

Episode 46 - Part 2

Trauma-Informed practice: Reducing risk and improving outcomes

Intro

Welcome to Risk on Air by Lawcover and for the second part of the Risk on Air series about trauma. We discuss how to deal with trauma amongst lawyers.

Julian: Welcome to Risk on Air. I'm Julian Morrow, and this is the second part of our series on trauma-informed care in legal practice. So, it's welcome back to Rachel Clements, co-founder of the Centre for Corporate Health Group. Welcome back, Rachel.

Rachel: Thank you for having me back.

Julian: We had a great conversation about the basics of trauma and trauma-informed care last time and I suppose our focus, understandably, was the client. This episode, let's focus a little bit more on how doing those things impacts on lawyers and, before we deal with some of the challenges, I thought I might ask you, what are the benefits to lawyers of taking a trauma-informed approach?

Rachel: I would say one. You've got, hopefully, a calmer client and I have done no additional harm to that individual and that's a skill. I always think that that's a real skill and a real strength. It means that there's less likelihood of any misinformation or anything being missed - important detail.

Julian: And we know that the biggest source of complaints about lawyers is communication.

Rachel: Absolutely. That's right, and so if I've taken a trauma-informed approach, it absolutely minimises the chances that I've made an error, I've missed some important details and information, therefore resulting in less likelihood of complaints for lawyers and hopefully just a smoother process for everybody involved and maybe a little less stress on the lawyer as well.

Julian: A lot of the things we talked about were about communication modes, but you also used a key phrase at one point about maintaining professional boundaries. How do you strike that balance between being more emotionally engaged and doing the professional job? What are the key elements of maintaining professional boundaries?

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Rachel: That's a really great question because we are asking lawyers a little bit in this situation, then, to open their hearts as well as their minds, which we know if people are doing that a lot, does set people up for that risk of exposure to vicarious trauma themselves as a lawyer. Really being able to establish those professional boundaries is absolutely essential. It is up to the lawyer to be able to gently put those boundaries up and set those boundaries in place, because if I'm unwell and not traveling so well and someone is showing me a bit of concern and some care and some empathy, naturally I may gravitate towards them. If you are feeling as if you are becoming overly emotionally invested in this particular matter, maybe seeking that support from a superior.

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: So monitoring your own involvement.

Rachel: This is an interesting point because in order to do this, you do need to have quite high levels of self-awareness, and one of the defining features of lawyers is that they're so focused on their KPIs or their client outcomes or achieving things that actually lawyers do have quite low self-awareness for their own well-being. So, we do a lot of work with lawyers actually trying to change that and try to tune in rather than tune out, because that is certainly a big skill in being able to prevent either compassion fatigue or vicarious trauma. So it is essential that lawyers do put up those boundaries and also just being able to switch off after those interactions, too, if you feel as if that matter is particularly getting its psychological hooks into you.

Julian: And it sounds like there's a couple of things that can go wrong for the lawyer or the law firm when that's the case. One of them you referred to is vicarious trauma. So what is vicarious trauma, and how can law firms do the best they can to prevent it from happening?

Rachel: I think best practice is very much to address the vicarious trauma exposure or risk at an individual level, at a team level and an organisational level to fully prevent psychological harm for lawyers through getting that vicarious trauma.

Julian: Are there telltale signs of vicarious trauma emerging?

Rachel: Yes, very much telltale signs. So the definition of vicarious trauma is it's a negative transformation that tends to occur over time in myself as a lawyer, from that empathic engagement with trauma survivors. So there's a couple of key pieces there. One is it's cumulative. It doesn't usually happen from a one-off experience or short-term exposure. I always call it a bit of a silent risk factor. It can creep up on people. People don't necessarily notice the little well-being erosion that may occur over a period of some years. Even. The other key point of that definition is the negative transformation and that is a defining feature of vicarious trauma.

