

LexisNexis In-house Advisory Board

Well-being in in-house legal teams



Well-being in in-house legal teams

On the 25th of January 2016, the LexisNexis Strategic Advisory Board, Knowledge Management and Chief Legal Officers forums met to discuss well-being in in-house legal teams. The session focused on identifying mental health issues at work and the practical measures that can be introduced to improve the positive well-being of lawyers.

The session was facilitated by Richard Martin from byrne-dean.

Key topics discussed and covered in this paper:

- Research into mental health in the legal profession
 - Why is it important to consider the well-being of your team?
 - What do we mean by pressure and stress?
 - Pressure versus productivity
 - The effects of stress and anxiety
 - When does anxiety become a problem?
 - How can organisations address stress?
 - High performance: high-stress levels and poor well-being?
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“Mental health is a spectrum and when talking about it we should have that spectrum in mind”

Introduction

The session opened with a discussion of how the mental health state of individuals varies all the time. Too often, references to mental health suggest a sense of illness – a black and white scenario where someone is either ill or they are well. This is unhelpful. Mental health is a spectrum and when talking about it we should have that spectrum in mind.

Research shows that 1 in 6 people are likely to suffer from mental health issues at some point in their life. In reality, the ratio is more like 1:1 as everyone moves around on the spectrum.

Why is well-being important? The primary role of managers is to manage their most valuable resource – their people – to get the best from them. People’s well-being and positive mental health are key to this.

“This is the greatest challenge facing in-house legal teams today”

Research into mental health in the legal profession

The session went on to explore existing research on mental health in the legal profession. In July 2015, Paul Gilbert of LBC Wise Counsel published a [report on the well-being of in-house lawyers](#). The report reached some alarming conclusions:

“The survey, interviews and focus groups show a shocking picture. If this is representative of the in-house sector as a whole we are sleep walking to a crisis where some people are being significantly damaged and many more are being undermined.”

“If these were physical injuries caused by machines in factories, the businesses concerned would be shut down and directors prosecuted. I do not see a distinction just because it is a mental health injury. In-house lawyers have got to be better at managing their environments, but General Counsel have got to take a lead. It is unacceptable to inflict such harm and inexcusable to let it continue.”

“This is the greatest challenge facing in-house legal teams today. Before it gets any worse we must act and act now.”

In January 2016, the American Society of Addiction Medicine published a research paper on [The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys](#). It focuses on private practice lawyers in the US but is nonetheless indicative of the problem. The research found that rates of alcohol misuse, depression and anxiety amongst lawyers were twice as high as compared to other professions. Problems were most prevalent amongst younger lawyers and those in the earlier stages of their career.

American psychologist Martin Seligman's research, "Why Lawyers Are Unhappy", suggests that one reason lawyers are at greater risk of mental health issues is that they have a pessimistic attitude. Lawyers by their nature anticipate a whole range of problems that non-lawyers are blind to. Pessimism is an advantage because it allows lawyers to see the potential problems that might occur in any transaction. It can, however, become a problem if this characteristic isn't switched off when they leave the office – that is, if they start seeing how things might turn out badly in their personal life as well.

"Performance and productivity are massively impacted by our state of well-being"

Why is it important to consider the well-being of your team?

- **Moral case:** The need to look after ourselves and the people that work for us.
- **Legal case:** Employers have a legal duty of care and responsibility to look after their employees.
- **Values of the company:** Well-being and employee satisfaction are often incorporated into an organisation's values.
- **Business case #1:** What proportion of sickness absence statistics are mental health related? Research suggests one-third of absences are due to mental health. This represents a high cost to the business.
- **Business case #2:** Performance and productivity are massively impacted by our state of well-being. If, as research suggests, 1 in 6 lawyers in a team are suffering mental health issues at any one time then there is a business case for addressing this.

"[A] state of mind where our perception of the demands upon us exceeds our perception of the resources available to us"

What do we mean by pressure and stress?

Richard Martin asked the delegates to describe what they mean by "pressure" and "stress". Responses included:

"Stress is having too many competing priorities."

"Stress is about loss of control, when pressure gets out of control and you are no longer able to manage that pressure."

