to give me a variety of work to challenge and to stretch me – but we've had some doozies where I've done the wrong thing.

2. Learning to deal with inherent uncertainty in practice

New lawyers discovered that uncertainty was constant in legal practice. The uncertainty came from three sources:

- the role of a lawyer – uncertainty about where strictly “legal” advice begins and ends
- the content of the law – uncertainty regarding the correct law or procedure, and how to find the right answer (and quickly)
- “extra-legal” aspects of practice, particularly dealing with people’s emotions – uncertainty about how to manage when clients, other lawyers or judges get emotional, and how to manage their own emotions

Law students have been trained to apply the law to concrete, well-defined problems – “pick out the issues from the facts, apply the law, and come to a conclusion”. This rational way of thinking is a critical part of legal practice, but it is incorrect to think it is possible to exclude uncertainty. Rather, new lawyers have to learn to live with it and adjust to it.

One new lawyer in a family law practice said:

I didn't have many illusions ... I suppose the only real thing I wasn't expecting was the terror of the court work. You think, yep I'm going to go to court and I'm going to win but you don't think of the poor client along the way who is actually having this traumatic time in their life and having every mistake they have ever made being stripped bare. I didn't expect the emotion behind it.

The uncertainty can also come from the new lawyer's own anxiety about their professional readiness. As one new lawyer said:

I feel like I have a big dunce hat on my head and everyone can see it and they will either poke at me or pity me because of it. The registrars I appeared before have been really lovely and I want to take them at face value and decide that they are just nice people. Part of me thinks they're thinking "Poor little girl doesn't know what she's doing". I feel extremely incompetent.

Adequate preparation can make the difference. One supervising partner said:

They don't get sent down to the court without preparation. Before she went to court, we would practice. I would throw things at her, which I thought the Federal Magistrate was going to ask her to make sure that she had the answers. She would say "I've got to do something in court today", and I would say "Okay, let's sit down and do it".

3. Finding a comfortable value convergence

Also important was finding a satisfactory balance between an individual's own values and those modelled and practised by colleagues. The new lawyers found that they needed to feel comfortable with what researchers called their firm's "ethical infrastructure"; that is, its formal and informal systems about how to deal with ethical issues.

One new lawyer who wasn't comfortable said:

I have experienced instances where I was treated in a way which I felt was unethical, in a holistic way, or where I was asked to treat somebody else that way and refused and felt the ire of the director because I refused to do it. It is team by team. I now have a lot of time for my new team in the way they treat each other and the kind of culture they are trying to promote.

But some new lawyers find a happy match. A young woman working in a commercial firm remarked:

I quite enjoy it as a firm, and I quite buy into the culture that they're trying to create. At the start I thought "Wow, this is kind of full on", but they do live it. They're trying to get quality clients, they're trying to treat their staff well.

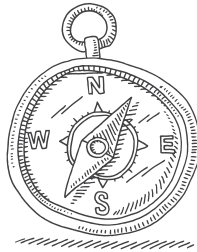
Another working in a family law practice was also comfortable with the value match she had found:

I suppose the firm is very focused on things which I find very important, like ethical integrity, being creative and innovative, and learning new things rather than just doing it the same way that everyone has always done it, being very proactive in terms of dealing with clients and dealing with issues.

“

This rational way of thinking is a critical part of legal practice, but it is incorrect to think it is possible to exclude uncertainty. Rather, new lawyers have to learn to live with it and adjust to it.

”



STARTING RIGHT – FOR YOU

Realistically, you may be dealing with a less-than-ideal workplace where these opportunities to become more confident, learn to deal effectively with uncertainty and find a good ethical fit don't come so easily. You can't just up and leave. Recently, ANU researchers canvassed another group of young lawyers who shed some light on surviving in a workplace where things are not always rosy:

- Be imaginative in finding a network of support for yourself, maybe one outside your workplace with legal friends or acquaintances who you can just ask the simplest of questions. A new lawyer who started off in a graduate pool with people she's kept as friends said:

Having a group of peers to share the new experiences with, ask (stupid) questions and share lunch/a laugh with meant I felt a strong sense of connection. We were all very comforted by the fact we were just as confused as each other.

- Relish your moments of success, no matter how small they may seem. A new lawyer in a large commercial firm said:

Whenever my work does get incorporated and passed on to the client without much alteration I feel both motivated and increasingly competent.

- Look out for your own emotional health. A young lawyer working in a busy criminal practice said:

When you're in the moment, you experience emotions (stress or nerves), which is exciting, but you cannot underestimate [what a toll that can have on you] and how big a factor your emotions play in your decision-making ability.

Endnotes

¹ Vivien Holmes, Tony Foley, Stephen Tang and Margie Rowe, 'Practising Professionalism: Observations from an Empirical Study of New Australian Lawyers' (2012) 15(1) *Legal Ethics* 29.

² *Ibid.*

³ Tony Foley, Vivien Holmes, Stephen Tang and Margie Rowe, 'Helping Junior Lawyers Thrive' (2015) 89(9) *Law Institute Journal* 44.

Creating positive mental health, safety and wellbeing in the legal profession.

The Centre for Corporate Health has been working with the legal profession since 1999, developing specific services to help create mentally healthy firms. With statistics such as 46.9 per cent of law students, 55.7 per cent of solicitors and 52.5 per cent of barristers reporting that they have experienced depression, it is important that firms have programs and support services in place to encourage and promote wellbeing within their employees. Our programs and services are all conducted by senior organisational psychologists to ensure employees have the technical, emotional and psychological support they need to manage – whatever stage they are at in their career, from law student to partner.

As an information partner to R U OK? Day, as well as working closely with them on their R U OK? Day campaign specific to the legal profession – Look Deeper – the Centre for Corporate Health is committed to reducing the stigma of mental health and creating firms where lawyers feel able to reach out for support.

Our services specific to creating mentally healthy firms include:

- mental health training and mental health intervention frameworks
- independent psychological assessments
- fitness for work assessments
- employee assistance programs
- pre-employment psychological appraisals for graduates
- Partner Resilience Program
- Lawyer Resilience Program
- Graduate Resilience Program
- wellbeing assessments
- Well Checks (for those working on distressing cases)
- family violence training and intervention frameworks
- career development assessments (progressing from senior associate to partner)
- trauma and critical incident services
- Lunch ‘n’ Learn sessions.

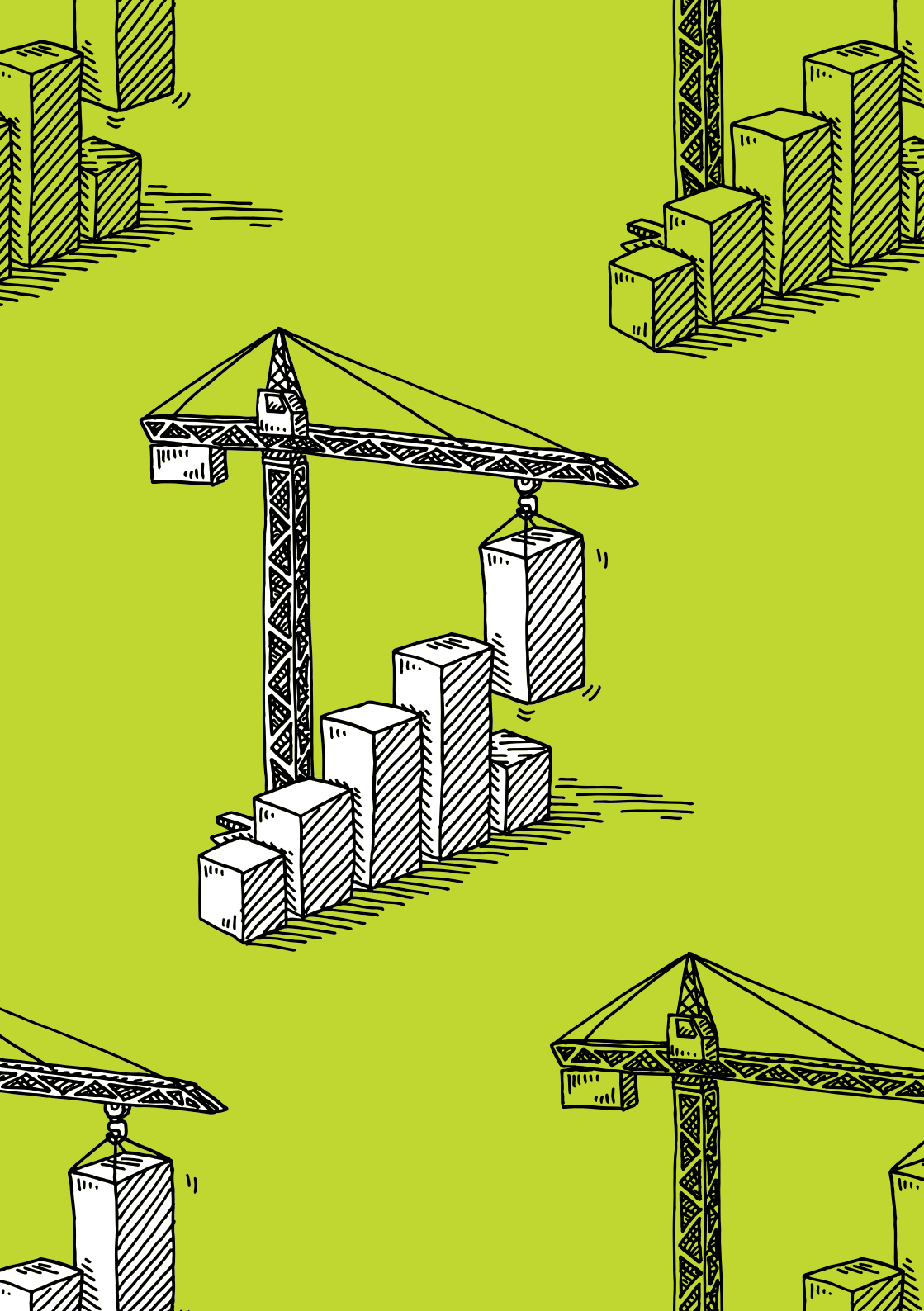
For more information about our services and how we can help you, contact us.

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 Email: admin@cfch.com.au
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 Employee Assistance Program &
 Manager Advisory Program
 95 99 56

Data source: Norm Kelk, Georgina Luscombe, Sharon Medlow and Ian Hickie, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Lawyers* (Brain & Mind Research Institute, 2009).

Note: Members of the Law Society of Western Australia can access the LawCare WA service for free with their membership.

For assistance, call 1300 687 327 or visit lawsocietywa.asn.au/lawcare-wa.



Thriving in practice

COLIN JAMES, ANU LEGAL WORKSHOP

This chapter provides some key strategies to shift your practice and wellbeing from mere survival to flourishing and thriving in law.

SCHEDULING

The nature of time-based billing places enormous importance on efficiency and time management. Scheduling each day, week, month and year via a diary or electronic calendar allows you to effectively plan your time, and easily share it with colleagues in your team. Furthermore, scheduling will help you focus on the specific task at hand mindfully, without the distraction of future tasks. It is likely that a schedule will significantly improve your productivity and quality of work, and that can enhance your mood, sense of competence and satisfaction with work done.

IMPLEMENTING GOOD HABITS

How do you replace bad habits with good habits? First, be mindful of your existing habits, and then implement positive changes one small step at a time. Improving your diet, fitness and sleeping habits is the backbone of any thriving practice. Morning habits are crucial because they ground your performance and wellbeing for the rest of the day. Evenings are the best time to set your schedule for the next day, and that helps you sleep better. Manage emails by allocating time for them at the start, middle and end of each day, aiming to keep your inbox empty in line with the principle of “Do-Delegate-Delete”. When you really need to focus, turn off all notifications. Avoid negativity and overcome lazy and cynical attitudes by coaching yourself as if you were advising your best friend.

KNOWING YOURSELF

You thrive as a lawyer when your professional development is aligned with your personal growth and psychological integration. How can you manage creeping doubts like whether law is right for you, or should you practise in this area, or in that way?

To work towards a state of thriving, you first need the self-awareness to determine whether your developing practice as a lawyer is oriented with your personal values, strengths, ambitions and goals (see Chapter 4). Keeping a regular reflective journal can speed up your development of self-awareness and help you align decisions and directions with your personal values.

Applied positive psychology offers many other tools to identify, measure and reflect on your personal capacities, such as psychological or character strengths. The Values in Action (VIA) model, for example, is free and well supported by research. It can be used to identify, reflect on and celebrate your core signature character strengths. Your strengths are not the same as your values, but they are often related. Take the survey at www.viacharacter.org.

MINDFULNESS

Mindfulness is a useful way to enhance resilience and navigate through the complexities of legal practice.

Regular meditation is the fastest way to develop mindfulness and improve resilience at work, but we can also become more resilient by improving our ability to reflect. Being mindful is the opposite of multi-tasking. It involves being aware of and accepting what is: paying attention and noticing the present moment – the here and now – without judgment. Your critical legal mind might be quick to judge and categorise using dichotomies such as good or bad, right or wrong, helpful or dangerous, and interesting or boring. A mindful lawyer might simply pause, notice the context, reflect on how it relates and then plan how to respond. The key here is the pause, and a mindful practitioner would pause by habit, enabling the best decision in the circumstances. Mindfulness promotes both resilience and

performance through acting wisely, and can help you identify and accept what you cannot change before investing effort in a wrong direction.

SELF-COACHING

Coaching is an application of positive psychology that helps you thrive by enhancing your performance at work as part of your overall wellbeing.

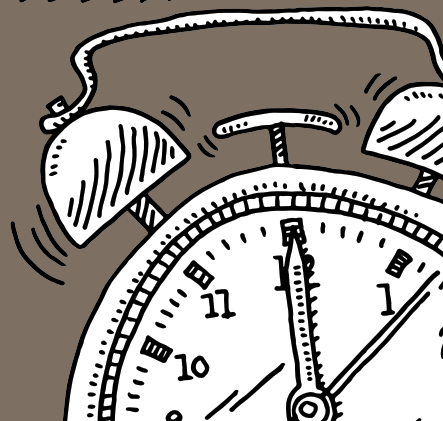
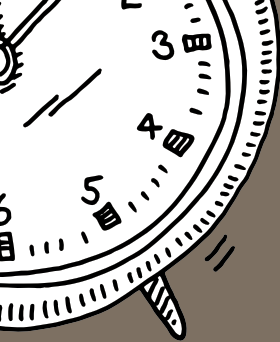
Three strategies can help with self-coaching:

- Mental contrasting is a psychological theory that can enhance legal practice. You can contrast the present situation with the desired one, but instead of visualising success you identify and list the barriers to be overcome. This will enable you to plan and execute the strategies required for success.
- Self-determination theory involves maximising autonomy at work, developing competence through learning from experience and improving relatedness. As lawyers, autonomy is where you sit on the continuum from supervision to independence, and you need to negotiate it with your supervisor based on how you develop your competence over time. That negotiation involves insight and your ability to relate to others. For example, can you understand the pressures on your supervisor, who might be reluctant to extend your autonomy based on your demonstrated competence at this stage?
- Mindset theory helps explain the difference in the performance and wellbeing of people who have a “growth” mindset about themselves and others (believing people are always developing and improving) compared with people who have a “fixed” mindset (believing people don’t change much; we are as we are).

Simply knowing about these approaches to living and working can improve your habits, help shape your attitude and build a sense of hope for the future.

