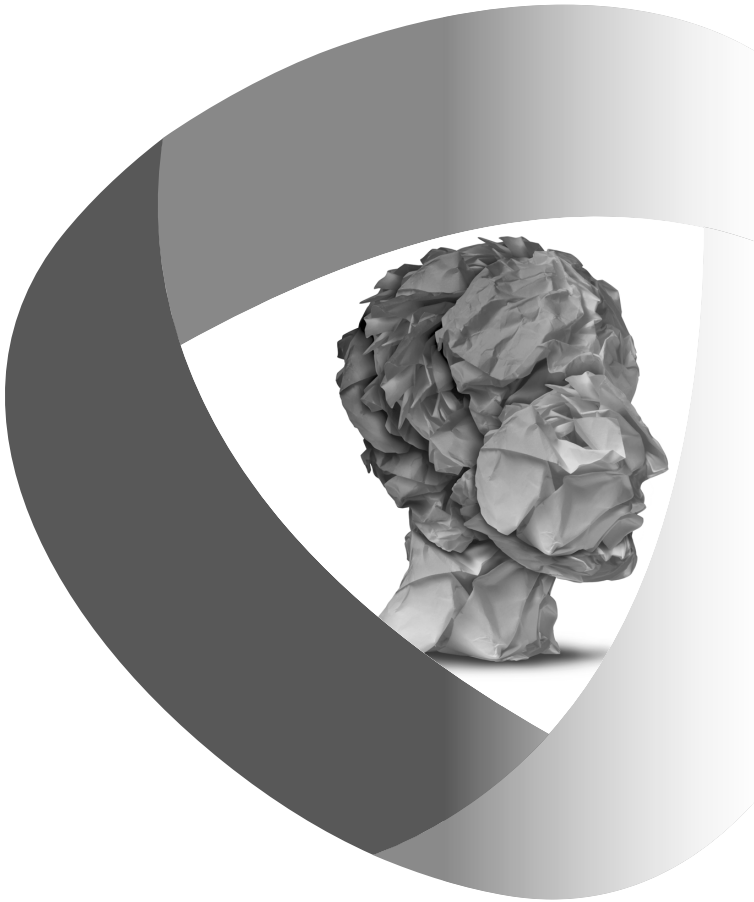


# A Lawyer's Guide to Wellbeing and Managing Stress



ANGUS LYON

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## Executive summary

All lawyers will experience stress and challenges to their mental wellbeing at some point in their career. Not all stress is bad, of course; in many circumstances, it can provide a positive drive and motivation. But stress is subjective, and one person's motivational stress is another person's intolerable pressure. Mental health, moreover, is still often associated with significant issues of stigma within the legal profession. Lawyers are busy people and nobody wishes to be seen as a weak link in the chain of a professional practice.

Lawyers are frequently exposed to a stressful environment and challenging mental conditions due to the nature of their work. There are certain organisations to help with this. In the UK, for example, LawCare works with lawyers to provide assistance in coping with the pressures of a legal career. Their work highlights the issues that exist for UK lawyers. At present, LawCare's advisory and support service receives around 2,000 calls per year from troubled lawyers. By far the most common issue reported is stress, representing 75 per cent of the calls received. This is followed by depression at 12 per cent, alcohol related problems at 5 per cent, and other varied issues making up the remainder of calls.

UK lawyers do not suffer alone. In the US, a recent study by the American Bar Association showed that depression (50 per cent) and anxiety (21 per cent) accounted for the largest part of lawyers' mental health problems, suggesting that what we call 'stress' may be a coverall term for a variety of problems.

About two thirds of LawCare's callers are able to identify a specific cause of their problem, the most significant being 'workload' at 27 per cent, 'disciplinary issues' at 20 per cent,

‘bullying’ at 15 per cent, and ‘financial problems’ at 14 per cent. (Other issues included ethical problems, redundancy, relationship problems, and bereavement.)

The pressures on lawyers are multifactorial. A large number of prominent academics and lawyers have considered these issues in the last decade, and there is a vast body of literature out there on the topic – but there is a large gulf between knowledge and practice. This book is therefore structured as a comprehensive framework within which we can think about mental wellbeing and stress. As well as contributing to the wider general discussion on wellbeing for lawyers, it provides practical guidance about steps that can be taken by lawyers to help themselves and to improve their workplace environment as a whole. It addresses what can be done to facilitate healthy workplaces and practices to enhance creativity and productivity.

The book is divided into four parts. Part 1 (‘So what?’) sets the scene. Parts 2–4 then set out a model to help readers think about wellbeing from the perspectives of the individual (‘Me’), the individual in two-person relationships and in groups (‘You’), and to consider the impact of events that go on around us (‘Do’). The idea of ‘ME.YOU.DO’ is proposed to help readers think about the issues in a simple, yet comprehensive, way.

