

## Episode 46 - Part 1

# Trauma-Informed practice: Reducing risk and improving outcomes

### Intro

Welcome to Risk on Air by Lawcover and this special two-part series on trauma. In the first episode, we look at the meaning of being trauma-informed.

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- Julian:** Welcome to Risk on Air. I'm Julian Morrow, and today we're joined by the co-founder and director of the Centre for Corporate Health Group, Rachel Clements. Rachel, welcome back to Risk on Air.
- Rachel:** Thank you so much for having me back. It's great to be speaking again.
- Julian:** We spoke back in 2021, and we covered mental fitness, and I suppose the fact that we're sitting here talking today means good as that podcast was, we didn't 100% cure the problems of mental health challenges in the legal workplace. Is that fair to say?
- Rachel:** Yes, correct. There's still a lot of work to be done in that space.
- Julian:** Well, let's start doing some of that work. This is going to be a bit of a mini-series on a concept which I think is very much front of mind these days, which is being trauma-informed and how lawyers can foster a safe practice environment for themselves and also for their clients. Is this an increasing focus of your work?
- Rachel:** Yes, it has become very much a point of focus, particularly for the legal profession and also HR professionals working across a variety of different professions, because lawyers will inherently be seeing clients who have been exposed to significant levels of psychological trauma.
- Julian:** You're coming in the door because you've got some sort of problem, and it's a legal problem, but it's obviously something that's affected your life in a major way.
- Rachel:** Yes, absolutely. So many people will be seeing a lawyer and they will be in that trauma response and that trauma reaction, so they may have had a distressing event. It could be exposure to abuse, it could be exposure to violence, accidents, medical trauma, a whole range of different things, and that disrupts people's ability to even relate to a lawyer or even to be able to engage in legal services.

So hence, now we're much more educated around how do we actually work with our clients, support our clients and do that in a trauma-informed way.

**Julian:** Let's step right back, Rachel. What actually is trauma?

**Rachel:** Trauma is an emotional or a psychological response to an extremely distressing event. So different people will have different types of reactions to exposure to a traumatic event. Maybe some people may experience minimal reactions, whilst others may experience much more intrusive and much more pervasive reactions, and these can include a whole variety of different symptoms, but some common ones would be that hyper arousal that people experience after trauma and that could be a sense of anxiety, that constant hypervigilance, and I'm scanning and anxious about my surrounds.

It could contain avoidance behaviour, which is withdrawal, avoiding thoughts or conversations or even going near a place where a trauma may have occurred, or even denial. It could also involve those intrusive symptoms such as flashbacks or nightmares or those kind of recurrent thoughts. I can't stop thinking about that traumatic event. So they're the types of very common trauma reactions that people will experience. So a lawyer, through the course of their work, can be seeing people either immediately after exposure to a traumatic event or maybe sometimes a year or more after. But those symptoms are still very much prevalent, particularly if someone has developed a diagnosis of post-traumatic stress disorder. So for lawyers, learning how to navigate conversations, learning how to get the information that they need for their clients and to even maybe support their clients in a way that's trauma informed is an essential competency these days.

**Julian:** You talked about trauma reactions and there's a range of those, and also alluded there to the sources of trauma. Are there different types of trauma?

**Rachel:** Yeah, I mean, there's a lot of different types of trauma, and that can arise from a whole variety of different things motor vehicle accidents, medical negligence issues, exposure to violence, aggression, on-site workplace accidents, injuries, those types of things. But what we see is that if people go on to develop full-blown symptoms of post-traumatic stress disorder, the end result is very similar. So the way that people will be presenting to lawyers is going to be very similar, regardless of the causation of that trauma response.

**Julian:** So, we've talked about causes of trauma, trauma reactions, and you've used that expression, which I think a lot of people will have heard but might not really fully understand the implications of it and what it means, being trauma-informed. It's not as simple as just knowing that trauma exists. So, what does trauma-informed mean?