EMOTIONAL INTELLIGENCE

A lawyer’s emotions are crucially important because they are always present and inform your attitudes and decisions. Emotional intelligence is the capacity to recognise, understand and engage with your own emotions, and the emotions of others. Lawyers are told or come to think that they need to be objective and unaffected by distressed or angry people and difficult situations. However, it is not always good to suppress emotions, and many clients appreciate a lawyer who empathises with their situation and feelings. By taking steps to improve emotional intelligence, you can enhance your ability to recognise and manage anxiety in yourself and others, communicate more effectively and operate with precision under stress. Developing emotional intelligence in conjunction with a mindful practice will enhance self-awareness, improve emotional competence and put you a step closer to thriving in legal practice.



Mental health

STEPHEN TANG, ANU LEGAL WORKSHOP

It is important to examine how wellbeing sits within the broader framework of mental health.

This chapter explores what mental health is, and how to differentiate between normal and abnormal stress and distress in legal practice and in life.

WHAT IS MENTAL HEALTH?

Rather than focusing on the different types of disorders that fall under the mental health umbrella (available abundantly online), this chapter focuses on some of the principles that will help you distinguish good mental health from poor mental health.

Defining mental health

To accurately define and understand mental health, it is important to understand how it fits into the broader framework.

First, understand that wellbeing (examined in Chapter 1) is only one of the elements that make up mental health, as illustrated by the World Health Organization's (WHO) definition:

- Mental health: "A state of wellbeing in which every individual realises his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community"¹

Zooming out even further, mental health exists as an element of overall health, again illustrated by WHO's definition:

- Health: "Health is a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity."²

What mental health is not

- Mental health is not primarily defined by its absence:
 - It is not just a focus on psychological problems, symptoms or illnesses. Doing something about mental health therefore involves much more than just treating or even preventing mental illness or psychological problems, as important as these things are.
 - It is not a set of binary categories, where you are either well or unwell. Your mental health is located on a continuum, with opposing forces that pull you towards or away from wellbeing.
- Mental health is not just positive wellbeing in the sense of positive feelings, experiences and "happiness":
 - The WHO definition captures something that psychologists are rediscovering but which philosophers and students of life have known throughout the ages – happiness has its place, but purpose, meaning and relationships are also crucial to a life worth living.
- Mental health is not the absence of struggle, sadness, anxiety or stress:
 - You can thrive even in the midst of difficulties and pain. Having resilience is a key part of being mentally well. This means having good coping resources to manage the "normal stressors" of life. It means being responsive, self-aware and aware of your environment, building good habits and resisting

things that gradually erode your purpose and supports over time. It does not mean having a “thick skin” or battling on in a self-destructive way without getting support.

The difference between mental health and pain and suffering

Pain and suffering is a human emotion that should not be confused with mental illness. Feeling sad, for example, is not a mental illness. Sadness gives legitimate expression to something that is wrong, allowing you to notice it and respond accordingly with the passage of time and with the right people. Similarly, the grief and loss following a break-up or the death of a loved one should not be considered abnormal. As Australian psychologist Hugh Mackay writes in *The Good Life*:

“To be fully human – to be normal, to be healthy – is to be occasionally engulfed by waves of grief or sadness, stymied by feelings of despair, paralysed by doubt or crushed by disappointment”³

Lawyers are often exposed to the painful, negative and traumatic parts of the human experience. Distress and human emotion is never far away from your work as lawyers, no matter what your practice area. Noticing, recognising and responding to emotions is part of staying well and living a meaningful and fulfilling life.

DIFFERENTIATING BETWEEN STRESS AND DISTRESS

For lawyers, being stressed is often considered to be normal, even a badge of honour. So how do you identify when stress is negatively affecting your mental health?

Understanding your stress response

Broadly, there are two stress responses:

1. Challenge-stress:
 - You experience this when your resources and capabilities match the demands of the situation.
 - Challenge-stress feels good; you are motivated to do your very best in the situation, knowing that it is something you are capable of doing and will have a good outcome.
2. Threat-stress:
 - You experience this when your resources and capabilities exceed the demands of the situation.
 - Threat-stress induces feelings of being small and incapable; you prepare yourself for defeat even before anything has happened, and there may be a desire to run away and hide.

It is common to oscillate between challenge-stress and threat-stress, even in relation to the same situation. Research shows that this variability can be harnessed for good, if you recognise what stress response you are feeling.

Managing stress

Learning to interpret the bodily signals of stress (for example, a rapid heart rate or butterflies in the stomach) as signs of a positive challenge rather than as a threat can be remarkably effective. This gives you an opportunity to reposition yourself to succeed and exhibit a challenge-stress response, rather than giving up prematurely because of a threat-stress response.

It is also critical to learn to differentiate between a legitimate challenge and a legitimate threat. There is a place for the defensive threat response, which is there to protect you and prevent further harm. However, an oversensitivity to threat-stress lends itself to an excessively apprehensive way of life. This may cause you to avoid stressful situations even when they might be good, limiting the potential for positive wellbeing.

When stress becomes distress

Stress is an important source of motivation, but there is an optimal level of stress that lawyers should try to achieve. The optimal level varies for each person, and according to each situation or task you are engaged in. Wellbeing is the key here, which involves having the self-awareness and flexibility to adjust your stress levels as required.

Stress becomes distress when you are constantly in threat mode and experiencing it for prolonged periods of stress. Distress is characterised by being on edge, tense, snappy and more prone to being physically unwell. Good habits such as eating well, catching up with friends and staying active may be pushed to the wayside. Stress management and stress reduction techniques are vital if things get to this point, but it is better to build good habits, self-awareness and resilience buffers well in advance.

The Yerkes–Dodson law

Psychologists often refer to the Yerkes–Dodson law, which suggests a bell curve-like relationship exists between stress and performance. Both too much stress and too little stress negatively impact overall performance and wellbeing. It is important to note that the lines are not clear-cut, and at times you may veer into the “too much stress” section of the curve. However this may not be negative, if it is in relation to challenge-stress and only lasts for a short time. You are conditioned to draw on your sources of resilience as a buffer to insulate you against the potentially damaging effects of stress during these times.

RECOGNISING WHEN TO SEEK HELP

It is important to recognise when you should seek additional support.

Mental health checklist

You should seek professional support when:

- your experiences are painful, unwanted, intrusive or contrary to how you want to be
- a problem affects your life and activities; intrudes on your values, goals and motivations; and undermines social support and sources of resilience
- your current state is a departure from how you normally think, act or feel (as observed by you or someone close to you) through the lens of cultural and social norms
- problems persist for a long enough period without improvement.

Mental health emergencies

There may be times when the distress or impairment caused by a mental health problem becomes an emergency or crisis. Some indicators of an emergency include:

- actions or thoughts of self-harm (for example, intentional self-injury like cutting, as well as excessively risky behaviours or choices that may lead to significant immediate or longer-term harm)
- thoughts or plans about suicide
- thoughts or intentions of harming others.

If you or someone around you is experiencing some of these things, assertive steps may need to be taken to prevent harm. If in doubt, seek immediate support and contact Lifeline or the WA Mental Health Emergency Response Line. See Chapter 11 for contacts.

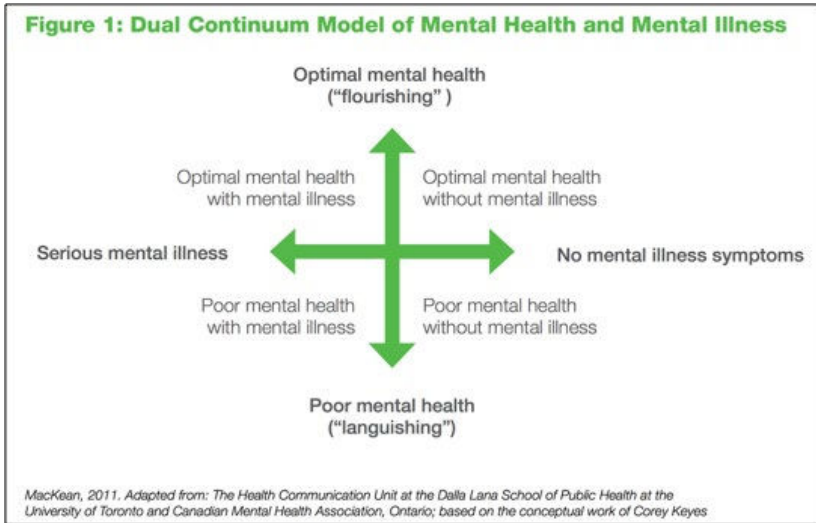
Mental health in practice: international human rights law

Much of the contemporary thinking about mental health is influenced by the United Nations' Convention on the Rights of Persons with Disabilities (CRPD), which came into force in 2008. The CRPD aims to eliminate discrimination and exclusion for all persons with disabilities. This includes persons with mental or psychosocial disabilities. It makes bold demands on signatory states, including prohibiting different treatment or the limitation of a person's decision-making capacity based on the presence or absence of a mental disorder. In doing so, it encourages thinking about mental health and wellbeing in terms of participation, inclusion and inherent human rights, rather than discriminatory and exclusionary categories and labels.



CONNECTING MENTAL HEALTH AND WELLBEING

Putting all this together, mental health problems are not necessarily incompatible with wellbeing or productivity. Even though someone might have a psychological disorder or diagnosed mental health problem, they can still be well, even in the midst of active symptoms of distress and impairment. This is known as the “dual continuum” model of mental health, as indicated in this diagram.



Mental health does not need to be complicated beyond the grasp of people who are not mental health professionals. It is deeply rooted in what tort lawyers have known to be the “vicissitudes of life”, and it is within this messiness and indeterminacy that there is room for hope, change and the possibility that things will get better.

Endnotes

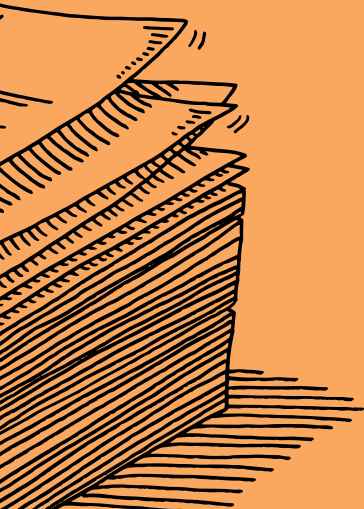
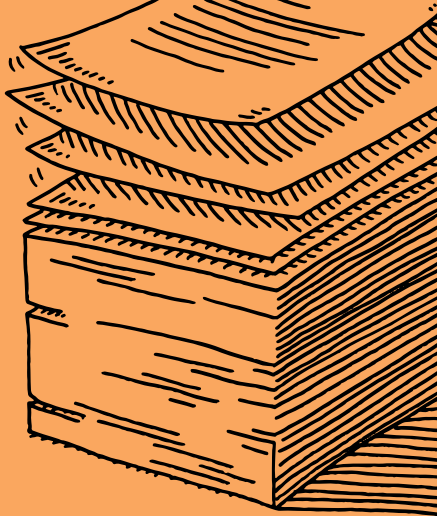
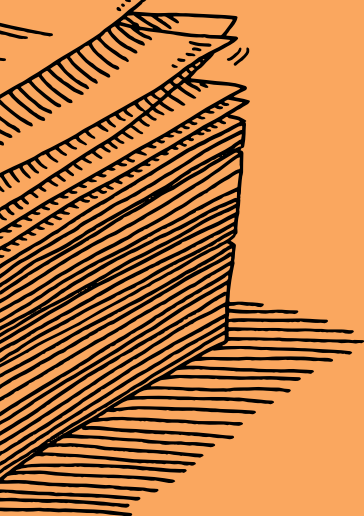
- ¹ World Health Organisation, www.who.int/features/factfiles/mental_health/en/
- ² World Health Organisation, www.who.int/suggestions/faq/en/
- ³ Hugh Mackay, *The Good Life*, Macmillan, 2013

“

Stress is an important source of motivation, but there is an optimal level of stress that lawyers should try to achieve ... Wellbeing is the key here, which involves having the self-awareness and flexibility to adjust your stress levels as required.

”





Values, ethics and wellbeing

ASSOCIATE PROFESSOR VIVIEN HOLMES, ANU LEGAL WORKSHOP

Wellbeing and professionalism are inextricably linked. The psychological factors that influence wellbeing also influence your ethical decision-making and your professionalism.

This chapter explores these influences, so as to provide you with a toolkit to manage ethical challenges in legal practice.

ETHICAL DECISION-MAKING IN LEGAL PRACTICE

The challenge for newly admitted lawyers is to uphold standards of ethical conduct and professionalism in the pressured reality of legal practice. The first step in equipping yourself to cope with ethical challenges is to understand what can influence your decision-making.

Behavioural ethics

The idea that most humans are rational decision-makers has been profoundly challenged by research in many disciplines.¹ Behavioural ethics seeks to describe how psychological heuristics and situational pressures can influence good people to do bad things. The following psychological influences and pressures can affect your ethical decision-making²:

1. Framing:
 - You can make different decisions according to how an issue is framed. For example, is the decision framed as a “business decision” or as an “ethical decision”?
2. Peer influence or conformity bias:
 - Peers help to establish a standard for behaviour. You may pick up subtle (and not so subtle) cues for behaviour from others. When those “others” are superior to you in a hierarchy, you run the risk of adopting their standard of behaviour as your own and losing touch with your own internal moral compass.
3. Obedience to authority or desire to please authority:
 - Humans have a strong inclination to please and defer to authority. This can lead to ethical breaches, but, on the other hand, research³ has shown that new lawyers have some advantages in the sphere of ethical decision-making.
 - New lawyers may be in a better position than senior colleagues to see the ethical dimensions of an issue because:
 - they do not instinctively apply a “business” framework to the issue, and in doing so negate its moral or ethical dimensions
 - they do not have a direct financial stake in firm profits, so they may be less likely to overlook possible conflicts of interest.
4. Overconfidence bias:
 - Most people are overconfident in their own moral character, seeing themselves as more ethical than others. This can cause them to make decisions without proper reflection.

5. Incrementalism or “the slippery slope”:
 - Repeated unethical behaviour can lead to “psychic numbing”. Over time, people can become more comfortable with unethical behaviour and continue it so as to avoid admitting their earlier actions were improper.
6. Self-serving bias:
 - Self-serving bias can lead you to make choices unconsciously that favour yourself at the expense of others, in ways that an objective third party might find difficult to understand.
7. Rationalisation:
 - People rationalise by finding (often without consciously realising it) the most rational and convincing reason for behaviour, with the goal of making it look better than it actually is.
8. Confirmation bias:
 - People seek out information that confirms what they already believe about something and ignore information that challenges their beliefs.
9. Status quo bias:
 - When faced with a complex decision, humans tend to accept the status quo.

Situational factors, such as being tired, stressed or overworked can also influence your decision-making. For example, working long hours and being on a steep learning curve can cause a cognitive overload that makes it less likely you will notice ethical “short cuts” you or others may take.⁴

All these influences can blind you to serious unethical behaviour. It is not always possible to avoid them, but you can learn to recognise situations in which mistakes are likely, and try harder to avoid significant mistakes when the stakes are high⁵ by being mindful of what is going on in a situation, both for yourself and for others.

THE LINK BETWEEN WELLBEING AND PROFESSIONALISM

So how does wellbeing link to professionalism? The elements of professionalism (above) are very similar to the factors influencing wellbeing discussed in previous chapters, illustrating the strong link between being a professional and being well.

