Global FINEX - Professional Indemnity Insurance

Promoting a good workplace culture in the Legal Profession in Northern Ireland
February 2021

Introduction
This article will concentrate on mental health and well-being in the legal profession, and how the profession and the regulator is responding. Mental health issues are becoming more commonplace in the workplace and it is anticipated that this issue will only intensify as the true impact of the pandemic emerges.

Background
The legal profession has been in the limelight over the last two years in respect of workplace culture. There have been several high-profile bullying, sexual harassment and misconduct cases heard by the Solicitors Disciplinary Tribunal (SDT), stress and mental health have been mentioned as a major contributor in these cases. One in six workers will experience depression, anxiety or problems relating to stress at any one time, as such it is no surprise that the legal profession is also facing these challenges.

As lawyers, barristers and other professionals here to solve our clients’ problems, we often think we have to leave our personal identity at the door – but there has to be a balance.

Working from home, not seeing friends and family and job security will have played on all our minds over the last few months, as the pressures and uncertainty created by the pandemic have started to impact on our mental health.

Mental Health in the Workplace
For years the physical health and safety of employees has been paramount, an approach perhaps predicated on blue collar employment that arose after the industrial revolution. As the economy has developed to a service led environment the mental health of employees has started to become more important and more prominent.

Sadly, in the UK mental health problems in the workplace are all too commonplace and it is estimated that 70 million working days are lost each year as a result of mental health concerns, at a cost in the region of £2.4bn annually.

Mental health and wellbeing are increasingly becoming Boardroom agenda items as senior management recognise their responsibility for creating a culture of openness and wellbeing within their law firm.

A healthy workplace can be described as one where workers and managers actively contribute to the working environment by promoting and protecting the health, safety and well-being of all employees.

Investing time creating a supportive workplace can benefit businesses in the long term through greater productivity, better retention of staff and increased morale.

**Challenges in the Legal Sector**

The excellent Law Care article on Mental Health in the Legal Profession identifies some of the specific difficulties that the profession faces; including the competitive environment and adversarial nature of the profession. In addition, the regulatory system holds the profession to a high standard. That standard has been examined in recent times by a number of cases that have been before the SDT, where simple mistakes have developed into disciplinary outcomes as professionals and support staff have not admitted failings.

**Matthews Case**

In the ‘Solicitors Regulation Authority and Claire Louise Matthews, Case No. 12005-2019’⁵, Matthews was struck off the solicitors roll after a briefcase containing client data was lost on a train. The issue being not the loss of the data as such, but that Matthews did not report the matter to her employer immediately, citing ‘an uncontrollable fear, anxiety and panic as to what had occurred’.

Whilst the above case relates to a solicitor regulated by the Solicitors Regulation Authority, it demonstrates the importance of a working culture that encourages honesty, accepts that mistakes will happen and supports reporting of those mistakes regardless of jurisdiction. Employees should not fear owning up to mistakes and identifying how to prevent them in future.

The SDT found that by making untrue statements to her employer, Matthews breached both Principle 2 and Principle 6 of the SRA Principles⁶, and that members of ‘the public would expect a solicitor to be honest with their employer at all times’. It should be noted that the decision is subject to an appeal in the High Court.

**Support for the profession**

The impact of mental health on members of the legal profession has been a concern. In a drive to encourage members of the legal community to improve dialogue on mental health issues, Lawcare, the legal mental health charity launched the Champions Scheme in 2019⁷.

Furthermore, the Law Society of Northern Ireland (LSNI) recognises the importance of encouraging wellbeing and supporting mental health. It is understood that during 2020 the number of legal professionals that contacted LawCare for emotional support increased, with 738 legal professionals seeking help which was a 9% increase on 2019⁸.

During 2020 Lawcare received 964 calls, webchats, and emails. The most common problems cited were:-

<table>
<thead>
<tr>
<th>Problem</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Stress</td>
<td>23%</td>
</tr>
<tr>
<td>Anxiety</td>
<td>15%</td>
</tr>
<tr>
<td>Bullying</td>
<td>10%</td>
</tr>
<tr>
<td>Depression</td>
<td>10%</td>
</tr>
<tr>
<td>Worries about career development</td>
<td>10%</td>
</tr>
<tr>
<td>Worsening of existing mental health issues</td>
<td>13%</td>
</tr>
<tr>
<td>Not being permitted to work from home</td>
<td>12%</td>
</tr>
<tr>
<td>Struggling to adapt to WFH due to poor supervision, procedures, or provision of equipment</td>
<td>11%</td>
</tr>
<tr>
<td>Feeling isolated</td>
<td>11%</td>
</tr>
<tr>
<td>Being overloaded with work, typically because colleagues had been furloughed</td>
<td>9%</td>
</tr>
</tbody>
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⁶ [https://www.sra.org.uk/solicitors/standards-regulations/principles/](https://www.sra.org.uk/solicitors/standards-regulations/principles/)


Summary
This article seeks to demonstrate some of the concerns around mental health and wellbeing in the workplace, in particular how those concerns are dealt with in the legal profession and to consider the response across the profession. Furthermore, it is anticipated the demand for support from organisations such as Lawcare will increase during 2021 as members of the legal profession attempt to navigate their way through the challenges presented by the pandemic.

The LSNI recognises this and will publish articles and guidance on its website in order to support its members during these challenging times.

Creating the right culture within law firms where mistakes can be openly discussed without fear or reprisal is crucial; crucial for staff retention, staff morale and for the long-term success and productivity of the firm.

Even if the creation of an appropriate workplace culture is not in itself a persuasive one. Cases heard by the SDT where the implication is made that the law firm is not supportive, is bullying or discriminatory, is harmful not only to the reputation of that firm and but the legal profession as a whole.

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