**Rachel:** Yeah, it's a great question. I get asked that question all the time, especially now because there is much more positive duty of care on us to be interacting with our clients in a way that causes no more harm to them. A trauma-informed approach is really an approach that recognises that somebody I'm seeing and talking to maybe has been exposed to trauma and I'm able to respond to the impact of that trauma. It really is an approach that acknowledges that prevalence or experience of trauma and the ways it can shape someone's emotional presentation, their psychological and their physical presentation or their well-being. So a trauma-informed care is really seeking to engage in a process that creates a really safe and supportive environment for the time that I'm with that individual, basically engaging in a process that minimises the re-experiencing of that trauma response. So it might shift the narrative a little bit from the approach of 'what's wrong with you' to 'tell me what's happened to you'. It's a very different response. So, in summary, a trauma-informed approach seeks to do no more significant or additional harm.

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**Julian:** And that strikes me as a particular challenge for a lawyer when, broadly speaking, the reason you've walked in the front door literal or metaphorical of a law firm is to address a problem, to go there, and that almost inevitably will mean you have to confront somehow the really challenging subject. Is there, in your view, a tension between being trauma informed and trauma care and the provision of the legal services that a client might also need.

**Rachel:** Very much. I think it is a very delicate balance because you're needing to still talk about that distressing event and probably the causation of that person's trauma. You're needing to get quite a bit of detail. Maybe even the legal process can exacerbate that person's sense of trauma. Particularly what we've seen is if I have had some trauma experience that has involved police officers or other emergency service professionals, sometimes to see a lawyer also just generates that type of anxiety that they may have had. So, although there is a tension there, really the whole sentiment of having a trauma-informed approach is to be able to discuss the trauma, the nature or the impact of that on that individual, but do it with care. It's all about the how. I'm still trying to achieve the same outcome, but it's the how. How do I care for that client in that moment, still retaining my boundaries and those sorts of healthy things that a lawyer needs to do to be able to look after themselves as well, but do so in a way that causes no more additional psychological harm to that individual.

**Julian:** A lot of it comes down to trust, a sense of safety and rapport. It strikes me that not having that is actually a risk for a lawyer trying to provide a quality service, because if your communication is not good with your client, then information and information that's vital to your ability to provide services might not be elicited.

**Rachel:** Yes, absolutely. I mean when people show up to maybe their first appointment with their lawyer, very often they can present in a very disorganised manner and if I'm not trauma-informed I can start to think maybe a little negatively or get a little bit frustrated, because it's very common that somebody who's experienced trauma they're not communicating effectively. They might not even recall details accurately. They may go off on tangents when I'm speaking to them. They may be difficult and challenging to engage in the legal process.

So I've seen a lot of lawyers become extremely frustrated. Being trauma informed is recognising that they're going to bring those symptoms of trauma into the room. So that could be - expect that they may have cognitive impairments, expect that they're probably going to have difficulties remembering details. Their thoughts may be incredibly disorganised. It may be that they're even dissociating a little when I'm actually speaking to them and what I want back in a five-minute response could take somebody 20 minutes or 30 minutes to give me an answer. Expect that somebody may become a little emotionally dysregulated. So that means their emotions are a lot more heightened and the ability to control those emotions is usually quite absent. So that might be heightened levels of anger or frustration or anxiety or fear, or even feeling numb and not really being able to feel much at all. It could be that bit of interpersonal challenge. It can be difficult to engage a client in a legal process. Suddenly they're absent, they're not ringing me back, they might be aggressive to me, they might be withdrawing, or sometimes it plays out in more that bodily type function that they have more headaches or migraines. They might need to take more regular breaks. They may experience extreme fatigue.. I might need to have several meetings with them. It might be chronic pain, even. So, there's about six key building blocks to being trauma-informed. One of them, the foundational one, is just having that trauma

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awareness in the first place, because if I have that trauma awareness, that can actually protect me as a lawyer, I can get less frustrated. I can see it for what it is. I might be able to put in some measures or controls that make that process a little bit easier for somebody and therefore doesn't take as much of a toll on my wellbeing as well.

**Julian:** So trauma awareness is one of the key things. Could you tell us about some of the others?

**Rachel:** Yes. So being trauma aware is one of the first ones. The promotion of safety. I can break this down for you in a moment about what that might mean in a legal setting. But how am I setting up even the room physically to have a sense of safety with somebody? When someone's been exposed to trauma, that sense, that worldview of the world is a safe place, has essentially been broken. How can I restore a little bit of that bit of safety so I can get the information that I need. How can I empower somebody in the process - maybe there's a way I can ask questions, I can engage in the legal process by rebuilding a sense of control. Very often when somebody has been exposed to trauma they feel completely out of control. If I can empower people along the way, maybe give them some simple decisions that they may be able to make themselves if they're capable, can really help that person to re-establish that sense of control.