Characteristics of a professional

Legal ethics reaches beyond merely complying with the professional conduct rules. The conduct rules delineate a bottom line, but a professional exhibits:

- integrity and autonomy
- competence and service
- relatedness to others.

Characteristics of wellbeing

Self-Determination Theory⁶ lists the three characteristics noted above as the criteria for living a satisfying life. When your need for autonomy is met, you feel that you are able to live in a way that reflects your true self. If your competence need is met, you feel capable of mastering tasks and meeting challenges. And when you feel relatedness to others, you feel closely connected to the important people in your life. You are more likely to have these needs met if you hold certain values: self-understanding, intimacy with others, helping others and building community.

You'll notice that these values overlap with the need for autonomy and relatedness to others. Further, your values underscore your motivations, and your motivations influence your mental health. For example, if you are intrinsically motivated to succeed as a lawyer because you genuinely enjoy your work and find it fulfilling, you are much more likely to experience satisfaction and wellbeing than if you are primarily motivated by money, status or the need to impress others. If you primarily focus on extrinsic values such as wealth or power, you can undermine your wellbeing.

MANAGING ETHICS IN THE WORKPLACE

Workplace culture can play a significant part in whether these basic needs are met and whether you are able to express your values, providing an outlet for your motivations. Workplace culture can encourage either ethical or unethical behaviour:

- If your workplace has a culture where everyone is out for themselves and power is more important than honesty, you are more likely to cross ethical boundaries.
- If your workplace has a culture where ethical principles are important and rules are complied with, and where the wellbeing of employees, clients and the community is prioritised, then you are more likely to behave ethically.⁷

It can be difficult to resist an unprofessional workplace culture or questionable directions from a superior. However, by understanding your environment and how it influences you, you can equip yourself to detect negative influences and counter them with respectful but effective discussion about alternatives.

Acting on your values⁸

Being strategic about speaking up for and acting on your values is key.

Values conflicts are often challenging, but they are an inevitable part of life and legal practice:

- Approach values conflicts calmly to enable you to deal with them strategically and constructively.
- Understand the motivations for your values. Being aware of the factors that have enabled you to speak up for your values in the past (for example, the support of friends, a strong commitment to ethics or a good understanding of

the values behind the rules) enables you to look for similar supports in future situations, especially if you define your personal and professional purpose explicitly and broadly.

As an example of how to act on values, imagine that a partner of a law firm asks you to overlook a discrepancy in a settlement statement in favour of your client, arising from a mistake by the other party's solicitor.

How might you constructively say "no" to this unprofessional and unethical request? A few pointers may help here:

- Be clear about the law. Is there a principle, case or conduct rule directly on point? Yes! There is a clear rule against taking advantage of another practitioner's error: Legal Profession Conduct Rules 2010 (WA), reg. 23.
- Think about whose interests are affected and what is at stake for them. In this scenario, the stakeholders would include your client and the other party, your firm and the other party's firm, your partner's professional reputation and your reputation. Taking a broad view of the affected parties, and thinking about the repercussions of not speaking up, may help strengthen your resolve to act.
- If you know yourself well, you can voice your values in a way that feels right for you and that builds on your strengths. You might decide: "I get tongue-tied easily when stressed, so I'll write an email expressing my concerns". If you are junior in the firm, you might want to use questions to open up discussion and clarify any misunderstandings: "Could you help me to understand our role and professional responsibilities here?"
- Appeal to widely shared values (for example, professionalism and fair play). You might appeal to the partner's sense of these values: "I know you and this firm value our reputation for professionalism".
- Understand the typical reasons and rationalisations given for ethically questionable behaviour. Sometimes people may ask you to do something unethical because they are very busy or tired and haven't thought the matter through. Sometimes they rationalise, adopting unspoken assumptions such as "Everyone does it", "No-one will find out" or "It's only a small amount". You could approach the partner by saying or emailing "I know you're busy and want to tie this up quickly, but maybe we should notify the other side of the discrepancy? It may be that no-one will notice, but it's possible they or their client will pick it up. It could be difficult for our client if this comes up later and potentially embarrassing for us ... I'm happy to do the extra work required".

Practice: you are more likely to say words that you've thought through and more likely to voice your values with scripting and practice. So you could talk it over with a trusted colleague, rehearsing some phrases you might use to raise your concern with the partner.

It is important to learn how to advocate constructively for your professional values for several reasons:

- If you are able to act on your values and not just talk about them, it will help you to thrive by strengthening your professional identity;
- If you can constructively speak up about professional values, you strengthen your workplace culture and help build an environment that facilitates ethical behaviour.

Acting on your values will help you thrive, and help build an ethical, healthy and strong profession.

Endnotes

- ¹ Maureen L Ambrose, Marshall Schminke and Scott J Reynolds, 'Behavioral Ethics: New Frontiers' (2014) 123 *Organizational Behavior and Human Decision Processes* 77.
- ² Vivien Holmes, 'Giving Voice to Values: Enhancing Students' Capacity to Cope with Ethical Challenges in Legal Practice' (2015) 18(2) *Legal Ethics* 115-137.
- ³ Catherine O'Grady, 'Behavioral Legal Ethics, Decision Making, and the New Attorney's Unique Professional Perspective' (2015) 15 *Nevada Law Journal* 671.
- ⁴ Ibid.
- ⁵ Daniel Kahneman, *Thinking, Fast and Slow* (Penguin, 2012) 28.
- ⁶ Lawrence S Krieger, 'The Most Ethical of People, The Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation' (2011) 8(2) *University of St. Thomas Law Journal* 168-193; Edward L Deci and Richard Ryan, *Handbook of Self-Determination Research* (University of Rochester Press, 2002).
- ⁷ Jennifer J Kish-Gephart, David A Harrison and Linda Klebe Treviño, 'Bad Apples, Bad Cases, and Bad Barrels: Meta-Analytic Evidence About Sources of Unethical Decisions at Work' (2010) 95 *Journal of Applied Psychology* 1.
- ⁸ See generally Mary Gentile *Giving Voice to Values* (Yale University Press, 2010).

Mental health first aid (MHFA) training for the legal profession

What is mental health first aid?

Mental health first aid is ‘the initial assistance offered to a person developing a mental health problem or experiencing a mental health crisis, until appropriate professional help is received or the crisis resolves’. In MHFA courses, participants learn how to prevent the situation from deteriorating and promote help-seeking behaviour and recovery, by applying the MHFA Action Plan.

NEW tailored content for the legal profession

This course teaches legal personnel how to recognise and offer initial help to a co-worker or client who is developing a mental health problem or experiencing a mental health crisis. Course content is tailored to the legal industry.

Tailored training designed for the legal profession

Designed for workplaces that require increased flexibility in the delivery of training for their staff members using a combination of online (eLearning) and a half-day of follow-on face-to-face training.

eLearning

Course participants first complete the interactive self-paced eLearning component covering mental health problems, mental health crises and skills to offer initial help to an adult developing a mental health problem such as depressive, anxiety, psychotic or

substance use disorders or in a mental health crisis such as suicidal thoughts, panic attack, engaging in non-suicidal self-injury.

Face-to-face

The follow-on face-to-face session allows participants the opportunity to revise and consolidate knowledge and skills in a group environment, and apply these skills to specific scenarios commonly found within the legal industry.

Participants are eligible to complete an online Accreditation Assessment to receive a Mental Health First Aider Certificate of Accreditation valid for three years.

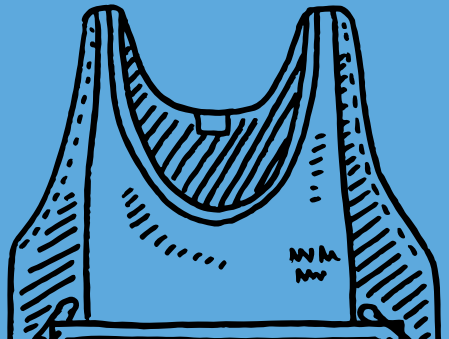
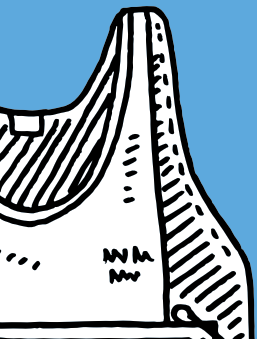
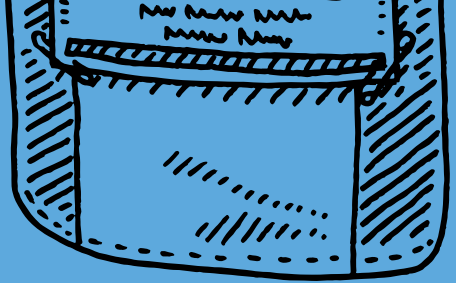
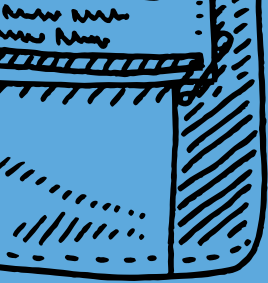
Accredited Mental Health First Aiders are eligible to be appointed as Mental Health First Aid Officers in the workplace. To read all about the MHFAider Program visit mhfa.com.au/firstaider.

eLearning Mental Health First Aid Course for the international legal industry is also available.

This course is suitable for global legal firms in offices in Australia, where staff operate across countries. It has been conducted so far for the global law firm Norton Rose Fulbright.

For more information visit www.mhfa.com.au





Lifestyle

PROFESSOR IAN HICKIE, UNIVERSITY OF SYDNEY

This chapter features some daily tasks that can improve your mental fitness.

WHAT IS MENTAL FITNESS?

Health experts talk frequently about the need to quit smoking, reduce alcohol intake or attend regular medical check-ups to prevent poor health. In recent years, however, most people have become aware of the need to engage in more active strategies – like exercising daily and improving their diet – to prevent physical illness and also to improve physical fitness. Health experts encourage these approaches not simply to prevent disease, but also to help people feel better and be more productive every day.

The present approach to mental health is very similar to this approach to physical health. There are things you can do every day that:

- help to protect against mental disorders like anxiety, depression and substance misuse
- increase your chances of being mentally productive.

As you age, it becomes even more important to take an active stance on brain and emotional health. Fortunately, many of the daily activities that you might consider good for your physical health are also good for your brain and your cognitive and emotional health.

Brains are responsible for concentration, memory, analysis, emotional responses, solving problems and enjoyment, so improving your daily brain function has lots of immediate benefits. Your brain doesn't sit in a bottle or on its own. It sits in a body and responds best when you are in a state of good physical and social health. It does poorly when it is left inactive and alone.

WHAT CAN YOU DO TO IMPROVE YOUR MENTAL FITNESS?

Exercise

It is important to understand the activities you can do that have really good evidence of substantive gains. Regular, and preferably daily, exercise is near the top of the tree. For those who work long hours in office jobs, this can be a challenge. There is increasing evidence that long hours of physical inactivity are not only bad for the heart and blood vessels, but also the brain and our linked cognitive abilities. Wearable devices, largely designed for the fitness industry, are making a substantial contribution to mental health. The ability to measure the distance you walk or run allows you to set goals and feel the satisfaction of achieving them. These devices also show you how far to walk or run each day to achieve optimum results – walking 10,000 steps per day is recommended.

You will also need to get out a few times a week and do something that really makes you sweat. In fact, as you age, you'll need to exercise more and eat less to maintain the same degree of physical and mental health. Exercise is best done regularly – it is much easier to continue with a regular exercise program than it is to have to restart exercise after a break.

Tips to get moving for busy lawyers

- Make it a group effort. Arrange a lunchtime power walk or jog with some of your colleagues. This way you're getting some exercise into your workday and you've got your colleagues to motivate (or shame!) you into exercising.
- Download a work-out app. Did you know you can get in an effective full-body work-out in minutes? Work-out apps like "7 Minute Workout" or "5 Minute Home Workouts" are perfect for busy professionals. You can do these anywhere and at any time – after all, who doesn't have five minutes to spare?
- Incorporate exercise into your daily routine. If you're short on time, take the stairs, get off the bus a stop early, hold walking meetings or take a five-minute walk as you eat your lunch.
- When you do have time, find a style of exercise that you enjoy, such as a group class or activity.
- Create a commitment contract and sign it in front of a witness. Studies have shown that people are more likely to follow through with something when they've said it in front of a witness.¹

SLEEP-WAKE CYCLE

Maintaining a strong sleep-wake cycle is the next big thing. At a minimum, adults need between six and seven hours of high-quality sleep each day to maintain good brain and physical health. Tonight's good sleep starts this morning! To ensure a good sleep-wake cycle, you should:

- rise around sunrise, be active and expose yourself to morning light and physical exercise – this will help to set your daily body clock
- be active throughout the day (get out of the office during the middle of the day) and stay active till after dark.

You shouldn't work long into the night, in front of bright screens, and then engage in physical activity or eat heavy meals late into the night. This not only messes with your metabolism (the fastest way to put on more weight!) but it disrupts the night-time release of melatonin – the sleep-onset hormone. If you do that regularly, you'll end up not only sleep-deprived but also with a form of work-induced jet lag! That is, your body clock is so out of time with the daily solar cycle that all your other bodily functions – including your brain activity – are unable to function effectively. If this becomes chronic, your brain and body deteriorate together.

INSOMNIA

A lot of lawyers suffer from insomnia. To get yourself on a healthy sleep cycle, there are a couple of small things you can do:

- Avoid caffeine, alcohol and processed sugar before bed – these substances will result in restlessness or an unsatisfactory rest.

- Switch off all your electronics, the blue light from your devices interferes with your body's natural production of melatonin. It doesn't help to be reading work emails right before bed either.
- Attempt breathing exercises. One of the most common exercises is the 4-7-8 breathing exercise (inhale through the nose for four seconds, hold for seven seconds and exhale through the mouth for eight seconds), which helps you fall asleep faster.
- Try to wake up and go to bed at the same time every day. This puts your body on a natural rhythm and makes waking up much easier.

SOCIAL RELATIONSHIPS

Socialising is a critical activity for a healthy brain and mind. Being alone is not stimulating and does not engage some of the most important cognitive and emotional functions that the brain supports. The more complex the social situation, the more engaging for the brain. Socialising with anyone can be a challenge for busy professionals. It's doubly so for lawyers, who spend a large majority of their time at work, surrounded by other lawyers who also have no time to socialise.

At work

Seemingly simple social interactions can make a difference and stimulate the mind instantly. Fortunately, work can offer real opportunities for complex and challenging social interactions. Make the most of them by:

- asking a new colleague out to lunch
- taking your coffee breaks with someone from a different department
- offering to help someone with an issue they're working through
- asking your barista how their day was.

Outside of work

Engaging with others is essential for promoting mental fitness. Outside of work, there is a real need for depth (that is, intimacy with those you really care about) and breadth in your relationships. The novelty associated with meeting new people, engaging with new social groups and engaging with new social tasks is rich brain food! You can get the breadth and depth you need by:

- joining a group activity doing something you enjoy
- maintaining the social relationships and friendships you already have – making new friends and meeting new people is mentally stimulating, but learning something new about an old friend can be just as beneficial.

“

As you age, it becomes even more important to take an active stance on brain and emotional health. Fortunately, many of the daily things that you might consider good for your physical health are also good for your brain and your cognitive and emotional health.

