



**LAW
INSTITUTE
VICTORIA**

MENTAL HEALTH AND THE LEGAL PROFESSION: **A PREVENTATIVE STRATEGY**

EXECUTIVE SUMMARY



Legal Services **BOARD**

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Background

Since 2007,¹ there has been growing awareness in the Australian legal profession that lawyers are more likely than the general population to experience depression and anxiety.² Most significantly, the Brain and Mind Research Institute reported in 2009 that almost a third of solicitors and one in five barristers surveyed suffered from clinical depression.³

A major finding of the 2009 Brain and Mind Study was that assisting law students and lawyers with psychological distress is a task for legal and educational communities, not just the individuals experiencing psychological distress.⁴ Now, in 2014, it is generally accepted that lawyer mental wellbeing is an industry and profession-wide issue requiring action by professional associations like the Law Institute of Victoria (LIV).

In late 2011, the LIV obtained funding from the Legal Services Board for the Mental Health and the Legal Profession project (the project), comprising three activities:

- a) To operate a pilot health and wellbeing service providing independent and confidential services for lawyers, now known as the Vic Lawyers' Health Line;⁵
- b) To undertake a literature review on lawyer personality traits and the susceptibilities towards particular forms of psychological distress; and
- c) To scope out options for an ongoing lawyers' health program.

This Executive Summary provides an overview of the LIV's proposals for the introduction of a preventative health and wellbeing strategy for the Victorian legal community, based on the outcomes of the project. The Final Report, and more information about the project, is available at <http://www.liv.asn.au/For-Lawyers/Submissions-and-LIV-projects/Health-and-Wellbeing>

1 Beyond Blue: The National Depression Initiative, *Annual Professions Survey: Research Summary*, April 2007.

2 For an overview of the major depressive illnesses and anxiety disorders, see <http://www.beyondblue.org.au/the-facts>.

3 See Kelk, Norm, Georgina Luscombe, Sharon Medlow and Ian Hickie (2009), *Courting the blues: Attitudes towards depression in Australian law students and legal practitioners*, Sydney: Brain & Mind Research Institute, University of Sydney (the Brain and Mind Study).

4 Brain and Mind Study, *ibid*, p.48.

5 See www.viclawyershealth.com.au

Why a Victorian legal community health and wellbeing strategy?

This Victorian legal community health and wellbeing strategy seeks to address:

- the stressful nature of working as a lawyer (including work culture and environments and the risk of vicarious trauma in some areas of law);
- the need for profession-wide responsibility for a profession-wide issue; and
- the importance of access to appropriate services, regardless of where a lawyer works.

Improving levels of wellness and wellbeing across the legal community will have benefits to employers, employees and the profession by:

- improving productivity and reducing costs to employers;⁶
- safeguarding professional responsibility;
- improving personal wellbeing for individuals and their families; and
- advancing the administration of justice.

The strategy provides a framework for health and wellbeing programs and initiatives across the Victorian legal community and sets out detailed recommendations for implementation.

6 Including WorkCover claims, WorkCover premium increases, salary continuance insurance premiums and claims, TPD insurance premiums (if not covered through superannuation), lost productivity through under-performing employees and replacing employees lost long term to depression and other mental illness.

What are we proposing?

The recommendations in this report call for the implementation of a legal community health and wellbeing strategy that targets:

- systemic and work environment issues;
- potential individual risk factors for becoming unwell;
- early detection and intervention; and
- relieving the impact of mental illness.

To achieve these objectives, the report recommends establishing programs that:

- create a forum for health promotion research and policy development in the legal profession, focusing on creating healthy working environments and working closely with stakeholders across the legal community, to achieve cultural change;
- raise awareness about wellbeing and risk factors for becoming unwell and assist individuals and their immediate networks to understand how and when to seek assistance;
- provide LIV members access to 24 hour telephone counselling services;
- enable peer support by connecting those experiencing depression, anxiety, alcohol and substance abuse disorders with mentors and peers with similar experiences; and
- provide access to tailored individual health assessments and referrals to facilitate access to the most appropriate programs and treatment, depending on individual needs.

The proposed programs are not intended to replace existing employer and organisational programs, but to be complementary. Their primary objective is to drive cultural change in the profession, and provide access to tailored health and wellbeing services across the diversity of the legal community.