**Julian:** It's interesting when I hear you say that, because I can hear the lawyer's mind thinking no, I want to be in control, that's my job. How might a trauma-informed approach differ from what a lawyer might have learned to default to?

**Rachel:** I like that question. What I've seen working so closely with the legal profession is that lawyers are great at their jobs because they do have a high need for control and they are responsible for a particular outcome. This is going a little bit, having more of a collaborative approach because we're recognising that if someone's experienced trauma likely that they feel an incredible loss of control for them to engage better in the legal process. We can actually get much better engagement and much better outcomes if we can have a little sense of rebuilding control.

So there is simple things. A client said to me recently that they had rung up one of their clients who had experienced a significant trauma and they had not done the trauma-informed training and so they were just talking to that particular person around - now I know you've had this very distressing event that's happened and it was a huge psychological trauma that this person had been exposed to and they were talking about the ongoing impact and therefore this is what we need to do in the process. They were out, they were home, they were with their family, they were with friends, they were doing other, you know different things and that had absolutely exacerbated that person's distress. So, a very trauma-informed approach would be: *Hi, I'm so-and-so, I'm giving you a call. Is this a good time to speak now or later?*

And that was a big learning for this individual because they said, *Well I was under the pump, I needed to get this person, I hadn't been able to reach them and it was five o'clock and I was trying to complete my tasks for the day - so I just gave them a call to ask these questions.* But they had completely forgotten to think - I'm just asking this person - here they are making dinner or busy in their personal life - here I am now asking this person all these questions just out of the blue, about the most distressing event that has ever happened to them. So, just by having that simple control, is this a good time to speak now or shall we arrange another time to chat a little bit later, when it's more suitable? Simple, but that

automatically gives people that sense of autonomy, personal control. It can be giving control over simple things.

**Julian:** As we've said, by definition you're going to have to deal with very sensitive topics. One of the ways that we refer to moments like that these days is triggering. What are some tips for lawyers to be aware of in going to the hardest subjects to discuss? What should you do?

**Rachel:** Well, it's a variety of different techniques, so it can be giving that warning. I do need to ask you now about the nature of the trauma and the details around that. Are you ready to move on with that now? Again, that's empowering. Of course, I'm probably going to say yes, but that's an empowering piece there where I feel as if I'm in control of the timing of this. Or sometimes I've asked that question and people have said actually, could I just take a little break before that? If I had just ploughed on and hadn't asked, are you ready to proceed with that now?, I would never know. So that can be just a simple thing. Again, setting up the boundaries with that. Please feel free to take a break at any time. We can proceed as fast or as slow as you want to with this. Maybe they've got other ways of communication or methods of communication that they can share with you, which doesn't necessarily require people to relive all of the details.

Being mindful of the language that you use, certainly you don't want to be mimicking any traces of what that trauma or abuse may have been. It could be just recognising that if someone has had difficulties with the law or law enforcement or government agencies, I may just have a sense of fear about seeing a solicitor or a lawyer in the first place and just realising that it's not me as a person, it's just that I may resemble a particular authority figure that may potentially be a trigger. Last minute changes and I know that happens in the legal process all the time, but it takes somebody such a lot of psychological energy if I'm getting ready for that appointment with my lawyer or that hearing that I may have and suddenly it's changed at the last minute. So, trying to reduce the change, trying to give certainty, I know legal proceedings do change but just avoid rescheduling if one can.

Triggering can occur even in just rooms. So, avoiding bright lights, avoiding kind of small rooms that may remind people of the incident, even say for example, if there was an incident in the city and asking someone to come into an appointment in the CBD can be triggering, the very location that their lawyer is at can be triggering. Or someone maybe does have PTSD and traveling from their home, wherever that may be, into the city for an appointment, that journey in and of itself can be triggering. So just being mindful of location and are there any ways to be able to set up appointments? Is virtual appropriate? If it is great, that might be suitable for some people, although I do think face-to-face is great, but being mindful that very common that the journey just in for that appointment has already used up pretty much all of my psychological energy and I haven't even got to the meeting with my lawyer yet.