”



WORK PRACTICES

Long hours of doing the same task repeatedly is actually bad for brain health and function. Sitting at a desk, reading the same material, trying to concentrate for hours on end – it just doesn't work! If you make it worse by continuing late into the night or early morning, you'll just make more mistakes. Breaking hard mental work up into smaller sustained efforts (much like intense physical activity) results in better brain function and decision-making.

OVER-WORRYING

In many professional jobs, people spend a lot of time worrying about their responsibilities – what they need to do today, tomorrow or next week. A problem can arise if you have no active strategy for dealing with these accumulating pressures and responsibilities. For some, learning active relaxation processes like mindfulness can be really helpful. Yoga often combines the benefits of active relaxation with physical exertion. For others, active sports and exercise induce the same degree of relaxation and diversion from work-based preoccupations. Breaking up the mental patterns of over-worrying and rumination that can go with stressful jobs is essential for good brain and mental health.

TURNING WORK “OFF”

It's no secret that lawyers can be workaholics. Even when they're not at work, they can find themselves subconsciously working. If mindfulness and exercise are not helping, it may be time to take active steps to stop your work life from blending into your personal life:

- Turn off your mobile phone. If your clients and colleagues can reach you on your personal number, it's probably time to look into getting a separate phone for work only.
- Distract yourself. You can't work when you're distracted. The best way to distract yourself (in a healthy way) is to surround yourself with friends and family outside of the law. Get talking and get involved, and you'll realise work shouldn't be the only concern in anyone's life.
- Lose yourself in a book or film (nothing about lawyers!). Watch or read something that requires concentration and will lock in your attention. A good book or film will help you escape for a brief period of time and help take your mind off your work life.
- Learn to say “no”. Many lawyers are tempted to really push the limits of how much work they take on. It's easy to say “Sure, I'll take care of that”, even when you're swamped already. Learning to say “no” to additional work, within reason, will reduce your work-related stress levels and help you stop worrying about all the things you need to stay on top of. See Chapter 5 for tips on how to speak up.

Make-up an alter ego for yourself. Life coach and New York lawyer Megan Grandinetti suggests distancing yourself from work when on holidays by creating a new persona for yourself. She suggests giving yourself a title, background and colleagues ... let your imagination run wild.²

MENTAL CHALLENGES

Importantly, our brains respond to both novelty and mental challenges. Mistakenly, many Australians believe that they would enjoy better mental function if they were left to lie on a beach. Actually, mentally challenging jobs and serious social challenges are good for brain function. They engage the brain in serious mental endeavour, driving new connections between brain cells as we set about solving problems in new ways, engaging new skills and incorporating new understandings of our complex social environment.

When approaching mental challenges outside the work environment, the options are endless. Some things lawyers can engage in include:

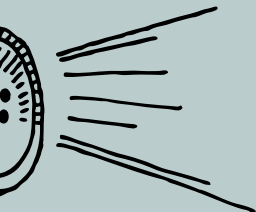
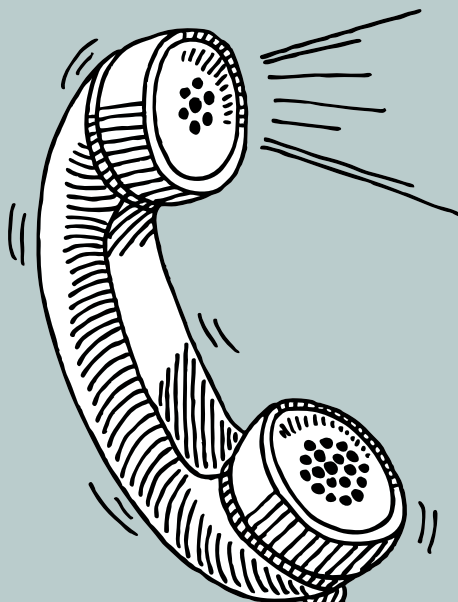
- Further education. This doesn't just mean getting your master's in law. Education can include going to art school or learning a new language or instrument – anything that will teach you a new skill. The more creative the better: this balances out the structured work most lawyers do and gives you a creative outlet.
- Travel. When you travel, your brain is constantly challenged as you are forced to adapt to different cultures and environments. To kick things up a notch, travel to a country with a completely different way of life to what you're used to. It puts things into perspective and exposes lawyers to a world outside the courtroom or office.
- Forming new social networks. It's easier than it may sound. Find where your interests lie and follow these. The hardest part of going out and meeting people is finding the mental strength to do so. Are you a keen dancer? Join a tango club. Love animals? Volunteer at your local shelter. Forming new relationships is known to create health benefits both mentally and physically.³
- Find another job. Don't rush off and quit your legal job just yet. "Another job" could be something you do at your own pace, something that you enjoy or maybe even your passion that got side-tracked by your main career. It could be an actual paying job, or maybe it's simply a hobby that has potential to grow. Lawyers have found themselves as authors, sculptors, manicurists, comedians, jewellery makers, gardeners, hair stylists, teachers ... the list goes on. Lawyers are a diverse bunch!

Endnotes

¹ dailyburn.com/life/fitness/workout-motivation-tips

² abovethelaw.com/career-files/how-to-forget-youre-a-lawyer-when-you-travel

³ www.health.harvard.edu/newsletter_article/the-health-benefits-of-strong-relationships



Trauma in legal practice

STEPHEN TANG, ANU LEGAL WORKSHOP

Lawyers regularly encounter people who have experienced trauma as victims or offenders.

As a new legal professional, it is imperative that you understand and implement a trauma-informed approach in legal practice. This will improve your ability help your clients and take care of your own wellbeing. This chapter will outline some of the basic principles and strategies of trauma-informed practice.

TRAUMA-PRONE AREAS OF LAW

Some areas of legal practice have a higher exposure to trauma than others. These include:

- family law
- criminal law
- immigration law
- child protection
- law relating to Aboriginal Australians
- personal injury law.

If you are working in one of these areas, it is important to be aware of trauma in your clients and how this can affect your wellbeing.

UNDERSTANDING TRAUMA

Understanding trauma is the first step towards taking a trauma-informed approach, which is beneficial to lawyers and clients.

What is trauma?

Trauma is a wound to the psyche that disrupts and destabilises an individual's mental health, wellbeing and view of the world.

When does trauma occur?

Trauma most commonly follows a traumatic event. This can include witnessing an incident involving actual or threatened death, serious injury or sexual violence. Trauma is more likely to be suffered when the traumatic event is experienced firsthand (including as an eyewitness), although learning that a traumatic event has happened to someone close to you can also be traumatic.

Trauma can also take the form of prolonged exposure to maltreatment, neglect or abuse – even without physical violence and injury. This is known as complex trauma. Complex trauma is particularly relevant for lawyers working on matters relating to child sexual abuse, domestic violence, refugees and victims of extended criminal activities.

IDENTIFYING SIGNS OF TRAUMA

As a lawyer, you should be aware of psychological signs of trauma, which can cause distress and impairment to a person long after the traumatic event is resolved. These include:

- **Intrusion:** The repeated and unwanted re-experiencing of the traumatic event as if it is happening again. This often occurs through “flashback” memories or in nightmares. These intrusive experiences mimic the emotional and physical

reaction the person had during the traumatic event (for example, a heightened state of fear and sense of danger, or a strong urge to flee or take self-protective actions).

- **Avoidance:** Trying hard to avoid distressing thoughts, memories or feelings about a traumatic event. Not all avoidance is bad, but if “not thinking about it” and trying to stay numb becomes the primary way of coping, it can interfere with recovery and healing. Avoidance includes staying away from situations or things that remind a person of the traumatic event.
- **Changes in thinking and emotions:** Significant changes can occur in response to the disruption of trauma. Self-blame or blaming others is common. This may resemble a depression-like state, with the person being unable to experience positive emotions. A person may experience grief and loss if the traumatic event involved death or injury to others.
- **Hyperarousal:** Trauma can leave a person constantly on edge as intrusive thoughts may occur at any time. The person may therefore be more irritable, snappy or emotionally reactive. Hyperarousal may also be expressed as difficulties in concentration, being easily startled (for example, by loud noises) and insomnia.

REPRESENTING A CLIENT RECOVERING FROM TRAUMA

Representing a client who is recovering from trauma can be challenging, but there are some strategies grounded in psychology that can assist:

- **Take care to not re-traumatise the client:** If you need the client to tell you about the traumatic event in detail, tell the client in advance that you will need to do this and why this is important. Ask the client what might make them more comfortable (for example, having a friend or family member support them in the room) and promote a relationship of trust and safety.
- **Recognise that more time may be needed:** You may not be able to obtain all the information you need in one sitting. Take frequent breaks if you are asking about traumatic information. If you sense that the person is zoning out or getting agitated or guarded, take a break as soon as possible before the distress becomes too intense.
- **Look out for inconsistencies:** Memory processes are often affected after trauma. If you find inconsistencies in a client’s story, this is not necessarily a sign of deception or dishonesty. Clarify the details again on a different day, and seek out corroborating information from third parties where possible. Resist the inclination to cross-examine the client about discrepancies.
- **Be aware of cultural sensitivities.**

- Recognise self-destructive behaviour: If a client is presenting with what appears to be self-destructive behaviour (for example, substance abuse, risk-taking or aggression), look behind this immediate problem to see if there is a recent or complex experience of trauma. Problematic behaviours may be attempts to cope with the distress of trauma, or may be expressions of trauma itself. Refer the client to appropriate trauma-related services where possible.

SECONDARY TRAUMA AND COMPASSION FATIGUE

As the law is interconnected with trauma, lawyers are at risk of experiencing secondary trauma.

What is secondary trauma?

Secondary trauma is the stress resulting from helping a traumatised or suffering person. It is also known as vicarious trauma.¹ A direct secondary trauma reaction is relatively uncommon. Cumulative secondary trauma is more common. Cumulative trauma builds over time, and it is difficult to detect. Having an awareness of trauma is a key preventive strategy that can help ensure overall wellbeing.

Signs of secondary trauma

The signs of secondary trauma can mirror those of primary trauma, such as:

- having intrusive memories of what the client has told you, or the material you have seen
- not being able to switch off from the matter
- being irritable towards other people (including partners, friends and family members).

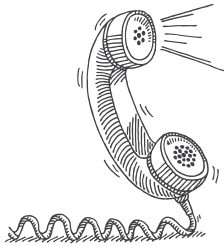
There are also other responses particularly relevant to lawyers:

- a sense of hopelessness at not being able to help the client
- questioning professional competence
- vulnerability to ethical or boundary violations from wanting to do things to help the client beyond what is permissible and professionally appropriate as a lawyer
- increased detachment, insensitivity and emotional callousness – sometimes described as ‘compassion fatigue’
- existential confrontation: recognising how easily your own health and wellbeing are negatively affected by legal practice. It can be confronting to realise that you’re not as detached and impervious to emotion as your legal training may suggest.

“

Complex trauma is particularly relevant for lawyers working on matters relating to child sexual abuse, domestic violence, refugees and victims of extended criminal activities.

”



Preventing secondary trauma

As discussed in Chapter 3, implementing good habits is essential to preventing secondary trauma and thriving in practice.

- Writing in a journal, practising mindfulness and engaging in healthy activities (for example, exercise) are beneficial to reconnecting with your own values and motivations. It is important to recognise that being a lawyer is only one part of who you are as a person.
- It is important to connect with colleagues to build a supportive professional community. Trauma flourishes when a person is left alone. The supportive presence of other people can help prevent the distress and impairment of trauma, as well as transform traumatic distress into traumatic growth.
- It is essential to engage other helping professionals (for example, counsellors and psychologists) for peer supervision. This involves intentionally meeting (usually weekly or fortnightly) as a small group to talk about traumatic work in a safe and confidential setting. The focus is not so much on the substantive or technical issues, but the personal and professional experience of being the helping professional.

Endnotes

¹ This discussion is primarily about clients, but lawyers often work with a number of other people in the legal system in ways that can give rise to secondary trauma (for example, witnesses, victims and family members).

Are you ready to learn the keys to stress management, improved focus and overall wellbeing?

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Lawyer stories and profiles

PROFILES BY DOMINIC ROLFE

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JOHN FENELEY
NSW MENTAL HEALTH COMMISSIONER

What is “wellness” to you, and how should the legal profession promote wellness?

Wellbeing (wellness) can be different for each individual or community. However, common elements include feeling well both physically and mentally; feeling safe and able to cope with the normal stresses of life; having a sense of connection with people and the community; and feeling able to make a contribution and work productively.

Employers are increasingly recognising the need to be actively concerned about the mental health and wellbeing of employees, both as an end in itself and also as being central to achieving a productive workplace. This is particularly true for high-pressure workplaces, such as those in the legal profession. The legal profession can promote wellness through recognising that people work best when they have a sense of wellbeing.

How are mental health problems perceived within the legal profession?

There is clearly a growing awareness of the importance of mental health and wellbeing within the legal profession. This is not simply talk, but we are beginning to see clear steps towards having work environments where people feel safe and have appropriate mechanisms of support in times of psychological distress. The interest in and take up of the Tristan Jepson Memorial Foundation’s *Psychological Wellbeing: Best Practice Guidelines for the Legal Profession* is certainly evidence of this shift.

How can we remove the stigma associated with mental illness, and encourage openness and acceptance within the profession?

The best first step we can all take is to encourage increased mental health literacy across our community. Better awareness and knowledge has a direct and lasting impact on reducing stigma. The fact is mental illness is relatively common. In any one year, one in five Australians will experience a mental illness and 45 per cent of adults will experience a mental disorder at some point in their life.

By promoting mental health literacy, we create environments that are more understanding of and responsive to distress. We also encourage individuals to recognise when they are experiencing distress.

This increases the chances of individuals using their own agency in times of distress as well as seeking support when required.

What changes does the profession need to make to decrease the high rates of psychological and workplace distress?

One of the most effective ways we can reduce psychological and workplace distress is by finding a better balance between encouraging high performance and having realistic expectations about workload and outcomes.

The legal profession invests a lot in recruiting and training individuals and therefore has a real interest in their performance and retention. Critical to achieving this are supportive work environments with managers who are alert to the potential for high-pressure workloads to cause distress and the need to actively manage this.

What can lawyers do for their colleagues and friends if they think they are in trouble?

Colleagues and friends are probably the most likely to notice if someone is having a tough time. This could be a change in mood or behaviour that signifies mental distress and could be related to or evidenced by alcohol or drug misuse.

We all need to feel comfortable asking “Are you okay?” We don’t all need to become counsellors, but it is important to be able to listen and know where to direct someone to seek help. Since October 2015, there has been an initiative called R U OK? at Law, which has the support of 18 major law firms. The website (www.lookdeeper.org.au) has some great tips about how to have a conversation with someone if you do have concerns.

At what point should somebody seek professional help?

If ever a person feels they are having thoughts of self-harm or suicide, support should be sought immediately.

More generally, we can all experience transient periods of sadness and emotional distress as normal reactions to day-to-day events or significant life events. However, when these periods persist and interfere with our ability to continue our regular activities, it is important to seek professional help through a GP, psychologist or psychiatrist – either privately or through a workplace support scheme. There is no “right” way, and sometimes it can take time to find the support that works best for you.

What advice can you give lawyers experiencing workplace distress?

Someone who is experiencing distress at work may be feeling this as a result of pressures in their personal life, at work or a combination of the two. Regardless, if it is affecting them at work, it is important that they feel safe to talk about this with their colleagues or their manager.