If I am exposed and vicarious trauma is starting to get its hooks into me, I start to have a change in worldview and because my worldview has changed, I then start to interact and behave in a way that is different in the world. So, for example, I've worked with lawyers who have worked on matters of childhood sexual abuse or child safety and I have worked with lawyers where they become, their worldview changes. The world is no longer a safe place for the children in my life, so my behaviour starts to change as a result. I start to become more vigilant of those children, which can lead to sometimes quite unhelpful behaviour and also a lot of anxiety for that individual.

If vicarious trauma starts to get its hooks into people, I have actually seen people develop symptoms extremely similar to post-traumatic stress disorder. So it could be some of those symptoms, such as the hyper arousal symptoms. It could be the cognitive load - I can't switch those thoughts off - here I am on a weekend trying to relax and I've got thoughts of that matter, just those intrusive kind of thoughts, creeping in. It can be just that hyper vigilance around safety. It can be extreme sleep disturbance, nightmares, extreme mood changes such as anger, irritability, social withdrawal, disconnection. But predominantly vicarious trauma has a heavy load on the anxiety kind of cluster.

Julian: And I don't know if I'm going out on a limb here, but would it be the case that if vicarious trauma is emerging, that you might need to take a trauma-informed approach for dealing with that issue?

Rachel: Yes, absolutely A trauma-informed approach, like if I was disclosing this to a manager to say, look, I really feel as if these cases are taking a little bit of a toll on me - the manager - how they react in that moment that individual comes to them is very important.

Julian: How do you intervene in an emerging situation like that?

Rachel: Well, best practice would be - and this is what quite a few firms are doing now - best practice is actually to give people the skills before they start. Now firms are actually getting in at the very front end. So sometimes, we are helping firms with selection of lawyers before they start on particular matters, just to make sure that they have the psychological skills or the psychological capability to withstand the exposure - so are we creating a risk for somebody, for putting somebody who may have some vulnerabilities in that role in the first place? So sometimes now we are having a little bit of an influence in the recruitment process and we're not going to create or cause psychological harm to a lawyer by putting them in the wrong job in the first place.

Julian: Could it ever happen that a lawyer who is in the process of being vicariously traumatised might be approached with a check-in or something like that and might say: *No, no, no, I'm fine.*

Rachel: Oh, very common, because one of the symptoms of vicarious trauma is avoidance of thoughts, feelings and conversations. Sometimes we might work with organisations where they say: *Oh, we're doing just fine without exposure to vicarious trauma* and we might say: *Well, what are you doing?* And they say: *Oh, we've got an employee assistance program.* These days that is not enough, because probably if I've got vicarious trauma and I'm avoiding thoughts, feelings and conversations about it, there is no way I'm going to lean into that counselling service that might be provided to me.

Julian: When denial is the symptom, you can't put the onus on the person.

Rachel: Absolutely, and there has been a legal case - the Kozarov case - that really set the tone legally for that. Basically, that said, the employer failed in their duty of care. Because it is not enough when you have people exposed to that particular psychosocial risk of vicarious trauma - you need to do much more than have a counselling service and a policy on vicarious trauma - you have to be so proactive. So some of the strategies that the firms are using now that we're working with and this is really backed up by a lot of the research is giving people, firstly, that education session first up, and we usually do like a 90 minute to

two hour session. If I'm in a role where I'm going to be exposed to vicarious trauma, these are all the things that I can do as an individual to protect myself.

These are the early warning signs to be aware of. This is just kind of normalising that this may happen. I might go through a time where some matters might get on top of me a little bit and these are the protection skills and strategies that I can utilise. We also do a lot in that session around the impact of peer-to-peer support, because that is a huge protective factor. If we have a great supportive team where we have a R U OK type culture within our team. When you've got cultures like that, with really strong peer-to-peer support, that is highly protective against the impact of vicarious trauma. And we also do leader training and with leaders we look at work demands, workload, active monitoring of cases, the types of trauma people might have in their mix. Do we have a tracking system to be able to track that? How are we having wellbeing conversations with my team on a regular basis? Do we have good psychological safety to be able to talk about this? So we know strong psychological safety in a team is a huge protective factor. But also now, what many law firms are now doing is what we call that small group supervision. So if I just have a job where I'm pretty much permanently exposed to vicarious trauma, we need to build in those more formalised structures for psychological support. That's not really an opt-out, they're a little bit more mandatory. We call it small group supervision. A small group maybe six to eight lawyers would get together every eight to 12 weeks with one of our psychological consultants and we go through an hour with them around, tell me about cases or matters that might be getting their hooks into you, tell me how that's impacting you, and we do this more as a group. But more importantly, let's look at how we can support each other as a peer cohort and we can detect people early.

