

**Promoting Law Student Well-Being
Good Practice Guidelines for Law Schools**

Council of Australian Law Deans (CALD)

March 2013

Contents

Introduction	1
The Problem	2
The Guidelines	3
Resources	8
References and Further Reading	8

Introduction

This document seeks to provide Good Practice Guidelines for Australian Law Schools for promoting law student well-being.

The definition of Guidelines in this document is taken from that of the NHMRC:

Guidelines are sets of non-mandatory rules, principles or recommendations for procedures or practices in a particular field.

The Guidelines have been developed by a Working Party established under the auspices of the CALD Standing Committee for Legal Education.

The members of the Working Party are:

Professor Paula Baron (Chair)

Dr Wendy Bonython

Dr Julie Clarke

Dr Rachael Field

Ms Kate Galloway

Dr Wendy Larcombe

Professor Maree Sainsbury

Professor Michael Stuckey

Ms Carmel Velleley

Mr David Wishart

The Guidelines are made as at March 2013. Because the research into this topic is still in development, the Working Party recommends that the Guidelines be reviewed and renewed in 3 years in the light of new evidence.

The Problem

A report published in 2009 by the Brain and Mind Research Institute, *Courting the Blues* (hereafter the BMRI Report) found that some 41% of law students report symptoms of psychological distress severe enough to indicate clinical assessment.

The BMRI measure was a self-report of particular symptoms; it does not correlate precisely with mental illness and it is not yet known whether law students (and practitioners) might over-estimate their symptom levels. For example, lawyers and law students may expect themselves to function at an extremely high level and so overestimate the severity of symptoms that they perceive as impairing their functioning.

Nevertheless, the findings of the BMRI Report correspond to research conducted over the last 20 years in the US. This body of research revealed similarly high distress levels amongst American law students. The findings of the BMRI Report have since been confirmed in Australia by studies undertaken at individual law schools, such as the ANU, Melbourne and Monash.

The BMRI Report also revealed high levels of psychological distress, alcoholism and drug abuse amongst

the practising legal profession itself. These findings are also consistent with other literature. For instance, the Legal Services Commissioner for Queensland has estimated that emotional distress features in 30% of the disciplinary matters dealt with by his Commission (Britton, 2009, 1).

A recent study showed that, of the professions, lawyers were the most likely to have experienced symptoms of depression (49%) but were not the most likely to be diagnosed with depression. Lawyers were also the most likely of the professions to have suffered symptoms of anxiety. At the same time, lawyers were significantly more likely to think their organisation would react negatively to someone experiencing depression or an anxiety disorder within the workplace (Beaton Consulting, 2011).

Like the US studies, the BMRI Report was unable to identify the precise causes of psychological distress amongst law students and the profession (BMRI, 2009, 41). US researchers have argued that the Law School is a significant causative factor in this distress (see, for instance, work by Krieger). However, the BMRI notes that present understandings cannot identify whether it is the law school that generates distress or whether law students possess certain attributes that predispose them to problems during law school.

Further, if law schools do contribute to distress, it is important to know when in the law degree psychological distress is most likely to occur (Field and Duffy, 2012, 138). Studies suggest that problems of mental distress begin in the first year of law studies (Townes, O'Brien, Tang and Hall, 2011; Iijima, 1998). Worryingly, further US research suggests that psychological distress in law students does not decrease significantly as the law degree progresses or

even into the first few years of legal practice (Field and Duffy, 2012, 140).

If law school is a causative or contributing factor to student psychological distress, a number of characteristics of legal education may be responsible. The BMRI, again consistent with the US literature, points to the competitive and adversarial nature of legal education and legal culture. Low levels of engagement have been identified as potentially problematic (Field and Kift, 2010) as have lack of autonomy (Sheldon and Krieger, 883) and lack of intrinsic motivation (Krieger, 2002; Tani and Vines, 2009).

Universities have long provided services in the areas of counseling, equity and disability support for students in distress (BMRI, 2009, 44-45). Law schools and their staff have actively referred students to these units as appropriate.