If someone doesn’t feel safe to talk about this at work, I would encourage them to call one of the services available – such as Lifeline for Lawyers, beyondblue or LawCare – to provide guidance and advice.

Who do you think is responsible for ensuring wellness is a workplace priority?

All employers need to make the mental health and wellbeing of their employees a priority. Creating a safe workplace takes leadership and organisational

commitment to change the way we work and communicate.

Employers also need to understand that this is already a priority for employees. Productivity and retention rates are both negatively impacted when workplace wellbeing is not properly addressed.

What do you see as the greatest barriers to achieving genuine work-life balance? Do you think work-life balance exists?

Work-life balance is different for everyone and is made up of a number of different facets of your life. Mental and physical health, a stable home, supportive relationships, a sense of contributing to the community and job satisfaction all play a part in how “balanced” a person may feel between their work and home life. The loading on any one of these factors will vary by individual and stage of life.

It is also important that partners and other leaders in the legal profession lead by example. By taking care of their own wellbeing, they will encourage those who work with them to do the same and contribute to creating a workplace culture that values mental health and wellbeing.

Have you personally experienced psychological distress, or do you know someone who has? Tell us about that experience. What did you learn?

I have experienced periods of psychological distress in my life. This was particularly acute some years ago when I lost two close friends within six months – one in an accident and another by suicide. Over the last 20 years, I have also worked in a variety

of different environments where I experienced periods of intense work related stress.

On a number of occasions when I have experienced these stressors in either or both my personal and professional life, I have benefited from actively seeking professional support. In addition to supportive family, friends and colleagues, the guidance and advice professionals have been able to provide was critical to get me through those tough times.



MARY DIGLIO
MANAGING PARTNER, SWAAB ATTORNEYS

What is “wellness” to you, and how should the legal profession promote wellness?

I think wellness is an investment in the entire being, in the whole person. It sounds simplistic, but it’s making sure people are in a place where they’re feeling safe and want to get out of bed and come to work every day.

I also think, particularly in our profession, we have to take some interest in wellness outside the workplace because, in my view, lawyers are quite good at deflecting.

To promote wellness we have to care – we have to care about individuals, ask them how they are, ask how their friends and family are, ask them what they did on the weekend.

How are mental health problems perceived within the legal profession?

I think we’re getting better. I sit on the Board of the Tristan Jepson Memorial Foundation (TJMF), and we’ve had some high-profile partners come out and share

their stories about their own struggles – I think that’s helped. I certainly think that it’s a very important issue for the younger lawyers coming through the profession. It’s brought up at a graduate interview level: they want to know what we’re doing about this issue.

How can we remove the stigma associated with mental illness, and encourage openness and acceptance within the profession?

You need to have senior people in the profession being willing to show their vulnerability. We need to have a support network and a regime where people feel comfortable and safe to let their guard down and it won’t cost them their job or cause them to be shunted aside. I think it requires partners to show their human side a bit more – that’s where we have a long way to go unfortunately.

What changes does the profession need to make to decrease the high rates of psychological and workplace distress?

The expectation on hours needs to change. I’m still shocked at the number of junior lawyers who talk to me or contact me through my connection with TJMF and tell me about the hours they’re expected to work.

I’m not saying being a lawyer should be a holiday, or that all of a sudden people should only come to work from nine to five. But if we want to build a sustainable, functioning generation of lawyers then we have to respond to their needs and their priorities. We either learn how to get the best out of our younger colleagues or end up with a major disconnect.

What can lawyers do for their colleagues and friends if they think they are in trouble?

I think the first thing is to be a friend. The firm needs to take the time to formalise a “cheat sheet” to help people know what they should do if a colleague tells them they’re struggling – outlining who they should go to, and how to get the necessary assistance without breaching their colleague’s confidence. It’s also important to promote the various employee assistance programs (EAP) around and make sure people are aware of them.

At what point should somebody seek professional help?

I don’t think people should ever be concerned about seeking professional help. If professional help means speaking to your GP, your counsellor or your psychologist and saying “I’ve got this going on in my life”, then we should be doing that early on in the process.

Professional help can mean a lot of things, including the soft professional outlets – everything from yoga and meditation to staff gym memberships.

What advice can you give lawyers experiencing workplace distress?

Try and find somebody in your organisation who you feel safe to talk to, and share it early. That certainly helps people from having those problems snowball into an overwhelming issue. And if you can’t get help within the firm, hopefully the firm will have an EAP or you can contact the resources of the Law Society.

Who do you think is responsible for ensuring wellness is a workplace priority?

The partnership – there’s no doubt about it. No disservice to HR and the management team, who do a great job, but it’s the partners of a law firm who have to communicate that they acknowledge it’s an issue and that they want to provide you with tools and assistance to deal with it. It needs to come from the top.

What do you see as the greatest barriers to achieving genuine work-life balance? Do you think work-life balance exists?

Firstly, I think work-life balance is very subjective. It depends on where you are in life and what you’re trying to achieve as a person, at any particular time. This changes year in and year out.

But it’s not just lawyers – it affects support staff as well. Support staff are working in the same environment and they mightn’t have the client pressure but it’s being pushed down onto them by us as lawyers. I was guilty of overlooking their needs when I got passionate about this area.

Have you personally experienced psychological distress, or do you know someone who has? Tell us about that experience. What did you learn?

I haven’t experienced psychological distress – or don’t think I have – but I acknowledge I’m under an immense amount of stress every day, especially since becoming managing partner. I acknowledge that without the management team, lawyers and legal support team who turn up to support me every day, I would achieve very little. I want to look after the people around me.



JOHN CANNING
PARTNER, KING & WOOD MALLESONS

What is “wellness” to you, and how should the legal profession promote wellness?

I think wellness is holistic – it’s both mental and physical. To a degree, it’s also how you’re treated and how you treat people. It’s not only up to the person, it’s also up to other people and their responsibility to foster the environment they’re in. There’s definitely been a cultural change in terms of how wellness is promoted in the legal profession. At King & Wood Mallesons, as an example, we have introduced agile working and improved programs around mental and physical health. I started work in the 1980s, where the client was king. Clients are becoming more savvy and aware in this space and demanding that outside service providers keep their staff well.

How are mental health problems perceived within the legal profession?

Eight years ago I spoke up because I didn’t think mental health problems were being handled very well. But now

people have respect for those having that discussion and they actually want to have that discussion.

Mental health can lead to physical illness, and physical illness can lead to mental illness – in a sense, they’re two sides of the same coin. And all the evidence shows that people with a mental illness recover better when they are working. Self-worth and self-esteem are important.

How can we remove the stigma associated with mental illness, and encourage openness and acceptance within the profession?

It’s a question that goes broader than the legal profession – it’s really a question for the community in general. I think language has to change around mental health, starting at community levels.

But what really breaks down stigma is the thought that someone could take their own life. And if you think someone could do that, stigma doesn’t come into it. It’s my personal view that stigma stops people talking and ultimately takes lives. You have to create an environment where people feel safe to talk and are encouraged to talk.

What changes does the profession need to make to decrease the high rates of psychological and workplace distress?

People need to be a lot more empathetic around mental health issues, people’s mental health and the causes of it. I’ve been advocating for a long time for a national education program around mental health, a consolidated campaign.

If you strip it all back, change starts with the way the profession works itself. The traditional hierarchical structure of our workplaces does not assist. You need to

treat people like people in your day-to-day interactions with them. People need to feel valued and be treated equally, whether that's at work or outside work.

What can lawyers do for their colleagues and friends if they think they are in trouble?

You need to talk to them or guide them to someone who can talk to them. It's not your job as a manager or HR person to fix the problem. If it's critical, speak to the person in your organisation who is responsible for that. Primarily, be gentle and talk to them.

At what point should somebody seek professional help?

That's a very difficult question. If you haven't been through it, you often don't know. It's a matter for you, but seeking help is the biggest step someone can take and often the biggest hurdle – realising that they have a problem to deal with. When and where they do it is up to them.

I always say there are two parts to recovery – there's the part you get help with and the part you help yourself with. Employers or family and friends need to have structures in place to help lead that person to the right help.

What advice can you give lawyers experiencing workplace distress?

The first thing you need to think about is: "Why is the stress there?" Is it personal, is it client-related or is it workplace-related? And then you need to put your hand up and talk to someone about it. Previously, people have seen that as a sign of weakness, but I see it as a sign of strength. If you're not coping, you need to put your hand up.

Who do you think is responsible for ensuring wellness is a workplace priority?

Primarily, it starts with the person in that environment, but it's also the responsibility of your colleagues and firm. It really is up to the management of a firm to think about this and create the right environment.

I think firms and corporates have a moral responsibility to the community to assist in breaking down the stigma around mental health, just like stigma has been broken down around many issues in the diversity spectrum.

What do you see as the greatest barriers to achieving genuine work-life balance? Do you think work-life balance exists?

Work-life balance does exist, but everyone is different. We operate a business. With that comes pressures. All areas of law have different pressures, so it's a matter of managing those different pressures.

Have you personally experienced psychological distress, or do you know someone who has? Tell us about that experience. What did you learn?

I suffer from bipolar disorder, which is what people used to call manic depression. I perform very well but it's when I come off the performing part – the high, if you like – I can fall into a depressive state, which could be dangerous. But I now recognise my condition and manage it with my workplace, my lifestyle (through exercise and diet), my psychologist, my psychiatrist and my GP. And because I'm educated about it, I manage it very well.



DR MICHELLE SHARPE
BARRISTER, 14 CASTAN CHAMBERS

What is “wellness” to you, and how should we promote wellness in the profession?

It’s a simple question but a difficult one to answer. Wellness doesn’t necessarily mean that you’re happy and healthy all the time – life has its ups and downs. But aside from enjoying good physical health, wellness is a sense of being able to hold yourself in day-to-day life and have an awareness of yourself.

It’s a complex issue, and there are many different ways to promote it. We also need to understand that legal institutions are both inward-looking and outward-looking. This means they need to look at the wellness of their members but also, taking a step back, consider that the issue is bigger than any one individual because we serve the community and we need to be able to respond responsibly to members of the public. We haven’t really grappled with how large and important this issue is.

How are mental health problems perceived within the legal profession?

I think it’s getting better, but unfortunately mental health issues are stigmatised within the legal profession as a manifestation of an inherent weakness or unsuitability for legal practice. We unfortunately still have a macho, Darwinian approach to practice where only the tough survive and the weak ought to leave.

How can we remove the stigma associated with mental illness, and encourage openness and acceptance within the profession?

I think we need to have an open conversation about this issue at every available opportunity, and we need to encourage the leaders of our profession to have the courage to speak openly and frankly about this issue. We also need to engage and offer support to the junior members of the profession, talking to them and listening to them.

What changes does the profession need to make to decrease the high rates of psychological and workplace distress?

I think we need to stop celebrating aggression and a very hyped-up approach to an adversarial system. That culture of aggression, toughness and telling it how it is – in a way it’s a thinly veneered form of bullying.

I think we ought to have a more inclusive approach – we have a very hierarchical profession that lends itself beautifully to overriding more junior members.

What can lawyers do for their colleagues and friends if they think they are in trouble?

All we need to do is speak to each other

with kindness and compassion, to really just talk to each other. If you're right about them being in trouble, then I have found that person is often very grateful to have those feelings of isolation and worry pierced by somebody else's concern for them. And if you're wrong about it, then there's no great embarrassment.

Each of us has a role to play, and our actions can change the culture. Not just for the lawyers of today, but as a legacy for lawyers in the future.

At what point should somebody seek professional help?

It's different for each person. Each person needs to develop an awareness of who they are when they're fine and well, and what kinds of things happen when they're not so well.

There's a continuum of accessing help. You might simply want to speak to a colleague if you're not travelling so well, and then there are moments to seek more professional assistance.

What advice can you give lawyers experiencing workplace distress?

Wellness is a day-to-day exercise and responsibility to check in with yourself and get to know yourself. When you enter into the profession, I think you ought to get to know yourself so you know what things you're likely to find stressful. Then you can respond quickly when you're starting to feel unwell.

Who do you think is responsible for ensuring wellness is a workplace priority?

At an institutional level, we have a responsibility to offer services and promote wellness because it plays a part in the administration of justice

and the reputation of the profession. Undoubtedly, the leaders of the profession have a responsibility to promote a workplace that has concern for the wellness of its members and a concern for the administration of justice.

Have you personally experienced psychological distress, or do you know someone who has? Tell us about that experience. What did you learn?

In 2006, I was physically assaulted and the result of that was suffering from post-traumatic stress disorder. I thought I was fine and, in the grand scheme of things, I was fine. But I found that when I tried to ignore it, it got worse and worse.

So I sought professional help and got better very quickly. This made me much more aware of mental health and mental issues. I realised that unwellness was a real problem more broadly in the profession.

Off the back of some research, I set up the Health and Wellbeing Committee at the Victorian Bar, and from there helped to set up a counselling service for barristers that offers 24/7 counselling and five free face-to-face counselling sessions.

What do you see as the greatest barriers to achieving genuine work-life balance? Do you think work-life balance exists?

I think that, generally, work-life balance does exist, but it takes work and self-discipline, and it may not be achievable every single day. One of the greatest barriers I have found to achieving my own work-life balance is dealing with intense periods of work, like trials or a court deadline. I know that on those days balance is impossible. But when the work is done, I make time to unwind and pull life back into balance.



THOMAS SPOHR
PROSECUTOR, OFFICE OF THE DIRECTOR
OF PUBLIC PROSECUTIONS (NSW)

What is “wellness” to you, and how should we promote wellness in the profession?

Wellness depends on the person. For any individual, wellness means they're performing at somewhere close to their peak, they are reasonably physically healthy and they are content with their lives. Unfortunately, I suspect most lawyers think they only get to choose at most two out of those three options.

How are mental health problems perceived within the legal profession?

There's been an improvement over the years I've been involved in the legal profession. Unfortunately, there is still a real stigma.

How can we remove the stigma associated with mental illness, and encourage openness and acceptance within the profession?

It isn't easy. I get the impression that the profession is slowly becoming more

aware of the issues: partly because of publications like this one, partly because new generations of lawyers are now hearing about it as early as law school, and partly because the wider community is gaining a slightly better understanding of mental illness. It's occasionally suggested that the process within the legal profession will be assisted by senior and high-profile members of the profession “coming out” as sufferers. My own feeling is that it isn't fair to place the burden of destigmatising this issue on those people.

Perhaps counterintuitively, I think the best way forward is for large organisations to take large and public steps acknowledging the problem and committing to change. And by large steps, I don't mean providing a gym membership or healthy food alternatives in the break room – I mean pushing back against clients and external organisations, and taking a public stand for the wellbeing of staff.

What changes does the profession need to make to decrease the high rates of psychological and workplace distress?

There are too many to count, but for my money the biggest difference would be made if we could find a way to destigmatise mental illness. We are, I fear, still some way from being rid of the whispered, judgmental comments about sufferers of mental illness that force so many of them into the shadows.

The TJMF's *Psychological Wellbeing: Best Practice Guidelines for the Legal Profession* provides an excellent template for thinking about mental health and wellbeing in legal workplaces. For practitioners who are isolated physically

(like rural lawyers) or figuratively (like sole practitioners), the profession really needs to look at helping them manage their practices in a way that means they don't have to make the invidious choice between earning a living and keeping their mental health.

What can lawyers do for their colleagues and friends if they think they are in trouble?