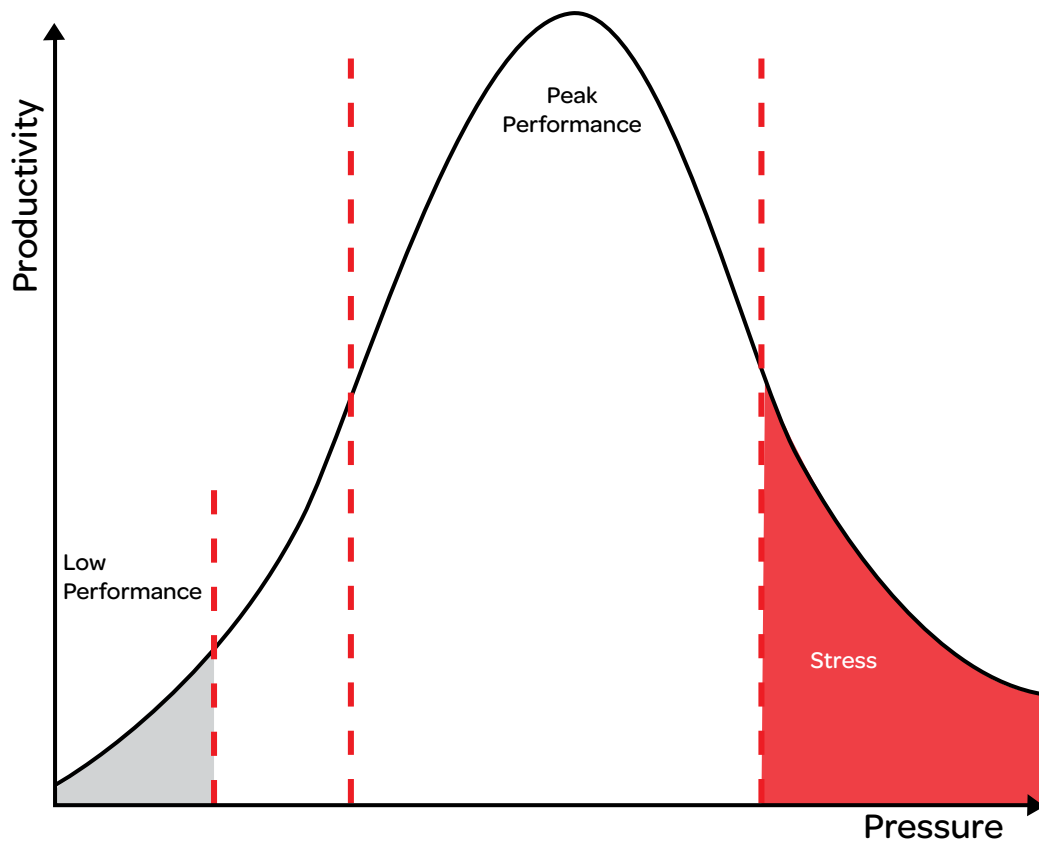
"Stress is the response to pressure; fatigue, anxiety, inability to understand your priorities."

Richard explained that a helpful way to think about stress is as a state of mind where our perception of the demands upon us exceeds our perception of the resources available to us. The more we get into a state of stress, the worse our perception gets. Sense of perspective gets lost and suddenly everything seems urgent and insurmountable.

“Stress is problematic because it means you are not performing well”

Pressure versus productivity

If we don't have pressure, our performance is lower. As the pressure builds so does productivity, until we reach a tipping point where stress causes productivity to fall quickly. There is an area of peak performance where we should ideally be working:

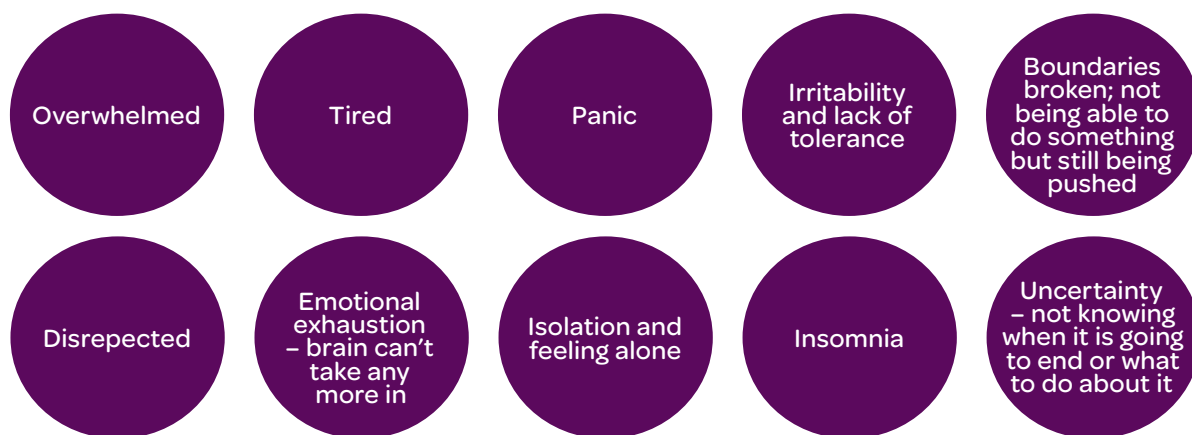


Pressure is important. It is necessary for productivity and it is part of life. Stress is not. Stress is problematic because it means you are not performing well. The longer you exist in that state, the higher the risk of mental health issues.