The BMRI report notes, however, that '[a]lthough the provision of services for people in active distress is important, such a strategy will not constitute an effective solution in itself' (BMRI, 2009, 43). This is because law students and lawyers are known to underestimate the effectiveness of available therapies and to be concerned about stigma attached to accessing professional services (BMRI, 2009, 21-2).

Despite the unknowns around cause, the BMRI report recommends that 'it is not necessary to be clear about the causes in order to formulate effective

strategies' (BMRI, 2009, 43). The BMRI argues law student distress is a problem for communities, including law schools (BMRI, 2009, 43). Subsequent literature has reinforced the need for law schools to act (see, for instance, Hall, 2009; Duffy, Field and Shirley, 2011). Recent literature recommends that what is needed is a 'whole of school' approach that encompasses curriculum design, assessment and law school culture (Larcombe et al, 2013, 31).

At the same time, the BMRI recommends against a one-size fits all approach, arguing for an approach that takes into account the particular social setting and local conditions. Diversity is to be 'planned for, encouraged and recognised' (BMRI, 2009, 48).

These Guidelines seek to provide Law Schools with good practice guidance for promoting student well-being, acknowledging the BMRI calls for the adaptation and application of the Guidelines to local conditions and circumstances. These Guidelines are adapted from the BMRI Report itself and from other literature in this area.

The Guidelines

In these Guidelines, we specifically address Law Schools. We acknowledge, however, that Law Schools are institutions, not actors, and will need to identify appropriate agents of the School to take responsibility for such actions as are deemed appropriate. However, we have not identified such actors because of the diversity of organizational structures and office holders across Australia's law schools.

Guideline 1

It is good practice for law schools to foster strong relationships with those who have expertise in promoting the well-being of students.

As has been noted in the previous section, universities have established expertise in student health, counselling, academic support, vocational and disability services. Knowledge of what these services can offer students, good relationships with these units, and effective referral to them is important (BMRI, 2009, 44). It is also useful to consider bringing such experts into law schools to offer training and support to staff and student mentors on issues such as understanding mental health issues or mental health first aid.

Law schools can also encourage their student organisations to form such relationships (BMRI, 2009, 44). Excellent advice is available to support student society activities in *Depression in Australian Law Schools: A handbook for law students and law student societies* http://www.alsa.net.au/assets/publications_ALSA_depression_handbook.pdf

Guideline 2

It is good practice for law schools to actively educate and disseminate information around the issues of mental illness and student distress with staff and students

The BMRI Report found a significant level of ignorance around

the problems of mental illness (for instance, law students tended not to identify the most common symptoms of depression) and a reluctance to seek support (law students were less likely than other student groups to seek help for depression).

Education around the issues can serve to alert students to the symptoms of mental illness and overcome the stigma that may attach to such illness. A number of student law societies as well as the Australian Law Students Association (ALSA) have produced excellent publications about law student well-being and mental health problems.

Further, Hall argues that institutional and peer recognition of the problem is necessary as law schools and their staff may tend to dismiss or rationalize away evidence of law student distress (Hall, 2009, 132). Hall suggests that for law school academics, cognitive dissonance and rationalisation tendencies may lead them to an unwillingness to confront the possibility that the content, delivery and assessment practices of their classes is contributing to the psychological distress of their students. Similarly, Krieger (2002) argues that such institutional denial about the 'dark side' of law school can only exacerbate the problem.

Mental health first aid training may be a useful strategy in this context to prepare staff to identify and respond to mental health issues. Examples of information for students about mental health and sources of stress in law schools include:

- *Depression in Australian Law Schools: A handbook for law students and law student societies* http://www.alsa.net.au/assets/publications_ALSA_depression_handbook.pdf

- *Good Vibes – the mental health publication of the Melbourne University Law Students Society:*
<http://www.mulss.com/sites/default/files/users/3/GoodVibes2011.pdf>
- *The Hidden Sources of Law School Stress* by Lawrence Krieger – available from:
http://www.law.fsu.edu/academic_programs/humanizing_lawschool/booklet2.html

Guideline 3

It is good practice for law schools to prepare students for normal expected stresses and encourage them to discuss and reflect upon their experiences.