**Julian:** Always, prevention is better than a cure, Rachel, but lawyers are human, they're going to make mistakes. What do you do if you intend to be trauma-informed but you realise that something's just gone a little bit wrong? How do you deal with that?

**Rachel:** I think you know we're all human. Lawyers are not expected to be mental health experts in this space at all, and I think just learning from it, chalking it up to experience and kind of being able to incorporate that learning into my practice for next time and then maybe when I am speaking to that client I can start afresh. Sometimes I have seen lawyers, and it depends, you've got to be very careful, whether it is worth an apology for the way that a meeting may have been conducted. That's very situation specific. But I think just to acknowledge that in oneself and being able to learn and grow from it. We're not going to be perfect all the time and sometimes it's things that you don't even think of - and you're not



expected to be aware of all of these things, so we are going to slip up. But I think as long as you're in that moment with them, empathy statements and the active listening are the vital skills that will get you through. That's what calms when someone's in the trauma brain, the best way that you can help people to kind of downregulate that trauma response is through active listening, through empathy, through your tone of voice, through your eye contact, through the way that you're sitting and your body language, and I always think – what am I bringing as a human? What am I bringing of myself to this interaction? Who am I being to this person when they're going through a very difficult, distressing time? How am I showing up for them in a way that's going to do no more psychological harm to them?

**Julian:** Because you can actually be a lawyer and a human at the same time.

**Rachel:** You can and it's about just bringing the humanness and I know lawyers are very busy when we're under the pump and a lawyer's in their stress brain. It can be frustrating when I'm asking somebody a question and I want a direct answer that's going to give me something that fits in with my very rational logical brain and someone's going around in circles - it's very easy to let that trauma-informed communication drop off a little bit because it takes a little bit more forethought, takes a little bit more time and it takes a little bit more psychological energy.

**Julian:** If you find yourself in a situation with a client where they have become distressed. That's a very challenging personal situation for a lawyer to be in. How can you best deal with it?

**Rachel:** It is challenging because it involves a lot of emotion and traditionally some lawyers have been quite focused on the task and not necessarily so emotion centric. There's a couple of simple things. One is dialling up your active listening and, instead of using more directive statements such as, *Oh, just calm down, using softer, more trauma informed language such as - I can see this is really challenging for you. I can see this is very upsetting. Just take your time. We can proceed really slowly through this. We can take a break.* So just giving people the message that whatever they're experiencing is okay. It can be even pausing, allowing that person to center or to ground themselves, just to be able to get a little bit more regulation over their emotion. And it could even be just even allowing that person to do some breathing. It can be just allowing a little bit of silence too - you don't have to be filling up that communication to somebody who's distressed. Having that silence is quite useful because I'm able to just focus on trying to regain a little bit of composure before I go on to the next piece. It's certainly about just stopping and dialling up your emotional intelligence skills, your empathy and your listening, and even though this is going to take a little bit of time. I've got to pause all logical, rational, decision-making kind of processes and realise that that client is in their emotional brain right now, and when they're in their emotional brain there is no point trying to ask them questions that require an answer from the prefrontal cortex, because they're not in their prefrontal cortex just yet. Whereas if you can actually meet them where they're at - maintaining a very calm tone, people respond very well to tone, using that open body language. Eventually then that emotional phase will start to taper off a little bit and then you can maybe ask that person: *There's actually some important information I need to obtain from you now. Are you okay to move on with that section now? And just again, you're almost saying to that person: We're just going to leave this emotional brain now. Are you ready to head over into your prefrontal cortex where I can now ask you some rational questions and you're able to respond a little bit?*

You will be able to gauge that, because someone's emotional distress will start to come

down. They're going to look a little different, maybe a little calmer, and they might start to loop. They might start to go round and round and repeat the same things, and then you know they're kind of running out of a bit of fuel. So that's suggesting to me. I think we can maybe move on. And a big clue is that they might ask you a question, and if they ask you a question such as: *Well, what do we do from here, or what happens next?* You know that they're entering into their prefrontal cortex and that's your clue. *Okay, that's a great question. Now let's move on to that section now,* and just learning a few of those little techniques will make that communication progress much more smoothly and, in fact, probably more time efficient. Because what I see is that if lawyers are not aware of that needing to meet the person where they're at in their emotional brain, where you get an entire conversation where someone's emotionally triggered and just keeps getting emotionally triggered throughout that time, that's a clue of I haven't met their emotional needs, I haven't calmed down that emotional brain, and then we can move on.