Chapter 1 introduces the concept of ‘wicked problems’ – social problems that defy solution – and it considers the increasing problem of mental illness in the legal profession in this light. A number of reports have been produced on behalf of various branches of the profession in recent years addressing lawyers’ wellbeing and this chapter looks at some of these and highlights common themes and challenges. It explores stress from various perspectives: historical, engineering, stigma, and psychological, with the aim of clarifying a working definition of a misunderstood concept. Contrary to much popular myth, ‘stress’ *can* be good for us.

Chapter 2 covers the area of ‘prehab’; that is, practical steps that can be taken in ‘prehabilitation’ to avoid the need, at a later



stage, for *rehabilitation*. It is informed by 'reverse therapy', the understanding and application of principles of psychotherapy to enhance wellbeing and build resilience to mental illness.

Many lawyers share characteristics which enhance legal competence, but which can also predispose them to related psychological pressures. A rehabilitation programme for burnt-out professionals in the United States provides treatment for individuals and points towards a way of thinking about lawyers' mental health proactively, as well as reactively.

While the first part of the book outlines the extent and nature of the challenge that we face in dealing with stress and mental wellbeing as individuals and as a profession, Parts 2–4 provide a framework for thinking about and coping with stress and situations impacting our mental health. Each of these parts begins with a case study of a lawyer which illustrates some of the pressures on mental health that are faced in legal practice. Throughout the chapters that follow, we then explore how these can be addressed. Individuals' details in these studies have been anonymised for confidentiality and partly collaged.

Chapter 3 covers areas of basic neurology and physiology. We look at how our brains and bodies assess anxiety, as well as external and internal pressure.

In Chapter 4 we look at aspects of psychological resilience, what it is, and how it can be enhanced. Chapter 5 introduces the concept of 'mentalization' and covers theories of mindfulness and their practical application in aiding greater self-awareness.

In Chapter 6 mentalization is discussed in one-to-one relationships and we think about how a number of closely related concepts of the mind can help us to be more 'other-aware' in legal practice. This is explored further in Chapter 7, in which we think about how we relate in group situations.

Chapter 8 acknowledges that sometimes life hits you where and when you least expect it. It can be hard to separate clients' lives from our own, and at times change can feel almost unmanageable. This chapter is intended to help people who may be confronting unmanageable stress, depression, or grief, and is

also intended to be a point of reference for managers or supervisors to help colleagues who are going through a difficult period.

There are always things that can be done to improve the situation, however, and Chapters 9 and 10 explore the active steps we can take to make things different, to become more resilient, and to enhance the wellbeing of those around us.

In conclusion, the Epilogue addresses some institutional aspects of wellbeing in the legal profession and offers some modest proposals for the way forward.

The advice in this book is informed by the author's practical experience as a lawyer and as a therapist. It is also underpinned by statistical and research evidence to support the theories and suggestions shared. This book is for lawyers everywhere – irrespective of location, job level, or type of legal practice. The aim is to provide a practical resource for individual lawyers and for firms and chambers thinking about personal mental health and wellbeing in the workplace generally.

## About the author

**Angus Lyon** has practised as a litigation solicitor for 35 years and since 1987 as a partner in a firm on the Suffolk coast. He has specialised as a claimant personal injury lawyer for the last 20 years and has regularly been recommended in this area of work in the Legal 500. He is a professional deputy.

Partly as a result of his growing work in psychiatric injuries, he developed an interest in psychotherapy and obtained a secondary qualification as a psychodynamic counsellor. He is a registered member of the British Association of Counselling and Psychotherapy and is a director and co-founder of Catalyst Counselling CIC, a social enterprise providing counselling and training in East Anglia. He has been a LawCare volunteer since 2008.

Angus is also a cricketer and has played for Southwold Cricket Club and The Lowestoft Etceteras for a generation. He also plays bass.

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# Dedication

To Susan

# Introduction

## **Wellbeing in the legal profession**

Health and wellbeing are near the top of most people's agendas. Even if we do not go to the gym, exercise regularly, or maintain a healthy diet, most of us wish that we did so. This book is written specifically about health and wellbeing for lawyers, and covers the related issues of stress and mental health, which are areas of growing concern within the legal profession.

It is written for lawyers by a lawyer (who also works as a psychotherapist), who understands the particular demands and pressures of a legal career. I have seen first hand the benefits for clients of 'talking therapy'; sometimes, over a period of weeks or years, a person will talk to another and achieve greater clarity, self-awareness, growth, transformation, a lessening or elimination of distress, depression, panic, and obsessiveness, and as a result they are able to live with the stresses and strains of everyday professional life in a healthier and more meaningful way.

Lawyers use their minds continually, exercising their brains to find innovative solutions to client problems, anticipating potential pitfalls and developments in the course of a matter, and in managing and prioritising caseloads. The need to think about and care for our minds and be more aware of the minds of others (whether colleagues, clients, opponents, family, or friends) must be of prime concern. This aspiration was echoed recently in Chrissie Lightfoot's book, *Tomorrow's Naked Lawyer*: 'I... urge any ambitious lawyer who wishes to make and/or maintain a life-long career in the law to embrace a deep(er) understanding of psychology. More importantly, legal education and training providers must build this into the fabric of their educational programmes'.<sup>1</sup>

The challenges of poor mental health in the legal profession have been particularly recognised over the last 10–20 years. Many suggestions have been made as to how the situation might be improved; however, sometimes the very complexity and nature of the problem defies a solution. Lawyers are busy people – time targets have to be met, cases won, clients pleased, regulations complied with, bills paid – and thinking about mental health involves significant issues of stigma. Nobody wishes to be seen as a weak link in the chain of a professional practice.