There is little doubt that the study and practice of law can be highly stressful. Students need to learn ways of managing stress and developing reflective practices that can help them be cognisant of ‘the impact of legal education on their own thinking and emotional wellbeing (Hall, 2009, 133), as well as their own developing notions of their professional identity (Field and Duffy 141). Strategies that may assist students in this regard include (but are not limited to) pastoral care interventions, resources to promote students’ resilience and mindfulness meditation training (Duffy, Field and Shirley, 2011, 252.

Of the new Threshold Learning Outcomes (TLOs), TLO6 on self management states:

“the graduate of a Bachelor of Laws is able to (a) learn and work independently, and (b) reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development”. The good practice guide for implementing TLO6, Marychurch et al (2011), specifically addresses the issue of workload and stress management and provides exemplars of relevant programs.

See, for example, *Vitality for Life and Law*, University of Wollongong:
<http://www.uow.edu.au/law/vitality/index.html>

Guideline 4

It is good practice for law schools to engage in curriculum renewal to integrate strategies for the promotion of law student well-being into their teaching and learning practices.

The literature suggests that engaged and active learning (Field and Duffy, 145; Duffy, Field and Shirley, 2011, 251), greater student autonomy (Sheldon and Krieger, 894) and team-based learning (Iijima, 2002-3) may contribute to student well-being.

Conversely, practices such as grading curves (Krieger, 2002, 125), assessment by 100% examination and 24 hour take-home examinations have been argued to contribute to student distress.

See further Galloway et al (2011) and Huggins et al (2011).

Guideline 5

It is good practice for law schools to acknowledge the competitive elements of legal education and support students to recognise that competition need not extend into the personal aspects of their lives.

Although the BMRI Report does not condemn competition outright, it observes that an adversarial and competitive attitude may spill over into the personal lives of students, contributing to distress (BMRI, 2009, 46).

Strategies to reduce competitiveness amongst law students can be found in Krieger, 2008.

Guideline 6

It is good practice for law schools to evaluate critically the workload expectations of students

We have already discussed the need, in Guideline 3, for students to develop self management skills. Sometimes, however, workloads in individual subjects or across subjects, may be underestimated by teachers and contribute to student distress. Krieger (2002, 124) argues that habituating students to ongoing and unnecessary stress may cause them to make career choices that perpetuate that paradigm. As Larcombe et al point out, it is 'imperative' that law schools do not teach students to accept that distress and depression are part of the cost of becoming a lawyer (Larcombe et al, 2013, 30). There is also widespread

understanding from a pedagogical perspective that workloads that are unduly heavy encourage surface learning in students and contribute to stress.

Good work has been undertaken at a number of universities around workload and clarifying to students their workload expectations. The USQ document, for instance, '[Managing Student Perceptions of Appropriate Workload](#)' notes the relationship between student perception of workload and the quality of learning; and that students with a perception of a heavy or inappropriate workload tend to experience stress. It goes on to provide helpful guidelines for managing student perception of workload. Similarly, a document from Ako Arotorua, '[Student Workload](#)' provides a framework for estimating student work time in hours within a subject.

Guideline 7

It is good practice for law schools to offer mentoring programs that ease the transition into law studies and subsequently into the profession.

Mentoring, whether by staff, professionals or peers, has been shown to have a positive impact on the student experience (James, 2011; Watson and Field, 2011). Where students are acting as mentors, it is good practice to consider how they are to be recruited, trained, compensated or acknowledged for their important contribution to the law school experience of other students.

In this context, it is worth remembering that most law students view their academic teachers as their principal mentors, and for law schools to ensure that academic staff are

resourced to provide regular open-door drop times or consultation sessions.

Examples of peer and professional mentoring schemes for law students include:

- the Peer Assisted Learning Scheme at Macquarie: www.alsa.net.au/OctoberCouncil/palpresentation.pptx
- the CHAT mentoring scheme at ANU: http://law.anu.edu.au/undergraduate/CHAT_mentoring.asp

See also Larcombe and Malkin, 2011.

Guideline 8

It is good practice for law schools to offer broad careers advice to emphasise non-traditional and alternative career paths for students

There is some suggestion that the relatively narrow career advice law students may receive, and the fact that student societies are often supported by top tier firms, contribute to law student distress (Guthrie, 2009). These factors may promote an unrealistic and unhealthy view that the only career to which to aspire is one in a top tier firm. In fact, law is a highly versatile degree that provides opportunities across a wide spectrum of organisations and areas.