“Anxiety is a natural and automatic reaction to a perceived danger or threat”

The effects of stress and anxiety

To understand the effects of stress and anxiety, the delegates were asked to think of a time when they were overwhelmed or overworked, and to discuss how that felt and the impact on their productivity. The emotions they had experienced included:



Anxiety is a natural and automatic reaction to a perceived danger or threat. Our brains are hard-wired to respond to fear in two ways:

- **Passively:** giving in to the threat or freezing in the face of it
- **Aggressively:** fight or flight

The emotions highlighted by the delegates are indicative of this fear reaction. When we start having this response to work and deadlines, our body doesn't know any way to respond other than to run away or fight.

The discussion moved onto how employers should also be aware of elements outside of work that bring pressure and stress to employees. It was agreed that managers need to get better at having open and honest conversations where they can find out and understand the external factors impacting their team.

“A constant state of anxiety is not an effective or safe place to be”

When does anxiety become a problem?

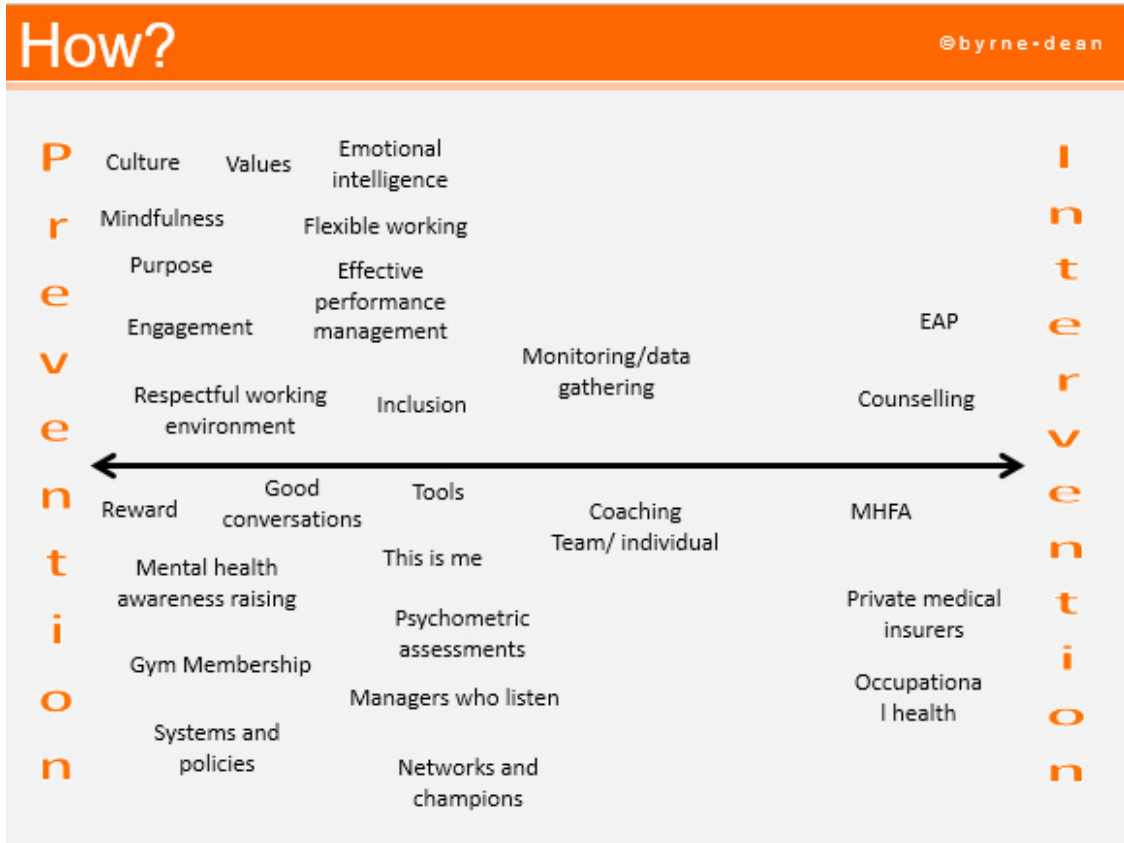
When we experience a threat, we have a spike in adrenaline. When the threat passes, the adrenaline declines, which can take around 20 minutes. During this time, we experience some or all of the symptoms discussed above. Anxiety becomes a problem when it becomes an unhelpful response to things that aren't a threat. If you exist in a long-term state of stress then your ability to calm down reduces. A constant state of anxiety is not an effective or safe place to be.