### **LawCare**

Over the last 20 years LawCare, a charity in the UK, has worked with lawyers to provide assistance for those in the legal professions who feel they have nowhere to turn.<sup>2</sup> At present, the advisory and support service receives around 2,000 calls per year from troubled lawyers.

By far the most common issue that LawCare callers report is that of ‘stress’, which represents 75 per cent of calls (this is followed by ‘depression’ and ‘alcohol related problems’). The pressures on lawyers are many and varied, and a great deal has been written about external causes of stress. Excessive work demands, pressure from work colleagues, financial worries, and the demands of family and home all play a part. Of those of LawCare’s callers who are able to identify a specific cause for their problem (roughly two thirds), those most cited are ‘workload’ (27 per cent), ‘disciplinary issues’ (20 per cent), and ‘bullying’ (15 per cent). These external pressures are experienced in the underlying context of one-to-one and group relationships and our own inner thoughts, wishes, feelings, aspirations, and desires. These inter-personal and intra-personal factors can often be overlooked.

These challenges to wellbeing experienced by those in the legal profession reflect pressures experienced in society in general, with one in four individuals in England experiencing a mental health problem during the course of any year. Studies

in the United States and Australia, however, have indicated that pressures experienced in the legal profession are perceived to be greater than in the population at large.<sup>3</sup>

### **Who should read this book?**

This book is for lawyers everywhere – whether you are a student, trainee, newly qualified, many years qualified, or near retirement, and whether you practice in Southampton, Swansea, Stirling, Sligo, Seattle, Sydney, Seoul, or somewhere else. The material in this book is informed by my practical experience as a lawyer working in England over the last few decades, and it is illustrated by the personal experiences of lawyers whose stories have been anonymised, deconstructed, and re-arranged for confidentiality.

Lawyers like evidence. Therefore this book is underpinned by statistical and research evidence, particularly from the last 10 years. The statistics worldwide for lawyers' mental health are increasingly gloomy and pessimistic. Perhaps a change in the way we think might create hope and room in the profession for things to improve.

In a recent book on design by Dunne and Raby, the authors express this hope: 'Rather than giving up altogether... there are other possibilities for design: one is to use design as a means of speculating how things could be – speculative design. This form of design thrives on imagination and aims to open up new perspectives on what [are] sometimes called wicked problems, to create spaces for discussion and debate about alternative ways of being...'<sup>4</sup> This book is intended to create a space for discussion and debate about alternative ways of being lawyers.

Many prominent academics and lawyers have considered these issues in the last decade or so – and there is a vast body of literature out there on this very topic – but there is a large gulf between knowledge and practice. The aim of this book therefore is to provide a practical resource for individual lawyers, firms, and chambers, and for the profession generally, to think about personal mental health and wellbeing in the workplace.



## How is this book structured?

The book is structured to look at the three areas of ‘Me’, ‘You’, and ‘Do’, both to provide a comprehensive framework within which we can think about mental wellbeing and stress, and also to provide a simple aide-memoire for those times when we are in the heat of battle and our thinking is not as clear as we would like it to be. We may be just about to go into court and anticipate a bruising cross-examination, going to meet a particularly demanding and difficult client, driving to work and anticipating a meeting from hell, or simply spending a few moments thinking about workload. The idea of ‘ME.YOU.DO’ is intended to help thinking, and to steady nerves.

Work-related stresses and strains interact with other aspects of our lives, the intra-personal, the inter-personal, and the non-personal. Our experience is multifactorial. The ‘intra-personal’ is what happens *inside* us: what we think and feel, what we aspire to and what we dream about (‘ME’). The ‘inter-personal’ deals with the ways we relate to other people and the teams and groups that we work and live with: what happens *between* us (‘YOU’). The ‘non-personal’ relates to events and external pressures, the things that have been done to us, what goes on *around* us, and events that we may or may not be able to control in the future: the stuff that happens (‘DO’).

## References

1. Lightfoot, C., *Tomorrow’s Naked Lawyer: NewTech, NewHuman, NewLaw*, ARK Group, London, 2014.
2. LawCare’s service is provided for all members of the legal profession in the UK, Isle of Man, and Ireland. See: [www.lawcare.org.uk](http://www.lawcare.org.uk).
3. James, C. G., ‘Lawyers’ Wellbeing and Professional Legal Education’, *The Law Teacher: The International Journal of Legal Education*, 42, 2008, pp.85–97.
4. Dunne, A. and Raby, F., *Speculative Everything: Design, Fiction, and Social Dreaming*, MIT Press, Cambridge, MA, 2013.