Guideline 9

It is good practice for law schools to de-emphasise the consumption of alcohol at events and encourage student law societies to do the same.

Substance abuse, including alcohol abuse, within the legal profession is a significant problem and is linked to issues of mental health (Mark, 2007). Traditionally, alcohol consumption at law school external events and student society events has been high. Law schools should seek to focus on a variety of events and activities to engage students and external stakeholders.

See further the Unimelb Guidelines on Culturally Inclusive Social Events: <http://www.unimelb.edu.au/diversity/downloads/Inclusive-Events.pdf>

Guideline 10

It is good practice for law schools to evaluate the efficacy of interventions they introduce.

Interventions aimed at reducing student mental distress should be evaluated and the results disseminated (Field and Duffy, 155-156) in order to ensure ongoing improvements in good practice. More generally, each law school should research the prevalence of mental distress in its own student body and amongst its staff, and contribute to more general research.

Such evaluations should also pay careful attention to the emotional work being done by staff who respond to students experiencing mental distress (Galloway and Bradshaw 2010) and consider the adequacy of support to such staff including

opportunities for debriefing. It may be appropriate to appoint a coordinator of the law school's wellness activities and/or wellbeing contact points for students to ensure that 'wellbeing work' is formally recognised and appropriately distributed.

See further Townes O'Brien et al (2011) and Larcombe et al (2103).

Resources

Australian Law Students Association, 'Depression in Australian Law Schools: A Handbook for Law Students and Law Student Societies' <http://www.beyondblue.org.au/index.aspx?>

Beyond Blue <http://www.beyondblue.org.au/index.aspx?>

Tristan Jepson Memorial Foundation, <http://www.tjmf.org.au/>

Wellness Network for Law Academic Resources: <http://www.tjmf.org.au/wellness-network/wellness-network-resources/>

References and Further Reading

Beaton Consulting and Beyond Blue, 'Mental Health in the Workplace' (2011) available at <http://www.beatonglobal.com/pdfs/A>

[nxiety and depression in the workplace.pdf](#)

Benjamin, G Andrew H and Shanfield, Stephen B, 'Psychiatric Distress in Law Students' (1985) 35 *J Legal Ed* 65

Benjamin, G Andrew H, Kaszniak, Alfred, Sales, Bruce and Shanfield, Stephen B, 'The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers' (1986) *Law and Social Inquiry*, 225

Britton, John, 'Lawyers, Emotional Distress and Regulation' (2009) presented at Bar Assoc Qld Conference, available at http://www.lsc.qld.gov.au/data/assets/pdf_file/0006/106197/lawyers-emotional-distress-and-regulation.pdf

Duffy, James, Field, Rachael and Shirley, Melinda, 'Engaging Law Students to Promote Psychological Health' (2011) 36(4) *Alternative Law Journal* 250

Field, Rachael and Kift, Sally 'Addressing the High Levels of Psychological Distress in Law Students through Intentional Assessment and Feedback Design in the First Year Law Curriculum' (2010) 1(1) *International Journal of the First Year in Higher Education* 65

Field, Rachael and James Duffy, 'Better to Light a Single Candle than to Curse the Darkness: Promoting Law Student Well-Being Through a First Year Law Subject' (2012) 12(1) *QUT L & JJ* 133

Galloway, Kate, Bradshaw, Rachel Dunbar, Neil and Fellows, Jamie, 'Approaches to Student Support in the First Year of Law School' (2011) 21(2) *Legal Education Review* 235

Galloway, Kate and Bradshaw, Rachel, 'Responding to Changed Parameters of the Law Student: A Reflection on Pastoral Care in the Law School' (2010) *Journal of the Australasian Law Teachers Association*, available at http://www.alta.edu.au/resources/PDFs/2010/2010_jalta_galloway_brads_haw.pdf

Grover, Susan, 'Personal Integration and Outsider Status As Factors in Law Student Well-Being' (2008) 47 *Washburn Law Journal* 419

Guthrie, Hayden, 'Depression Rife in Law Schools, Firms to Blame' (2009) *New Lawyer* available at <http://www.thenewlawyer.com.au/law-firms/depression-rife-in-law-schools-firms-to-blame>

Hall, Kath, 'Do we Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools' (2009) 9(1) *QUTLJ* 122

Huggins, Anna, Kift, Sally and Field, Rachael, Sally Kift and Rachael Field 'Implementing the Self-Management Threshold Learning Outcome for Law: Some Intentional Design Strategies from the Current Curriculum Toolbox' (2011) 21(2) *Legal Education Review* 183.