An important focus for the LIV during the project has been to examine ways to prevent serious mental health issues from developing in lawyers. The hope is that, over time, a focus on prevention will reduce the incidence of depression and anxiety among lawyers.

A focus on prevention means understanding the health risks associated with legal practice. The strategy recommends exploring partnerships with the insurance industry to identify and address those risks and to develop a tailored insurance strategy.

What is the basis for our proposals?

The LIV has considered a number of options to establish a preventative health strategy for the Victorian legal community, based on a comparative study of legal and medical profession health programs and feedback obtained during consultations with health professionals and stakeholders in the legal community.

The LIV's research focused on health and wellbeing initiatives in the legal professions in Australia, New Zealand, USA, Canada and the UK, reflecting their shared common law heritage, and the medical professions in Australia, Canada, USA and the UK. Medical profession programs were examined because of the many similarities between regulation of the legal and medical professions (including accreditation of initial training, legislative control of admission to the profession and certification by the individual of their fitness to practise for annual renewal of the right to practise), with the issue of fitness to practise being key to the similarities between the legal and medical professions in terms of regulation and managing mental health and substance abuse problems.⁷

Six different models of profession health programs were identified in the research:

1. Triage and referral service with no regulatory interface
2. Peer support model
3. Triage and referral service with regulatory interface
4. Diversionary model
5. Treatment model
6. Diversionary and/or treatment

The preventative health and wellbeing programs recommended in this report are based on a hybrid triage and referral service (with no regulatory interface) and peer support model, combining the strengths of various existing health programs and tailoring those to the Victorian legal community experience. The strategy also proposes a significant new health promotion program, acknowledging that legal and workplace culture have a significant role to play in creating healthy working environments for lawyers.

This report recommends that health and wellbeing strategy objectives be delivered by different organisations. Programs driving cultural and behavioural change across the legal profession require a profession-wide approach and this report recommends that the Wellbeing and the Law Foundation (WATL) implement a 'wellbeing in the law' program with a significant focus on health promotion and addressing individual risk factors. Programs delivering services directly to individual members of the LIV should be managed by the LIV (outsourced where appropriate) for LIV members. Employers, universities, the Victorian Bar and other organisations will continue to develop and run their own programs for their own members, students and employees.

⁷ Research on professions partially regulated by the state, including auditors, and self-regulated professions including engineers and accountants, suggested that health programs have not been developed.

What are the key features of the proposed programs?

WATL wellbeing in the law program

- The recently established independent charitable organisation would champion a whole of profession approach to wellbeing in the legal community.
- The primary focus would be on promoting mental health and wellbeing and managing depression and anxiety within the legal community, drawing recognition to the fact that anxiety and depression, along with other mental illnesses are health issues, not matters of professional failing.
- Health promotion strategies would recognise the responsibilities of individual lawyers, their close network of family and friends, employers, educational institutions and jurisdictional stakeholders, with a particular focus on systemic legal and work culture and environments.
- It would be a centre for knowledge and expertise on lawyer health and wellbeing with support across the Victorian legal community.

LIV “wellness at work” program would provide:

- 24 hour telephone helpline for LIV members, providing expert guidance and support for lawyers and PLT students experiencing stress and/or possible symptoms of depression and anxiety when it is needed most;
- subject to funding, a tailored assessment and referral service allowing 1 - 1.5 hour appointments for development of an individual plan and following through with referrals to a network of mental health service providers with a range of treatment offerings;
- independence and confidentiality by outsourcing services to appropriate mental health experts;
- monitoring of industry trends on health risks through collection of non-identifying data and working with the insurance industry to develop an insurance and risk management strategy for the profession.

Why should the profession support the proposed programs?

The recommended programs seek to address barriers to accessing services and assist lawyers to seek help to prevent them becoming unwell or in the event they become unwell. They also include a number of important safeguards and features designed to ensure that legal practitioners can have confidence in the delivery of proposed programs, including:

- a strong positive focus on wellness and wellbeing for all members of the legal community through health promotion and early intervention activities that seek to reduce stigma about seeking assistance when necessary
- protecting patient confidentiality through delivery of individual support activities by independent service providers, with rigorous quality assurance and program design and monitoring of non-identifying reports by the LIV to ensure the needs of lawyers are met
- using appropriate expertise, including delivery by a mix of health and legal professionals who understand the health and wellbeing issues facing the profession and establishing a high level advisory body of experts in wellbeing in the legal profession to guide and oversee the program
- addressing potential geographical barriers by providing 24 hour telephone counselling and working with suburban and country law associations to develop peer support programs

What is needed to implement the strategy?