Small group supervision sessions have been shown in the research on vicarious trauma to be a huge protective factor. So we can actually keep people well in their career by putting that strategy in. The alternative strategy is to build in one-on-one well checks and typically these might be done every quarter, every six months. They used to be done more annually but I think because now vicarious trauma has presented as being such a massive psychosocial risk now for the legal profession firms need to be much more on top of that risk of vicarious trauma. So well checks might be done now every six months and the good thing is we're able to tell quite early on when vicarious trauma may be starting to onset and then be able to, with a few different workplace interventions and individual interventions, completely turn that around.

Julian: Because, from what you've said, having a proactive approach to the risk of vicarious trauma isn't just the humane thing to do. There's literally high court authority for the fact that it's about risk minimisation as well.

Rachel: Absolutely, and that high court ruling basically said the employer has much more of a duty of care, much more of a proactive, positive obligation, and 10 years ago, or even 5 years ago, it was very much a reactive world. We'll just wait until someone comes forward to say: Hey, I'm not traveling so well. That reactive approach is not good enough anymore. That is actually doing psychological harm. We need to get ahead of the curve. We need to be able to predict what teams in our organisation may be at risk of vicarious trauma and let's front end a whole lot of best practice strategies. We can't job design vicarious trauma exposure out of somebody's job, but what we can do we can significantly reduce the risk of actually getting vicarious trauma.

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Julian: You referred to workplace interventions earlier. Is it the case that successful workplace interventions may involve continuing to experience vicarious trauma, but staying in the workplace realm of these traumatic experiences, and that sometimes it might also mean moving away?

Rachel: Yes, of course, if you're in a job that exposes you to vicarious trauma, you need to be pristine about your mental health prevention. You need to be engaging in preventative strategies, I would say, every single day. One needs to be incredibly vigilant, conscious and effortful about staying well, and leadership support is a massive protective factor. We know that a team member's wellbeing, 70% of my wellbeing at work as a team member is predicted by the quality of my relationship with my leader. So that means that if I've got a leader that's incredibly supportive, that will check in on me now and again, take an interest in who I am as a person, express a bit of empathy and concern, actively manage my workload a little bit, if I've got someone that's got my back, I can be very protected.

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Julian: Let's move on now to what might be at the other end of the scale, but still a challenge and a risk - compassion fatigue, what's that, and what are the problems associated with it?

Rachel: Yeah, compassion fatigue is quite different to vicarious trauma. Compassion fatigue is really defined as emotional and physical exhaustion from prolonged exposure to others' trauma. It can include some very common symptoms such as that kind of numbing, kind of lost my empathy. I've lost that compassion. I'm not reacting or responding, I'm not feeling anything much, not only at work but out in my personal life with my friends or my family. It can be irritability, short-temperedness, anger. It can be physical exhaustion, it can be avoidance of particular cases as well. But what it doesn't have and this is different for vicarious trauma, this is the defining feature, it doesn't have a negative transformation in that particular lawyer. So my worldview I'm tired, I'm exhausted, but my worldview has not shifted and changed. I'm not behaving in the world differently at all, I'm just exhausted. So that is very different to vicarious trauma. Compassion fatigue is also probably a little easier to get on top of if I'm experiencing it. So most people where I've seen through compassion fatigue they haven't done anything for their own wellbeing. So they've given everything to the job but I'm not actively viewing my wellbeing as a conscious competence in this job.