Iijima, Ann 'Lessons Learned: Legal Education and Law Student Dysfunction' (1998) 48(4) *Journal of Legal Education* 524

Iijima, Ann, 'The Collaborative Legal Studies Program: A Work in Progress'

(2002-2003)12 *Kan JL & Pub Pol'y* 143

James, Nickolas, 'Professional Mentoring Programs for Law Students' (2011) 30(1) *UTas L Rev* 90

Kelk, Norm, Luscombe, Georgina, Medlow, Sharon and Hickie, Ian, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Lawyers* (2009) (Sydney: Brain & Mind Research Institute)

Krieger, Lawrence S, 'Human Nature as a New Guiding Philosophy for Legal Education and the Profession' (2008) 47 *Washburn LJ* 247

Krieger, Lawrence S, 'Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence' (2002) 52 *J Legal Ed* 112

Krieger, Lawrence S, 'What We're Not Telling Law Students-and Lawyers- That They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession from its Roots (1999) 13 *JL & Health* 1

Larcombe, Wendy, Tubaga, Letty, Malkin, Ian, Nicholson, Pip and Tokatlidis, Orania, 'Does an improved experience of law school protect students against depression, anxiety and stress? An empirical study of wellbeing and the law school experience of LLB and JD students' (2013) 35(2) *Sydney Law Review* (forthcoming) available at <http://ssrn.com/abstract=2147547>.

Larcombe, W and Malkin, I, 'The JD First Year Experience: Design Issues and Strategies' (2011) 21 *Legal Education Review* 1.

Lester, Anthony England Lloyd and Antolak-Saper, Natalia 'Health and

Wellbeing in the First Year: The Law School Experience' (2011) 36(1) *Alternative Law Journal* 47

Mark, Steve, 'Impaired Practitioners; substance abuse and mental illness in the legal profession' (2007) 37 *Without Prejudice*

Marychurch, Judith May, Littrich, John P and Wallace, Margaret C, 'Graduate Capabilities Assessment Rubric for Self-Management Standards in the Bachelor of Laws' (2011) available at http://www.tjmf.org.au/wp-content/uploads/2011/10/Marychurch_Good_Practice_Guide_TLO6.pdf

Reifman, Alan McIntosh Daniel and Ellsworth, Phoebe 'Depression and Affect Among Law Students During Law School' (2001) 2(1) *Journal of Emotional Abuse* 93

Schiltz, Patrick 'On Being a Happy Healthy and Ethical Member of an Unhappy, Unhealthy and Unethical Profession' (1999) 52 *Vanderbilt Law Review* 871

Sheldon, KM and Krieger LS 'Understanding the negative effects of legal education on law students: A longitudinal test of self-determination theory' (2007) 33(6) *Personality and Social Psychology* 883

Sheldon, KM and Krieger, L, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being' (2004) 22 *Behav Sci and L* 261

Silver, Lawrence, 'Anxiety and the First Semester of Law School' (1968) *Wis L Rev* 1201

Tani, Massimiliano and Vines, Prue 'Law Students' Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?' (2009)19(1) *L Ed Rev* 3

Townes O'Brien, Molly, Tang, Stephen and Hall, Kath, 'Changing our Thinking: Empirical Research on Law Student Wellbeing, Thinking Styles and the Law Curriculum' (2011) 21 *L Ed Rev*149

Watson, Penelope and Field, Rachael 'Promoting Student Wellbeing and Resilience at Law School' in Sally Kift et al (eds), *Excellence and Innovation in Legal Education* (LexisNexis, 2011) 389