Secure, ongoing funding is needed to support implementation of sustainable programs that can make an impact on the wellbeing of the profession in the long term.

The LIV is committed to working with stakeholders, including the Victorian Bar, WATL and the Legal Services Board to explore funding options for implementation of the 'wellbeing in the law' program.

The LIV is also exploring partnership opportunities with the insurance industry to support implementation of the strategy.

The LIV will promote this report across the legal community as a platform for a new approach to wellness and wellbeing.

Recommendations

Victorian legal community health and wellbeing strategy

1. The Victorian legal community health and wellbeing strategy seeks to promote mental health and wellbeing and manage depression and anxiety within the legal community.
2. The strategy operates across a therapeutic continuum, recognising responsibilities for lawyers' wellbeing of the individual lawyer, their close network of family and friends, employers, educational institutions and jurisdictional stakeholders.
3. The health and wellbeing strategy addresses the four stages of the preventative therapeutic continuum:
4. Health and wellbeing initiatives should be evidence-based and expanded over a three-year implementation period, subject to funding levels.

WATL/ wellbeing in the law program

5. Support from the Wellbeing and the Law Foundation (WATL) Board should be sought to expand its mandate to deliver an independent program for the legal community (the WATL/wellbeing in the law program) that targets health promotion and primary prevention (stages 1 & 2) and addresses:
 - a. systemic and work environment issues and creates a forum for health promotion, research and policy development in the legal profession; and
 - b. individual risk factors and raises awareness and provides education, training and information about wellbeing.
6. The WATL/wellbeing in the law program should operate across the legal community, working with law students and law schools, PLT students and providers, legal practitioners (barristers and solicitors), legal support staff and employers, legal academics and judges.
7. The activities of the WATL/wellbeing in the law program should include:
 - a. undertaking research on the impact of unhealthy working environments
 - b. encouraging legal employers to:
 - i. adopt preventative strategies that aim to ensure that working as a lawyer has a health enhancing impact; and
 - ii. implement policies and practices to prevent and manage mental illness arising in the workplace.
 - c. undertaking awareness raising and education activities in relation to:
 - i. individual personality and cognitive styles and their impact on wellbeing;
 - ii. stress management and resilience training;
 - iii. physical health, fitness, sleep and nutrition;
 - iv. potential risk factors for becoming unwell and identifying when it would be beneficial to seek assistance;
 - v. preventing alcohol and substance abuse; and

- vi. reducing stigma about depression and anxiety and encouraging members of the legal community to seek assistance.
 - d. providing information about disclosure requirements for applicants for admission to practise law and for application and renewal of practising certificates
 - e. supporting community building initiatives across the legal community to foster collegiality and prevent professional and social isolation.
 - f. undertaking research to:
 - i. understand the efficiency and effectiveness of delivery of health and wellbeing pro-grams to the legal community; and
 - ii. monitor rates of depression and anxiety in the legal community, to help assess the impact of programs.
8. WATL should be supported by the LIV and Victorian Bar to obtain funding for implementation of the WATL/wellbeing in the law program.

WATL resourcing and governance

- 9. The WATL Board should be expanded to include experts in mental health and wellbeing.
- 10. WATL should employ a Program Manager to develop an implementation plan and deliver the WATL/wellbeing in the law program.
- 11. Key stakeholder input to the WATL program should be obtained through a stakeholder reference group with representatives from across the legal community.
- 12. Ad hoc experts should be used to obtain input to WATL projects and activities.