Julian: If someone's listening to this now and they've identified either with the vicarious trauma side of things or the compassion fatigue, is there a particular step that you'd recommend for that listener today to do, and is it different depending on which one it is?

- Rachel:** It's not different really, for whichever one it is. I think, just firstly, if you have now had the awareness that that maybe relates to me, that's the first step. I would say absolutely leaning into that professional help. If you can get on top of this early, we can absolutely stop a little problem from becoming a bigger one. Leaning into that professional support - if you're in a firm or an organisation that has an employee assistance program, that's a wonderful source of support - confidential counselling service it's of no charge for yourself, or if you may access the Law Society's counselling service as well.
- Julian:** 1800 592 296, the Solicitor's Outreach Service SOS.
- Or even being able to link into GP, getting a referral for a Medicare plan and being able to see a psychologist is going to be very useful. If there's anyone that you trust at work, if you've got that psychological safety at work to be able to disclose to a manager, I think that that makes it a lot easier. You're not having to positively impression, manage every single day or reaching out for that peer support if you've got a trusted peer or friend at work as well.
- Julian:** What if I'm listening now and I think I'm probably fine whether I'm in denial or because I actually am fine, but I think I know someone in my workplace who might be in that zone that we've been talking about. What should I do then?.
- Rachel:** Be an active peer supporter. I would say a lot of the time when people are either experiencing compassion fatigue or vicarious trauma, they have no self-awareness that they're shifting and changing. So, sometimes being able to have a really caring, honest and authentic conversation with my fellow peer and colleague is the light bulb moment for someone. If you're not the best person to have that conversation, maybe tap somebody else on the shoulder to do it. But if you feel as if you've got those good emotional deposits with that particular person you could lean into that conversation just to say: *Hey, I just wanted to check in with you. I've noticed a bit of a change in you in the last little while and that you don't seem quite yourself. I'm here to support you. How are things going? How are you traveling, are you okay?* So, leaning into those are you okay type conversations. Now what we notice sometimes with the legal profession is that that can start a process for somebody. That might not happen in one nice neat conversation - lawyers do tend to be quite ruminative, so that means that they won't forget that you've had that conversation. What they'll take away is you're concerned about me and you care about me. So in the moment they might say: *Thanks for checking in, I'm absolutely fine. How are you going?*
- Sometimes the key in the legal profession is to have a series of little door opener conversations. Be gently persistent - if you get a more of a masked response of I'm fine, if you notice that they're still not fine, go in again. You're using what we call that broken record technique, where you sound like the broken record but to that person they're hearing it again for the very first time. So it's not uncommon with lawyers to have maybe three, two or three little door opener conversations before someone will lean into that conversation. So my advice is don't give up, be gently persistent. If someone does open up in that conversation in the very first time that you've asked, that is a true testament to you that you have created that psychological safety where that person feels as if it's okay for me to share a little personal vulnerability with you.
- Julian:** And if I'm in a position of authority in a law firm and I want to start being the leader who's responsible for that sort of culture where these issues can be ventilated, how do I start that process?

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Rachel: Start talking about it with your team. And really the secret ingredient, the biggest predictive factor of high performance is strong psychological wellbeing. So no brainer. So it's good for business. It's not really a nice to have these days, it's business critical, it's business imperative to get good at the competency of wellbeing. So start talking about it with your team. Start to look at more formalised structures that we can put in place to support people. But at the end of the day, it's around just making people feel as if I care about you as a human, I care about you as a person, I care about the impact that this job may have on you from time to time. And to initiate those wellbeing conversations so it becomes BAU, Business As Usual. You're not just having them when you've noticed a shift, you're creating the psychological safety from the get-go.

Julian: Well, Rachel thank you so much for informing us about trauma-informed care and hopefully this conversation between us will be the beginning of lots of other conversations in legal workplaces that'll make them safer for clients and lawyers alike.

Rachel: Thanks, for having me.

Outro

Thanks for listening to Risk on Air by Lawcover and to stay up to date, join us for the next episode on current risks in legal practice.

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