Checking in with them regularly, and taking the time to genuinely engage with them is, at least in my mind, the priority. It's not necessary to try and fix their problems – the point is just to be on the lookout, and maybe try and offer help in little ways, if they're willing to accept it.

In the most acute circumstances, it might also become necessary to break their confidence by telling their family or calling police – which is why most mental health organisations say you shouldn't ever promise not to tell anybody if they confide that they might be suicidal.

At what point should somebody seek professional help?

This varies from person to person. I get the impression that many lawyers will wait until they have been suffering for a very long time, and typically when something really acute happens – such as a major mistake at work or a personal setback that they suddenly can't cope with. One rule of thumb is to seek professional help when you feel like your mental health is adversely affecting your performance at home or at work. But the reality is that there is no downside to speaking to a GP about mental health issues – so earlier is always better than later.

What advice can you give lawyers experiencing workplace distress?

You are not alone.

Who do you think is responsible for ensuring wellness is a workplace priority?

I doubt anybody would deny that responsibility starts at the top. I fear that one day we will see a Workplace Health and Safety prosecution arising out of organisations' unwillingness to take genuine steps to protect their staff from psychological distress.

But it should never be forgotten that each individual person also bears responsibility for their own mental health and wellbeing – all the policies in the world won't do any good if an individual lawyer doesn't make use of them.

What do you see as the greatest barriers to achieving genuine work-life balance? Do you think work-life balance exists?

I don't share the increasing scepticism about work-life balance. That isn't to say that I've struck such a balance – just that it is possible for many people, in many organisations. The point is that there is both work and life, and a "balance" doesn't necessarily mean that there are equal amounts of each – just that there is enough of each to be happy.

Have you personally experienced psychological distress, or do you know someone who has? Tell us about that experience. What did you learn?

Coming from a background of criminal law, where you combine court stress and a high workload with vicarious trauma, it would be very surprising to find anybody in my position who

had not suffered at least some kind of psychological distress.

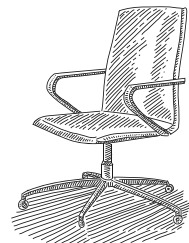
Tragically, I've also lost at least one colleague to suicide. As difficult as the experience was, I learnt a lot about how important it can be to check in on people early, at the earliest signs that they might be in really acute distress. It's not always possible to intervene, and I sometimes wonder whether I could have done more to help, but those tragic circumstances spawned my interest in the mental health of the profession.

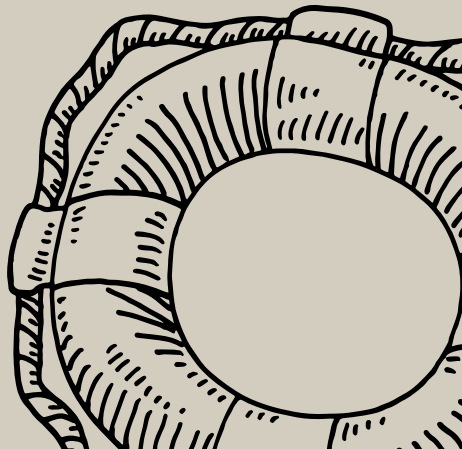
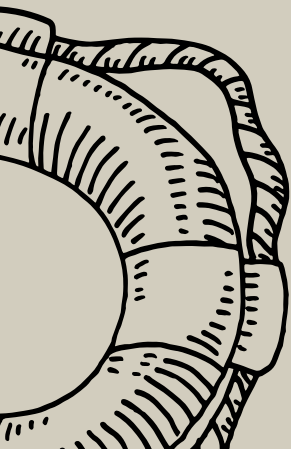
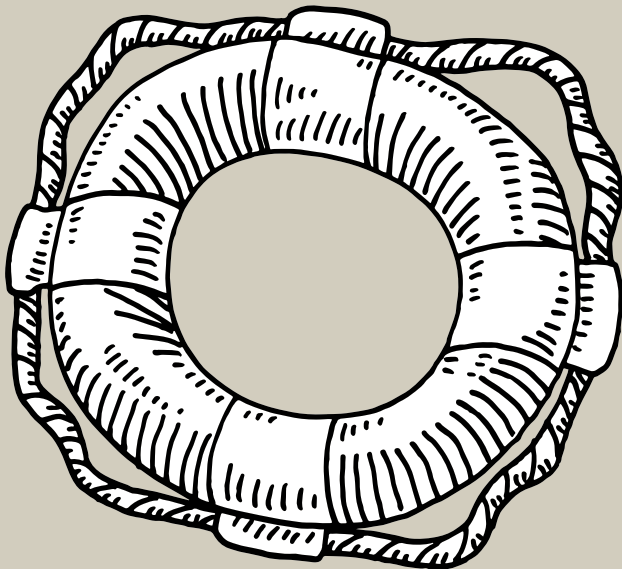
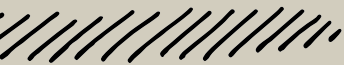
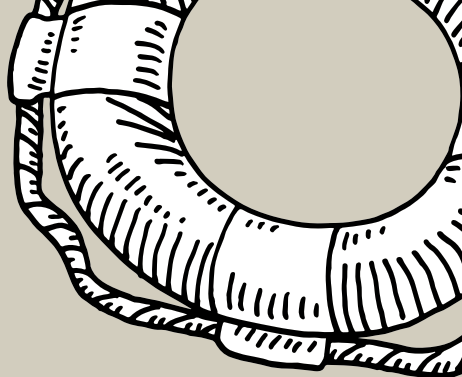
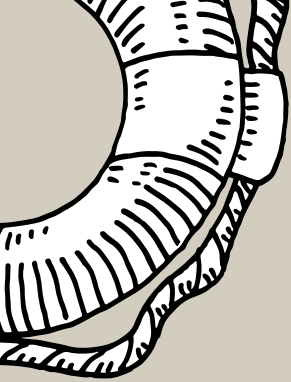
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Tragically, I've also lost at least one colleague to suicide. As difficult as the experience was, I learnt a lot about how important it can be to check in on people early, at the earliest signs that they might be in really acute distress.

- Thomas Spohr

”





Practical support

STEPHEN TANG, ANU LEGAL WORKSHOP

This guide has so far explored specific aspects of wellbeing and provided strategies in each chapter.

This chapter serves as a general reference on how and where to seek practical support for yourself or another person. It also addresses suicide, since it is the most significant consequence of poor mental health.



Where to seek support

24-HOUR CRISIS PUBLIC MENTAL HEALTH SERVICES AND THERAPIES

All life-threatening emergencies	000
Lifeline (crisis telephone counselling)	13 11 14
Lifeline for Lawyers	1800 085 062
WA Mental Health Emergency Response Line	1300 555 788

For other jurisdictions, see www.mentalhealthcommission.gov.au/get-help.aspx

These services are particularly appropriate if you or another person is experiencing a significant impairment in thinking or decision-making abilities.

The Mental Health Line facilitates entry into the public mental health system. The primary objective is to ensure the immediate safety of the person, but longer-term community-based support is also available through this service.

For more information, see Chapter 11.

Non-crisis mental health services and therapies

The following is a non-exhaustive list of some of the more commonly accessed mental health professionals and support services available in the community. More information about specific services is available in Chapter 11.

- General practitioner (GP):
 - GPs are a good initial port of call for support, especially if your GP knows you well. However, a GP appointment may not be sufficient to delve into the true source of your mental health concern.
 - GPs can assess symptoms in relation to your medical and family history and identify other possible medical causes for your mental state (for example, thyroid problems).
 - GPs also have an important role in referring you to other specialists and co-ordinating care.
 - GPs can also prescribe medications to help with mental health problems.
- Employee assistance programs (EAP):
 - Many organisations provide employees access to free short-term counselling facilitated by an external professional. EAP counsellors are adept at working with immediate problems and stressors (which are not necessarily work-related). The counsellor can help you understand the issue and offer practical guidance to improve wellbeing.

- EAP services are confidential.
- Sessions are often available after working hours or by telephone.
- EAP services are a good initial source of support for pressing issues and an effective gateway to other support services.
- Psychologists:
 - Psychologists are highly qualified mental health professionals who identify and treat mental health problems.
 - There are different specialisations:
 - Clinical psychologists have extensive training and experience in assessing and treating mental disorders.
 - Counselling psychologists specialise in helping people through dialogue, understanding and reflection.
 - Psychologists use evidence-based therapies tailored to the concern.
 - Psychologists are not medical professionals and cannot prescribe medication.
 - No referral from a GP is required to see a psychologist, but a referral will enable you to claim Medicare rebates. Private health insurance rebates may also be available under some plans once Medicare rebates have been exhausted.
- Psychology clinics:
 - A number of Australian universities run psychology clinics.
 - They offer low-cost psychological therapy by provisional psychologists (mainly clinical psychology master's and doctoral students).
 - Clinics are open to the public without a referral.
- Psychiatrists:
 - Psychiatrists are highly qualified medical specialists who have extensive training in mental health assessment and treatment.
 - As doctors, most psychiatrists adopt a predominantly medical approach and are often the responsible professional involved in prescribing medication.
 - A referral from a GP is required, but Medicare rebates are available.
- Online mental health services:
 - Online services offer free or low-cost assistance 24/7.
 - These services are an excellent starting point towards understanding problems and taking steps towards positive change.
 - They require persistence and motivation.
 - Many of these services are self-paced programs designed to inform you about a particular problem area (for example, anxiety or depression) and provide opportunities for reflective activities and strategies that encourage more beneficial ways of thinking, feeling, acting or relating.

- Online mental health services can also help to maintain progress and prevent future recurrence after ceasing other therapies.

Mental Health First Aid

While everyone is able to respond and provide assistance in the case of a mental health crisis, it is preferable that you have training and experience in identifying mental health problems, and have practised responding to mental health crises. All legal professionals should consider undertaking a Mental Health First Aid course to develop valuable and potentially life-saving skills. See www.mhfa.com.au for more information.

What to expect from mental health services and therapies

There are a variety of mental health services and therapies available to address immediate stressful situations, or deep-seated longer-term concerns.

- Preparation:
 - Being ready, willing and able to reach out and seek help is one of the most important determinants of successful change, but consider whether forcing yourself or another person to do something that they see no benefit in may cause more harm.
- What to expect:
 - Mental health services and therapies aim to improve your mental health and wellbeing by achieving particular goals. This may involve:
 - stopping unwanted behaviour or feelings
 - implementing strategies
 - continuing certain meaningful and helpful behaviour
 - identifying the values that drive you, or the obstacles that obstruct you
 - finding a way to make sense of your life story, and plan for a positive future
 - Mental health services and therapy do not:
 - provide “bandaid solutions” or mask symptoms without addressing the underlying cause
 - provide a cure that instantaneously treats a condition in one session
 - promote passive acceptance of systemic problems, injustice or trauma (for example, tolerating a toxic work environment).

SUICIDE

Suicide is the most fatal consequence of poor mental health. Unfortunately, more than 2,500 people commit suicide in Australia each year. However, there is no concrete evidence to suggest that the suicide rate is increasing in Australia.¹

Quick facts

- It is imprudent to make sweeping statements about the reasons why a specific suicide occurs, as each person's situation is very different.
- While the act of suicide may appear to be impulsive or unexpected, there is usually a longer history of distress that has built up to a perception that there is no other way out.
- While suicide is commonly associated with other mental health problems (especially depression), other factors are relevant, such as social factors, physical factors, illness, pain, disability, social isolation or a recent stressful event.

Helping yourself

If you are having thoughts of suicide, please consider these strategies:

- Have a conversation with someone who knows you well and tell them about how you're feeling. This can be a difficult thing to do, especially if you haven't mentioned these experiences and thoughts before. However, reaching out and connecting – and being heard – is by far the best way to reconnect with what's truly important and meaningful, even in the midst of distress.
- Make an appointment with your GP. A positive first step can be to make an appointment with your GP, who can refer you to highly skilled professionals. If you already have regular contact with a mental health professional, make an appointment to see them and tell them about how you are feeling. Family members, friends and people you trust can also be an excellent complementary source of support.
- An excellent way to connect with someone and talk through your experiences is to call a 24-hour telephone counselling service, like Lifeline (13 11 14) or the Suicide Call Back Service (1300 659 467). Having someone to talk to can help you make sense of what's going on.
- If you have a strong urge to do something to hurt yourself or someone else, make contact with a mental health crisis service (see above) or call 000. Try to remove yourself from any dangerous situations if it is safe to do so, and preferably with someone to help you. Remember, thoughts about ending your life or hurting yourself are just thoughts. You don't have to act on them and they will often pass within a short time.

Helping another person

- Early warning signs:
 - beyondblue has some excellent information about suicide prevention, and has identified the early warning signs pictured below.² Of course, not every one of these signs is a red flag. It is a matter of context, judgment and whether there are convergent signs and sources of evidence that give rise to concern.



Source: www.beyondblue.org.au/suicide

- It is easier to recognise suicide risk early in people you know well and have contact with regularly. This means you may be well placed to support friends and colleagues you see at work every day.
- Starting a conversation
 - If you have concerns about someone, start a conversation with them about how they are feeling:
 - This could include a question about suicidal intentions, based on your judgment.
 - It is a myth that asking about suicide makes it any more likely or gives people the idea when they might not have been thinking about it.

Asking directly about suicide – in a caring and empathic way – is known to reduce the person’s risk and make the person feel better. Similarly, expressing concern for another person does not make you weak or overly sensitive, nor does it make them appear weak or “crazy”.

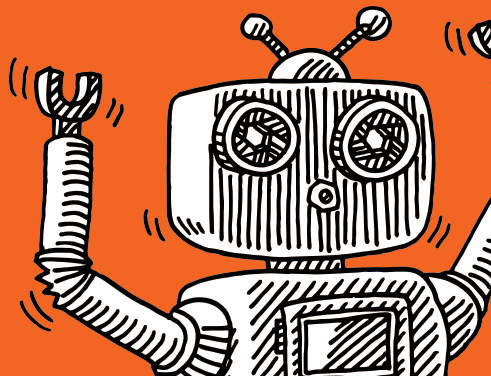
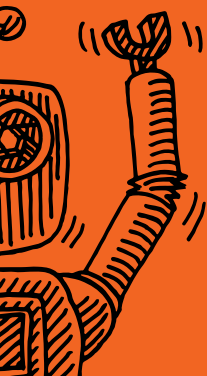
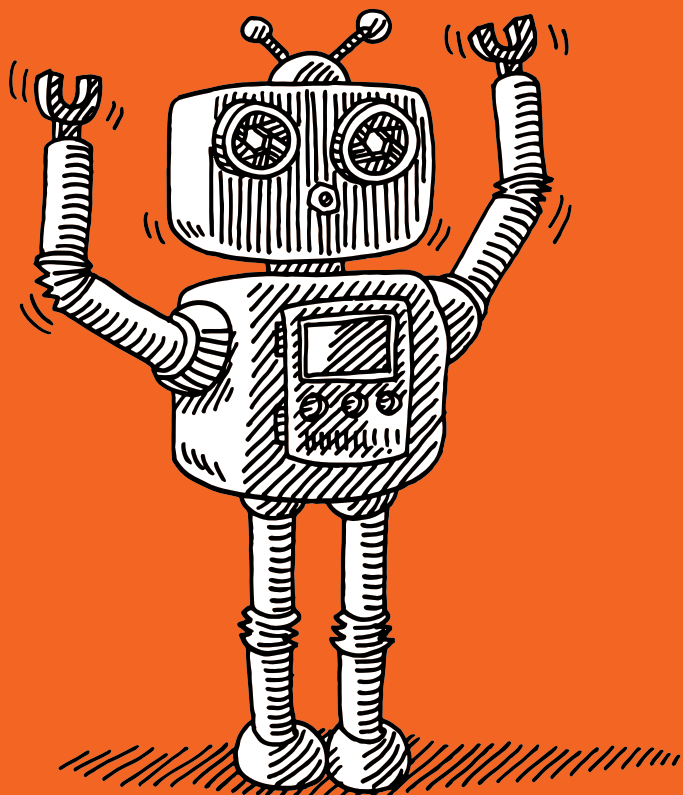
- Supporting and connecting:
 - If a person expresses an intention to harm themselves, spend time listening and understanding what they are going through:
 - Be calm and non-judgmental, and do not dismiss the person’s concern or argue back with reasons or solutions.
 - For lawyers, holding back from coming up with advice and answers and just “sitting with” difficult emotions and experiences is often the most difficult part of the conversation. Listen particularly for points of ambivalence about dying and gently emphasise the good things about staying alive, as well as the real possibility of a better and less painful future.
 - Seek the consent and participation of the other person as much as possible, and take problem-solving steps to move forward.
 - As part of the conversation, it may be helpful to ask if the person can identify other sources of support they can contact. This could be family members or friends, or it may be a doctor, mental health professional or another helper. It could also involve making initial contact with a telephone or in-person support service.
- Looking after yourself:
 - Helping someone when they are suicidal can be difficult and distressing. It is important to know your own limits and not go beyond what you can reasonably do. Your presence and willingness to listen to the person is the most valuable thing you can offer, but you are part of a system of supports and help. It may be helpful for you to talk through your own experiences with a trusted friend or family member, or a professional.