The session considered some of the risk factors that can heighten our susceptibility to problems:

- **Major change:** When we are subjected to change, it increases our risk of mental illness. Workplaces are often not very stable places.
- **Persistent stress**
- **Winter:** Sunlight promotes positive well-being. During the winter months, we go to work in the dark, come home in the dark and during the day may not see much sunlight.

“Meaningful conversations with managers are essential to understanding the well-being of employees”

How can organisations address stress?



The right-hand side of the diagram shows the solutions an organisation can put in place to support employees in a crisis, including:

- **Employee assistance programmes (EAP):** If your organisation has an EAP, do people know about it? The general response from people who have used EAPs is that they are a great resource. It is vital that employees are made more aware of the existence of these programmes.
- **In-house counsellors:** Hogan Lovells have a full-time counsellor who can be accessed directly at a time of need and not via HR. As a result, the firm has seen a decline in absence and indicators of mental illness.

The left-hand side of the diagram shows prevention methods that can help employees avoid reaching a crisis state:

- **Culture:** It helps if an organisation has a strong sense of purpose and meaningful values.
- **Good conversations:** Meaningful conversations with managers are essential to understanding the well-being of employees.
- **Systems and policies:** Are rewards and performance management processes fair? Are employees being rewarded for what they do?
- **Inclusion:** Employees should feel part of a community.
- **Mental health awareness raising:** If you want a culture where you can have conversations about well-being, then you must understand the language. It’s not something we’re taught and that is why raising awareness is so important.
- **Monitoring and data gathering:** Organisations need to find out how people are. One way of doing this is to use surveys to assess well-being.

A delegate made the point that managers tend to manage people in the way that they themselves want to be managed:

“Actually, you should be aware of how your team want to work and how they deal with stress so that you can manage your team in the way that helps them. If you want to get the best out of people, know which buttons to push. Be aware of what your team is working on and whether they feel a sense of remoteness.”

Another delegate described how their organisation undertakes psychometric assessments for employees. Such tests highlight the characteristics within a team and what individuals respond well to. The team all know what colour everyone else is, what their traits are and how to work best with them. It also allows managers to adjust their leadership style to suit individuals. Realising how your behaviour as a manager affects your team is very important to well-being.

“There is no reason why a business can’t be a high-achieving, high-pressured organisation at the same time as safeguarding the well-being of its employees”

High performance: high stress levels and poor well-being?

The group discussed the potential conflict between a high-performance culture and one that promotes well-being. It can result in a disparity between what an organisation tells people and how it acts. A delegate gave the example of an employee who was an excellent performer but was pulled up in their end of year appraisal for being irritable and not listening – behaviours associated with stress. As one delegate put it: “Before you have a character assassination, your job, as a boss, is to understand why they are behaving like that and then neutralise that perception”.

Should well-being issues be recognised at year end performance reviews or should they be addressed as they arise? Delegates acknowledged that signs of stress and mental health issues are often not recognised until end of year reviews. The group agreed that this is a behaviour that needs to be changed to ensure awareness of potential issues throughout the year.

Well-being can, and should, be monitored and addressed at both a managerial and an organisational level. There is no reason why an organisation can’t be a high-achieving, high-pressured business at the same time as safeguarding the well-being of its employees.

The LexisNexis In-house Advisory Board

The Advisory Board meets 4 times a year to discuss a pre-agreed topic. This paper was produced as an overview to one of these discussions. You can view additional papers [here](#).

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Richard advises clients on a range of employment related issues and provides mental health awareness training. Richard was an employment law partner at Jones Day before joining Charles Russell Speechlys, where he ran the employment team and sat on the firm's management board. Richard now works with organisations to help promote awareness of mental health and well-being, to break the stigma and to create workplaces that are kinder, healthier and more productive.

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