**Julian:** Rachel, it sounds like a lot of this comes down to communication and styles of communication, but just before you also talked about the physical environment. I don't want to stereotype lawyers too much, but it might be the case that there are some pretty standard formats in the physical environments of law practices and law firms. Are they intuitively trauma informed, or might there be some adjustments that could be considered?

**Rachel:** I think, I mean lawyers work in a whole variety of different settings, so I think it's just worth being aware of what that environment may look like.

We work with lawyers in many different physical environments, so it could be even just having a quiet, a safe space that's kind of free from distractions, that maybe I don't have my phone that I'm looking at constantly. I'm here just with that person and I'm very focused on that person. It could perhaps just be being mindful of the seating arrangements that you have, am I or maybe my legal colleague and we're facing kind of front on with that individual. Maybe a round table is better, where we're actually sitting in a much more collaborative environment. It doesn't look so oppositional. It could be possibly more welcoming kind of office decor. If that's available, it can be actually in having safety also in your process. It can be explaining things in just simple, non-jargon terms. If I'm a bit cognitively impaired, which most people will be, just having shorter sentences, free from jargon, non-threatening type of language, maybe setting out expectations very clearly around what's going to happen from here. Allowing for breaks is really important as well, because a lot of the time people can't concentrate for very long, whilst a high-performing individual can concentrate very well for around 90-minute periods. If I've been exposed to trauma, it's a lot less than that before my brain starts to get a little bit fatigued. Giving them warnings. *You know we're going to now be talking about the nature of the trauma and what you've been exposed to and what's happened and how that may be impacting on you. I'm going to take it really slowly. Feel free to take a break at any time.* That's an example of a trauma-informed approach where you're giving a little bit of that control to that individual. You're putting in those safeguards, those breaks. You're essentially communicating. I'm giving you some warning that this section here may be challenging and difficult, but I'm going to be there to guide you through that and support you through that. I just think if we've got somebody more vulnerable sitting in front of us, we really have to have these things top of mind. And even I was working with an organisation recently where I was talking about the trauma-informed approach and they recognised that the way that they were asking people to fill out their claim form completely exacerbated people's trauma very early on. So as a result, they were going to redesign the online form that they asked.

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It's interesting when you think about it from your very first contact with an individual, from the time you might send a letter, from the time you may make your first phone call to the time that they're seeing them very first time in the office. You know, sometimes when people have been exposed to trauma they're not comfortable to even shake hands. They don't want any kind of physical touch. So maybe asking permission, being aware of that other person's personal boundaries - it's the little things that can make a contribution to not exacerbating that trauma. Of course, it's very normal that people may become distressed when they're recounting the traumatic content, and that's okay. But a trauma-informed approach is about taking it slowly, dialling up your empathy, dialling up your active listening skills, allowing silence now and again, validating emotions without using judgment - just being able to sit with that person when they're talking about perhaps one of the most distressing events in their life, without having to rush through it or be focused solely on what my goals may be as a lawyer. It's going to improve engagement and it's going to minimise any misunderstandings that could result in complaints or claims that might even come out, maybe against a lawyer themselves and, if you're able to follow these things up in writing again, making sure that that is very trauma informed as well. So it's just around putting a wellbeing lens over our communication, whether it's written or verbal.

**Julian:** And in the next episode we will look more at the impacts of dealing with trauma issues for practitioners and how to respond to that. I suppose it's worth finishing up by saying that, no matter where you're practising, the Law Society of New South Wales does have a solicitor outreach service, which is a confidential counselling service for solicitors in New South Wales, so you can call **1800 592 296** for access to that service. It offers up to three psychology counselling sessions per financial year and a 24-7 telephone crisis counselling service with a psychologist. Rachel. Thanks very much. Let's talk about this some more. Thank you.

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## Outro

Join us for the second part of this Risk on Air series, on trauma, when we discuss the impact of trauma on lawyers.

## Resources:

[lawcover.com.au](http://lawcover.com.au)