Remember, the state of your mental health is never fixed or inevitable – where there is help, there is always hope.

Endnotes

¹ www.mindframe-media.info/for-media/reporting-suicide/facts-and-stats

² www.beyondblue.org.au/the-facts/suicide-prevention/worried-about-suicide/what-are-the-warning-signs



Lawyers and the future

MARGIE ROWE, ANU LEGAL WORKSHOP

This chapter considers some of the ways in which legal practice is changing, and how this change relates to lawyers' wellbeing.

THE NEW LEGAL LANDSCAPE

The wellbeing of law students and new lawyers entering the profession has been impacted by the economic downturn and changes in the legal market:

- The number of new lawyers entering the profession has exceeded available jobs.
- Clerkships and graduate programs and have reduced their intakes.
- Articles abound with titles such as “Lawyers to be replaced by robots”.

New lawyers are facing difficulty trying to “get their foot in the door”. There is a sense that their long years at university are not going to translate into the legal career they envisaged.

Law schools (and TV programs!) can shape the vision new lawyers have of the profession. Neither have caught up with how the profession is changing and instead focus on a more traditional model of lawyering. On the other hand, prominent voices such as Richard Susskind¹ describe legal work “disrupted” by new technologies to the extent that the role of the lawyer in “new law” is almost unrecognisable. So what does the legal landscape hold for the new lawyer?

TECHNOLOGY AND NEW LEGAL ROLES

- Technology is now transforming the process and basic research work that used to be the training ground of new lawyers.
- New legal roles will capitalise on the technological familiarity common to most new lawyers, who are:
 - fast and efficient legal researchers, quickly able to identify and navigate large and sophisticated knowledge databases
 - able to use technology to maximise their efficiency, enabling their firm to provide services at a competitive rate yet still make a profit.
- Many see these changes as positive, allowing lawyers to focus on their core skill of problem-solving.
- Technology can improve lawyers’ capacity to provide consistent, comprehensive and tailored solutions using expert systems.
- Legal practice structures are already embracing “virtual” firms.

NEW LEGAL ROLES: ACCESS TO JUSTICE

Many law students begin their degrees wanting to make a difference and help people who need legal advice but can’t afford it, or who are disadvantaged or vulnerable. Lawyers have a new role in developing non-traditional pathways for clients to access the law, including:

- online DIY services such as the Family Court’s Divorce Service Kit and the Victorian courts’ online short films about appearing in court

- unbundled services and the capacity to buy necessary documents and targeted advice
- online dispute resolution services, such as Ebay's Resolution Centre
- online platforms and apps to make a will or find out what penalty applies in a DUI case (for example, Greatwill and Pocket Lawyer)
- e-conveyancing, and e-filing in court.

New legal roles are also emerging that are not connected to technology but driven by access to justice considerations, for example:

- The Grange P-12 College in Victoria has hired a school lawyer to advise and represent students and parents in family and criminal law.
- The County Court of Victoria has a "self-represented litigant coordinator" to deal with the growing number of people engaging in costly civil matters.

ROBOTS AND RELATIONSHIPS

- The Ross computer, using the supercomputing power of IBM Watson, has been described as "the world's first artificially intelligent attorney"² with the capacity to undertake substantive legal work.
- However, lawyers will always have an important role in developing relationships with clients, and this may become a more prominent part of a lawyer's role with research finding that clients value professionalism, reliability and friendliness more than expertise.
- While we might tap into machines for data management and analysis, lawyers will be freed up to build relationships with clients, understand clients' businesses, solve problems and advise.

“

... prominent voices such as Richard Susskind¹ describe legal work 'disrupted' by new technologies to the extent that the role of the lawyer in 'new law' is almost unrecognisable.

”

WHAT ARE THE ATTRIBUTES OF THE LAWYER OF THE FUTURE?

A mixture of some of the following skills and attributes will stand tomorrow's lawyers in good stead:

- legal knowledge and skills
- technological savvy
- creative problem-solving abilities
- multidisciplinary knowledge and skills (especially law and technology qualifications)
- the capacity to use and understand technology in the context of legal practice and accessing justice
- the ability to work in multidisciplinary teams
- legal project management skills
- legal knowledge management skills
- the capacity to develop and navigate knowledge databases
- relational skills (clear communication and professionalism)
- business skills.

FIXED FEES AND OTHER NEW BILLING MODELS

- The tyranny of the six-minute unit and billing practices that reward time rather than achievement have been the subject of much criticism in relation to their impact on lawyers' wellbeing. According to High Court Justice Virginia Bell in her keynote to the Tristan Jepson Memorial Foundation³, research shows time billing:
 - damages lawyers' wellbeing, a view shared by judicial colleagues
 - imposes unrealistic deadlines and demands
 - is a blunt management tool, rewarding inefficiency and distracting lawyers from the more satisfying aspects of practising law.
- Many of the leading legal innovators are moving away from billable hours.
- Fixed-fee and value-based billing are the most common alternatives to time billing.

POSITIVE IMPACTS ON LAWYERS' WELLBEING

Earlier chapters of this guide identified the following factors as promoting wellbeing:

- autonomy over your work – balanced with supervision
- competence – a sense of developing professionally, and becoming confident in your work
- relatedness – having connections within your work sphere
- values – your values aligning with those of your workplace
- mindfulness – improving focus and resilience.

Technological and legal practice changes have had positive effects on these factors:

- These changes have reduced the process, repetitive, low-quality aspects of traditional legal work, and have increased opportunities for more interesting and challenging legal work.
- They have increased the incentive to be creative in problem-solving for clients and – in the absence of time billing – to find efficiencies and creative solutions that benefit both the lawyer and the client.
- They have increased the amount of purposeful work, using particular legal skills and better aligning the values and ideals many lawyers have when they commence their studies with their expectations when they commence practice.
- Technology expedites the development of competence by providing better quality control; consistency when gathering relevant information; and enhanced, correct and comprehensive advice.
- Using technology, lawyers are doing more with less. They can now establish their own smaller or boutique firms with access to databases of precedents and legal information, which was financially prohibitive or impossible in the past. They can choose the work they do, and how they do it: *“You’re quite restricted in the larger firms in terms of the pathway to partnership ... So a lot of lawyers are now saying, ‘You know what? It’s just not worth it’. With technology, you can go and set up your own business, make a name for yourself and do financially better.”*⁴
- Lawyers working for themselves or in smaller firms achieve a high level of autonomy – and the ability to conduct legal practice according to their values and aspirations. But this need not be a lonely endeavour – with social networking and multidisciplinary practices providing the relatedness needed to promote wellbeing.
- In larger firms, multidisciplinary teams of lawyers, technologists and other experts manage complex litigation and transactions that involve large volumes of data, documents and information – this would be impossible without technology, and a team approach. Lawyers work more commonly in teams now, where in the past they worked much more on their own.
- Lawyers have increasing autonomy and flexibility. New practice models enable lawyers to work online as part of a central hub, choosing which work to accept, when they will work and where they will work from. This model may help retain women lawyers⁵ and provide sustainable work practices for lawyers with family or who want time to pursue sports, hobbies or other interests.

CHANGE, UNCERTAINTY AND WELLBEING – CONNECTING THE DOTS

Change, while exciting, brings uncertainty. Learning to deal with change and uncertainty, and to be adaptive, are key challenges for new lawyers (see Chapter 5). Having an understanding of the way in which legal practice is diversifying empowers you to make strategic decisions about your career. New lawyers should consider the aspects of legal practice that most interest and suit them.

The way a new lawyer responds to change can influence their wellbeing. We can recognise uncertainty as an essential resource for wellbeing and professionalism; it is no cause for apprehension. In fact, we can “use the cues of uncertainty to foster inquiry, discovery, learning, good judgment and self-regulation and care”.⁶

So the future is upon us and the final word should go to Susskind, who urges new lawyers to “Celebrate access to justice and draw upon your creative and entrepreneurial talents to find other ways that your legal knowledge and experience can bring unique value to your clients ... Here is the great excitement for tomorrow’s lawyers to be involved in shaping the next generation of legal services.”⁷

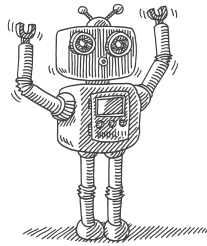
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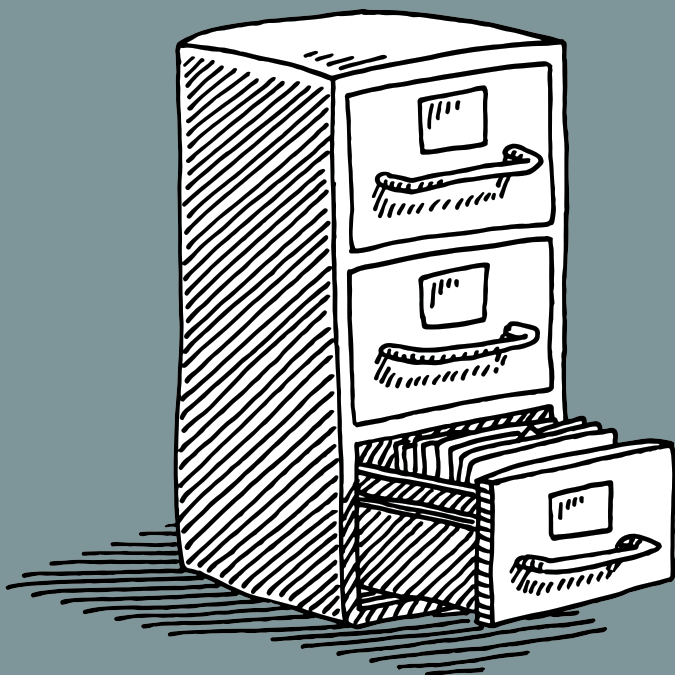
- ¹ Richard Susskind, *Tomorrow’s Lawyers* (Oxford University Press, 2013); Richard Susskind, *The End of Lawyers* (Oxford University Press, 2008).
- ² fortune.com/2016/05/12/robot-lawyer
- ³ Justice Virginia Bell, ‘Keynote address’ (Presented at Tristan Jepson Memorial Foundation Annual Lecture, 23 October 2014) <www.tjmf.org.au/2014/11/resource-2014-tristan-jepson-memorial-foundation-annual-lecture>.
- ⁴ Misa Han, ‘The millennial strategy for coping with too many lawyers’, *Financial Review*, 11 August 2016.
- ⁵ *National Attrition and Re-engagement Study (NARS) Report* (Law Council of Australia, 2014).
- ⁶ Tony Foley and Stephen Tang, ‘On Being, Not Just Thinking Like, a Lawyer: Connections Between Uncertainty, Ignorance and Wellbeing’ in Rachael Field, James Duffy and Colin James (eds), *Promoting Law Student and Lawyer Well-Being in Australia and Beyond* (Ashgate, 2016).
- ⁷ Richard Susskind, *Tomorrow’s Lawyers* (Oxford University Press, 2013); Richard Susskind, *The End of Lawyers* (Oxford University Press, 2008).

“

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”





Resources

This chapter features a comprehensive list of support services for yourself, family members and colleagues.

WESTERN AUSTRALIA

LawCare WA

Membership of the Law Society provides complimentary access to LawCare WA to help members manage their career, life, health and wellbeing.

LawCare WA supports wellbeing and resilience through access to:

- Member assistance programme - This programme offers independent and confidential professional counselling to support your wellbeing in the workplace and in your personal life. LawCare WA provides up to three free sessions per membership year.
- Employee relations advice line - LawCare WA offers a free confidential telephone advice service to members on personal matters relating to a range of human resources and employee relations issues including*: Wage rates, Award and agreement interpretation, Performance management and termination, Equal opportunity, bullying and harassment, Employee minimum entitlements and Unfair dismissals
- Senior Advisors Panel for ethical advice - The Senior Advisors Panel provides practitioners with access to experienced colleagues. Members of the Panel have indicated their willingness to be available to discuss professional conduct and ethical issues. All discussions are conducted on a confidential basis.
- Health and wellbeing events and member privileges
- Career advice
- Mentoring

T: 1300 687 327

W: www.lawsocietywa.asn.au/lawcare-wa

Western Australian Bar Association Referral Service

For assistance with complaints to the Legal Profession Complaints Committee

The Western Australian Bar Association (WABA) Referral Service was established by the WABA to provide advice to practitioners who are the subject of complaint to the Legal Profession Complaints Committee (LPCC) and the State Administrative Tribunal.

T: (08) 9220 0477

W: www.lawsocietywa.asn.au/lawcare-wa/#practitioners-advice-referral-service

R U OK? at Law

R U OK? and 18 law firms came together to develop “Look Deeper” and encourage these professionals to trust their instinct and start a conversation with someone they’re worried about.

W: www.ruok.org.au/every-day-resources

NATIONAL

beyondblue

beyondblue provides comprehensive information on depression and anxiety confidentially, with a trained mental health professional available 24/7/365. beyondblue also provides a national listing of health practitioners with an interest in or expertise in the treatment of depression and anxiety. beyondblue also offers free mental health training programs. The Business in Mind program provides owners and managers of small and medium-sized businesses with a free DVD resource kit to help them better manage mental health problems in the workplace.

T: 1300 22 4636

W: www.beyondblue.org.au

Centre for Corporate Health

Recognised as the leading experts in building resilient workplaces, the Centre's expertise is drawn from thousands of psychological assessments. This in-depth knowledge has enabled them to develop a practical methodology for building organisational cultures where people flourish, productivity is increased and stress is minimised.