LIV wellness at work program

13. The LIV should expand its secondary and tertiary prevention activities for its members, by:
- a. extending the Vic Lawyers' Health Line service to provide telephone counselling 24 hours a day, 7 days a week;
 - b. establishing a peer support program, connecting those experiencing depression, anxiety, alcohol and substance abuse disorders with mentors and peers with similar experiences; and
 - c. subject to available funding, establishing an assessment and referral service that provides face to face health assessments for lawyers and PLT students to help assess the most appropriate therapeutic intervention and refer them to the most appropriate therapist.
14. The LIV wellness at work program should:
- a. have clinical and quality assurance mechanisms in place, including strict confidentiality requirements and key performance indicators;
 - b. include a feedback mechanism to help evaluate services; and
 - c. be reviewed annually to measure its effectiveness.

Compulsory continuing professional development on health and wellbeing

15. To promote individuals taking responsibility for their personal health and wellbeing, amendments should be made to Continuing Professional Development Rules to ensure that legal practitioners participate annually in health and wellbeing related activities.

Complementary health and wellbeing programs

16. Legal employers and organisations (such as the Victorian Bar) should continue to provide their own health and wellbeing programs for their employees and members, funded and managed independently from this strategy, such as the Barristers Counselling Service and EAP programs run by law firms or other employers.

Insurance and funding strategies

17. Partnerships with the insurance industry should be explored to better identify health risks in the legal sector and develop an insurance and risk management strategy to address those risks.
18. The LIV, the Victorian Bar and WATL should explore funding options to implement the health and wellbeing strategy, including:
 - a. exploring corporate partnership opportunities to raise funds through an insurance strategy addressing health risks;
 - b. applying for funding for health promotion and primary prevention activities (stages 1 and 2) from the LSB under s6.7.14 of the Legal Profession Act 2004 (Vic) and commencing discussions with the LSB about ongoing funding from the Public Purpose Fund; and
 - c. applying for project grants where appropriate to fund specific activities.

Moving to a consistent national approach

19. The health and wellbeing strategy should inform discussions about a consistent national approach to legal community health and wellbeing

OVERVIEW: VICTORIAN LEGAL COMMUNITY HEALTH AND WELLBEING STRATEGY

WATL/ WELLBEING IN THE LAW PROGRAM		LIV WELLNESS AT WORK PROGRAM		
	Health promotion	Primary prevention	Secondary prevention	Tertiary prevention
Scope	Whole legal community - working with law students and law schools, PLT students and providers, legal practitioners (barristers and solicitors) and employers, legal academics and judges.		LIV members (graduate, new solicitor, practising and affiliate members).	
Objective	Ensuring that working as a lawyer has a health enhancing impact by addressing systemic and work environment issues.	Reducing the incidence of mental health issues by addressing potential risk factors at the individual level.	Reducing the severity of mental health episodes by early detection of and intervention for developing problems.	Assisting in the relief of mental illness and substance abuse issues by facilitating access to appropriate treatment.
Activities	<ul style="list-style-type: none"> • undertaking research on the impact of unhealthy working environments • encouraging legal employers to: <ul style="list-style-type: none"> – adopt preventative strategies that aim to ensure that working as a lawyer has a health enhancing impact; and – implement policies and practices to prevent and manage mental illness arising in the workplace. • supporting community building initiatives across the legal community to foster collegiality and prevent professional and social isolation • undertaking research to: <ul style="list-style-type: none"> – understand the efficiency and effectiveness of delivery of health and wellbeing programs to the legal community; and – monitor rates of depression and anxiety in the legal community, to help assess the impact of programs. 	<ul style="list-style-type: none"> • undertaking awareness raising and education activities in relation to: <ul style="list-style-type: none"> – individual personality and cognitive styles and their impact on wellbeing; – stress management – physical health, fitness, sleep and nutrition; – preventing alcohol and substance abuse; – reducing stigma about depression and anxiety; and – encouraging members of the legal community to seek assistance • providing information about disclosure requirements for applicants for admission to practise and for application and renewal of practising certificates 	<ul style="list-style-type: none"> • extending the Vic Lawyers' Health Line service to provide telephone counselling 24 hours a day, 7 days a week. • establishing a peer support program, connecting those experiencing depression, anxiety, alcohol and substance abuse disorders with mentors and peers with similar experiences. 	<ul style="list-style-type: none"> • subject to available funding, establishing an assessment and referral service that provides face to face health assessments for lawyers and PLT students to help assess the most appropriate therapeutic intervention and refer them to the most appropriate therapist

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