T: 02 8243 1500

W: www.cfch.com.au

SANE

SANE provides answers about mental illness and related topics, as well as fact sheets about mental illness, treatments and support. Access is available to the general public through the website. Questions are usually answered within three working days. SANE provides a free, confidential helpline service for information and referral only. 9am – 5pm (AEST) weekdays.

T: 1800 187 263 (free)

W: www.sane.org

Suicide Call Back Service

The SCBS offers telephone and online assistance to people who are suicidal, bereaved by suicide or caring for someone who is suicidal. Telephone assistance is available 24/7/365. They also provide video counselling.

T: 1300 659 467

W: www.suicidcallbackservice.org.au

Lifeline Crisis Chat

Lifeline Crisis Chat provides real-time, confidential one-to-one chat with a Lifeline Online Crisis Supporter, giving short-term support to people who are overwhelmed and having difficulty coping or staying safe. Live chat is available online from 7pm – 4am (AEST), seven days a week.

W: www.lifeline.org.au/Get-Help/Online-Services/crisis-chat

Lifeline Suicide Prevention

Lifeline Suicide Prevention is a telephone service run by trained volunteers for anyone experiencing a personal crisis or suicidal ideation. Lifeline offers support and referrals, and is available 24/7/365.

T: 131 114

W: www.lifeline.org.au/crisischat

ReachOut

ReachOut provides online crisis and mental health information for young people between 14 and 25 years.

W: au.reachout.com

Relationships Australia

Relationships Australia provides relationship support services for individuals, families and communities. They offer counselling, mediation and a range of education programs.

T: 1300 367 277

W: www.relationships.org.au

eheadspace

eheadspace provides a confidential, free, secure service where people between 12 and 25 years can chat to, email or telephone youth mental health professionals. Available 24/7/365.

T: 1800 650 890

W: www.eheadspace.org.au

Black Dog Institute

The Black Dog Institute provides up-to-date information about community programs, getting help, and clinical research on depression and bipolar disorder. The Black Dog Institute also provides a self-help checklist. Their website features a host of resources and links.

W: www.blackdoginstitute.org.au

The Keys to Me

The Keys to Me delivers the latest in neuroscience to equip workers with knowledge that allows for fast, effective stress management, improved focus and overall psychological wellbeing.

E: info@thekeystome.com.au

W: www.keystome.com.au

MensLine Australia

MensLine Australia provides confidential information and referral services to men with family and relationship concerns, through telephone and online support from professional counsellors experienced in men's issues. Available 24/7/365.

T: 1300 789 978

W: www.mensline.org.au

Mental Health First Aid

Mental Health First Aid is “The initial assistance provided to a person developing a mental health problem or experiencing a mental health crisis, until appropriate professional help is received or the crisis resolves”. In MHFA courses, participants learn how to prevent the situation from deteriorating, and how to promote help-seeking behaviour and recovery, by applying the MHFA Action Plan.

T: 03 9079 0200

W: www.mhfa.com.au

R U OK?

As lawyers, you have the skills and instinct to look deeper. To help you apply that talent to conversations with colleagues who say “I’m fine” – even though your gut says they’re not – suicide prevention charity R U OK? invites you to get behind the Look Deeper campaign. Use the posters, postcards, and video and email content to inspire your colleagues to look deeper and support one another at work. For more information, visit lookdeeper.org.au.

W: www.ruok.org.au

Get Healthy at Work

Get Healthy at Work is a free NSW Government workplace health service that aims to help improve the health of working adults by giving workplaces tools and support.

W: www.gethealthyatwork.com.au

Tristan Jepson Memorial Foundation

The Tristan Jepson Memorial Foundation is an independent, volunteer-run charitable organisation.

The Foundation's objective is to decrease work-related psychological ill-health in the legal community and to promote workplace psychological health and safety. The Guidelines at a glance: www.tjmf.org.au/raise-the-standard/the-guidelines-at-a-glance

W: www.tjmf.org.au

Mental Health Line

The Mental Health Line provides 24-hour mental health connection and referral services and is staffed by mental health professionals.

T: 1800 011 511

W: www.nnswlhd.health.nsw.gov.au

Salvo Care Line

Salvo Care Line is the Salvation Army's 24-hour telephone counselling service. Trained Christian telephone counsellors are available to listen, assist you and provide appropriate referrals from an extensive national database.

T: 1300 363 622

Family Relationship Advice Line

Assists families affected by relationship or separation issues. The Advice Line provides information on family relationship issues and advice on parenting arrangements after separation. It can also refer callers to local services that can provide assistance.

T: 1800 050 321

Domestic Violence Line

Provides telephone counselling, information and referrals for people who are experiencing or have experienced domestic violence. Trained female case workers are sensitive to the needs of the people who call and are aware of the special needs of Aboriginal women and women from other cultures, as well as those living in rural and remote areas.

T: 1800 656 463

PANDA

PANDA provides confidential information, support and referrals to anyone affected by depression and anxiety during pregnancy and after childbirth (perinatal depression and anxiety) - including partners, family and friends.

T: 1300 726 306

STATES AND TERRITORIES

QUEENSLAND

LawCare

LawCare is a Queensland Law Society (QLS) member benefit and is part of the "Love Law, Live Life" program promoting resilience and wellbeing resources for QLS members.

W: www.lsc.qld.gov.au/___data/assets/pdf_file/0013/106303/lawcare-leader-guide.pdf

VICTORIA

Vic Lawyers' Health

The Law Institute of Victoria (LIV) provides confidential, independent, professional counselling assistance. The service is available to all LIV members in Victoria.

W: www.viclawyershealth.com.au

Health Crisis Counselling Service

The Victorian Bar (with Re-Vision Group psychologists) provides confidential counselling to members and their immediate family.

T: (03) 9650 5540

SOUTH AUSTRALIA

LawCare

The Law Society of South Australia provides the LawCare service for members and their families. An experienced general practitioner, who has experience in treating social and psychological problems, is available for confidential consultations in relation to any problem that is interfering with, or has the opportunity to interfere with, work performance.

W: www.lawsocietysa.asn.au

The Law Society

The Law Society of South Australia provides free, professional, confidential counselling and information services to support members. Access is available to the general public through the website.

W: www.lawsocietysa.asn.au

NEW SOUTH WALES

BarCare

The NSW Bar association provides NSW barristers and immediate family confidential advice, counselling, follow-up services and treatments.

T: 02 9331 3872

W: www.barcare.org

Lawyers Assistance Program

A free and confidential practice advice service for solicitors experiencing practice management issues. By contacting LAP, you initially speak in confidence with a trained co-ordinator, who is also an experienced solicitor.

In addition to offering a sympathetic yet impartial ear, the co-ordinator may also point you in the direction of suitable counsellors, agencies or schemes such as LawCare for further assistance.

T: 1800 777 662

E: info@lap.com.au

Lifeline for Lawyers

The Law Society of New South Wales has engaged the services of Lifeline to provide members with an additional support service for both personal and work-related issues. Lifeline for Lawyers offers members access to a confidential 24-hour telephone crisis support service for individuals experiencing emotional and psychological distress.

T: 1800 085 062 or online, every night from 8pm - 4am (AEST)

W: www.lifeline.org.au/crisischat

The Law Society of New South Wales

The Law Society of New South Wales provides a comprehensive guide to mental health and wellbeing resources for law students, lawyers and family members within New South Wales. Access is available to the general public through the website. The Law Society also advertises the Senior Solicitors Scheme (which provides confidential assistance to solicitors who are the subject of a complaint with the Legal Services Commissioner) and the Solicitors Benevolent Association (which provides financial assistance to solicitors, former solicitors and their immediate family, surviving spouses or dependants).

The Law Society's wellbeing seminar series can help you recognise and understand the challenges that lead to poor mental health, poor decisions and poor outcomes. It also offers strategies to help you effectively manage the pressures of practice and your responses to challenging situations, and improve your communication skills.

W: www.lawsociety.com.au/ForSolicitors/professionalsupport/supportingyou/Wellbeing/index.htm

The *LSJ* publishes regular articles on stress and wellbeing issues. You can access these by searching the Journal Archive using terms such as "stress", "lawcare" and depression.

W: www.lawsociety.com.au/ForSolicitors/SmallPracticePortal/index.htm

NSW Young Lawyers

Wellbeing Working Group

The Wellbeing Working Group was formed by the NSW Young Lawyers Executive Council to address, support and encourage the health and wellbeing of young lawyers. Find out about activities, articles and events in the wellbeing space.

W: www.lawsociety.com.au/about/YoungLawyers/Committees/WellbeingWorkingGroup/index.htm

TASMANIA

LawCare

The Law Society of Tasmania provides confidential counselling services to members.

W: www.lst.org.au/practice-resources/members-benefits/law-care/

NORTHERN TERRITORY

LawCare

The Law Society funds a professional, confidential and free counselling service for members and their immediate family, provided through Employee Assistance Service Australia (EASA).

If you are experiencing workplace, personal or emotional issues that are affecting your work or personal life, please call LawCare via the Employee Assistance Program 24-hour support line on 1800 193 123.

W: www.easa.org.au

The Law Society

The Law Society of the Northern Territory provides a comprehensive guide to mental health and wellbeing resources for law students, lawyers and family members within the Northern Territory. Access is available to the general public through the website.

W: www.lawsocietynt.asn.au

AUSTRALIAN CAPITAL TERRITORY BarCare

The ACT Bar Association provides members with an independent panel of counsellors who can be contacted independently for free confidential consultation services. The ACT Bar Association will pay for the first session (for all current practising barristers in the ACT).

W: actbar.com.au/bar-care

STUDENTS

ALSA Wellbeing Guide

Invaluable to any law student, from those embarking on their first year to the seasoned alumnus returning to academia.

W: beyondlaw.com.au/news/103-2015-alsa-wellbeing-guide

TED TALKS

- Brene Brown – The power of vulnerability
- Nigel Marsh – How to make worklife balance work
- Dan Gilbert – Why we are happy
- Matthieu Ricard – The habits of happiness
- Philip Zimbardo – A healthy take on time

FURTHER RESOURCES

From Chapter 3

- Barbara Fredrickson – Broaden and Build theory – <https://positivepsychologyprogram.com/broaden-build-theory>
- Psychological Strengths – VIA – www.viacharacter.org
- Self-Determination Theory – SDT – <https://positivepsychologyprogram.com/>

self-determination-theory-2

- Carol S Dweck – *Mindset* (2012) – on having a growth or fixed mindset
- Kelly McGonigal – *The Willpower Instinct* (2012) – on the benefits of meditation
- Stephen Guise – *Mini Habits* (2013) – on habit change

From Chapter 6

- Centre for Clinical Interventions, ‘Unhelpful Thinking Styles’, *Back from the Blue*, www.cci.health.wa.gov.au/docs/BB-5-Unhelpful%20Thinking%20Styles.pdf.
- Kennon M Sheldon and Lawrence S Krieger, ‘Walking the Talk: Value Importance, Value Enactment, and Well-Being’ (2014) 38 *Motivation and Emotion* 609.
- Lawrence S Krieger, ‘The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness’ (2004) 11 *Clinical Law Review* 425.
- Lawrence S Krieger and Kennon M Sheldon, ‘What Makes Lawyers Happy?: A Data Driven Prescription to Redefine Professional Success’ (2014) 83 *George Washington Law Review* 554.
- Mary Gentile, *Giving Voice to Values* (2009).
- University of Texas, McCombs School of Business, *Ethics Unwrapped: Giving Voice to Values* video series, <http://ethicsunwrapped.utexas.edu/series/giving-voice-to-values>.

From Chapter 10

- The Law Society of New South Wales Commission of Inquiry, *The Future of Law and Innovation in the Profession (FLIP)*, <https://www.lawsociety.com.au/ForSolicitors/Education/ThoughtLeadership/flip/VideoLibrary/index.htm>.
- Scott Chamberlain, Senior Lecturer, ANU Legal Workshop, presentation to Master in Legal Practice course.

Wellbeing thermometer – response cheat sheet

What should I look out for in people whose wellbeing concerns me?

1. feeling hopeless and helpless
2. being socially isolated
3. having a recent traumatic event such as a death of someone close, illness, loss of job or breakdown of relationship
4. making a previous suicide attempt
5. knowing someone who has committed suicide
6. having a mental illness
7. behaving in a reckless manner – drinking, drugs or reckless behaviour

Source: SANE Australia website

What should I do if someone approaches me and seems depressed or suicidal?

1. Stop what you are doing! Close the door if it is appropriate or go into a meeting room. Sometimes just knowing someone cares can be reassuring.
2. They have come to you because they trust you, so listen to them carefully and tell them you are concerned and you are there to help them.
3. Encourage them to get help – this can involve suggesting you go with them to speak to HR or a partner or helping them call LawCare WA on 1300 687 327 (this service is available toll-free, 24/7).
4. Encourage them to postpone any decisions and not do anything drastic.

5. If you're not sure what to say, you might try saying "I'm worried about you – how do you feel?"
6. It is okay to ask them if they are thinking about suicide – this will help them talk about feelings and plans (which is the first step to getting help).
7. Tell someone (an HR manager or a partner you trust) in the first instance – do not keep it to yourself.

LOOK AFTER YOU! Remember that even though you can offer support, you are not responsible for the actions of someone else. Ultimately, you can't control what they decide to do.

What not to say to someone who tells you they are suicidal

- "How could you think of suicide? Your life is not that bad."
- "Your problems aren't as bad as some other people's problems."
- "Suicide is selfish."
- "Suicide is cowardly."
- "I will be devastated."
- "You don't mean that. You don't really want to die."
- "You have so much to live for."
- "Things could be worse."
- "Suicide is a permanent solution to a temporary problem."
- "You'll go to hell if you commit suicide."

Source: Stacey Freedenthal, '10 things not to say to a suicidal person', *Speaking of Suicide*, 3 March 2015.





The ANU research on wellbeing referred to in this guide is ongoing. The research will, from time to time, engage in online surveys and telephone or face to face interviews with lawyers.

You are encouraged to assist with further research by participating in future surveys or interviews. Please email tony.foley@anu.edu.au so that you can be contacted about future research. Your contact with us and all information will be kept confidential.

You can read about the results of past research in the following publications:

- > **'What makes for a happy, healthy, ethical lawyer? How do we help our junior lawyers thrive?'** (Tony Foley, Vivien Holmes, Stephen Tang and Margie Rowe) *Law institute Journal* August 2015
- > Vivien Holmes, **'Giving voice to values: Enhancing students' capacity to cope with ethical challenges in legal practice'** (2015) 18(2) *Legal Ethics* 115-137
- > **'Practising professionalism: Observations from an empirical study of new Australian lawyers'** *Legal Ethics*, Vol. 15, No. 1, 2012 (Vivien Holmes, Tony Foley, Stephen Tang, Margie Rowe, ANU) papers.ssrn.com/sol3/papers.cfm?abstract_id=1957909
- > **'Teaching professionalism in legal clinic – What new practitioners say is important'** *International Journal of Clinical Legal Education*, Vol. 17, 2012 (Tony Foley, Margie Rowe, Stephen Tang, ANU) papers.ssrn.com/sol3/papers.cfm?abstract_id=2025708
- > **'A puppy lawyer is not just for Christmas: Helping new lawyers successfully make the transition to professional practice'** ANU College of Law Research Paper 2011 (Tony Foley, Vivien Holmes, Margie Rowe and Stephen Tang, ANU) papers.ssrn.com/sol3/papers.cfm?abstract_id=1956348