



Law Society
of Scotland



Action plan

Lawscot Wellbeing response to survey: The status of mental health stigma and discrimination in the Scottish legal profession

June 2020



Contents

Introduction

Seven-point action plan:

1. **Senior leadership commitment and engagement**
2. **Conditions for safe, effective and pertinent disclosure**
3. **Mental health awareness and literacy**
4. **Effective mental health training approaches**
5. **Confident and informed line management**
6. **Effective implementation of reasonable adjustments**
7. **Stigma-free organisational culture and ethos**

Introduction

In 2019 the Law Society of Scotland and See Me entered into a partnership to survey the Scottish legal profession, to identify the current status of mental health stigma and discrimination in the legal profession. The survey sought to gather attitudes and perceptions of solicitors, trainees, accredited paralegals, paralegals, legal technicians and all support staff working in practice units and in-house legal teams. We chose not to limit the survey to our members as to gain a full picture of the profession, we need to engage with people working in all roles within the sector.

This action plan has been written as our response to the results from the survey and addresses the key issues that as a profession we need to work on. Over the next three years, driven by Lawscot Wellbeing and with the guidance and support from See Me and other partner organisations, we will put the plans outlined in this document into action with the aim of reducing mental health stigma and discrimination in the legal profession. To monitor progress, we will survey the legal profession again in three years' time, at which point we can measure any change. Our ultimate aim is to end mental health stigma and discrimination in the legal profession.

Why did we launch a survey about mental health in the Scottish legal profession?

For several years, mental health has continued to be a prominent topic of conversation in society in general, with the legal profession being no exception. In 2018 we set up Lawscot Wellbeing in response to this conversation, as our commitment to improving good practice in relation to mental health in the legal profession, signpost support and contribute to ending the stigma. However, data is needed to measure what kind of impact we are making and whether we are making progress, which is why we carried out a survey.

Protecting the wellbeing of employees is a critical role of employers by law and it's our role as a professional body to influence best practice, as we believe the Scottish legal profession should be doing more than just the minimum standard. All employers, regardless of sector have a 'duty of care'; to do all they reasonably can to support their employees' health, safety and wellbeing. This includes making sure the working environment is safe, protecting staff from discrimination and carrying out risk assessments.

Reducing mental health stigma and discrimination is critical to a positive and proactive attitude to looking after our mental health at work. A decrease in stigma along with better levels of literacy in relation to mental health will lead to more open conversations. This will in turn increase confidence levels in employees, managers and leaders that everyone understands their role in supporting mental health at work and they can signpost, or be signposted to, appropriate support. We want to champion safe environments for disclosure to create a culture of trust between managers and employees, proactive ongoing engagement with mental health campaigns and a zero-tolerance policy to stigma and discrimination. This serves not just a moral, but also a financial business case. According to See Me's data, mental illness currently costs Scottish businesses £2billion a year.¹

¹ <https://www.seemescotland.org/workplace/see-me-in-work/step-1-sign-up/cost-calculator/>

See Me in Work's survey and action plan approach

Through the 'See Me in Work' programme, See Me have experience working with a range of organisations directly, with a survey functioning as a way of taking a benchmarking exercise to assess existing attitudes, perceptions and support available in relation to mental health. Using their existing 'traffic light' indicator system, we have been able to get a clear indication of which issues need particular focus for improvement.

This action plan is structured around seven building blocks identified by the evidence base and reinforced by learning from the See Me programme for creating a workplace environment inclusive of mental health, free from stigma and discrimination.

1. Senior leadership commitment and engagement
2. Conditions for safe, effective and pertinent disclosure
3. Mental health awareness and literacy
4. Effective mental health training approaches
5. Confident and informed line management
6. Effective implementation of reasonable adjustments
7. Stigma-free organisational culture and ethos.

By structuring our action plan around these themes, we believe we have set out a solid framework to how we will target key areas to reduce stigma and discrimination in the Scottish legal profession.

How we will adapt our approach for different sectors of the membership

This is the first time See Me have worked on a profession-wide basis. The Scottish legal profession comprises a huge cross-section of organisation types; from single rural high-street practices, to cross-border international firms and public sector organisations. As such, there is not 'one-size fits all' to how this action plan will be delivered, and the varied nature of the profession will inform our strategy at every stage. Some of these challenges were identified by survey respondents:

Highlighting some challenges for smaller firms: *"As with all aspects of health & wellbeing, as part of a small business it is very easy to aspire in theory but the reality of work & the requirements of the business due to the nature of the work undertaken make such aspirations not only impractical but impossible."*

Highlighting a potential issue for private practice: *"There does not seem to be time in this profession for mental health issues. The pressures to fee do not leave time for this."*

We will clarify where there are commonalities in how to positively engage with mental health as a profession but underpinning each action will be considering how sectors of the membership will require a tailored approach.

How we will engage the legal profession

This action plan will be led by the us, specifically in the work we do under the 'Lawscot Wellbeing' banner. A steering group oversees our strategy and delivery of this area, which is made up of our members in a range of organisations, as well as representatives from partner organisations including See Me and LawCare.

The Lawscot Wellbeing section of our website is our existing resource and we intend to build on this as an ever-evolving bank of information to better serve our members and organisations. However, rather than existing as a side line project, we want our wellbeing work to be pervasive throughout all our engagements with members. We will ensure events, communications and interactions have a greater wellbeing focus, in order to stay at the forefront of what we do.

1. Senior leadership commitment and engagement

Overview

Crucial to embedding any sort of cultural or behavioural change within a workplace is the commitment of senior leaders.

- **39% of all respondents felt the senior leaders in their organisation show their commitment to staff mental health.**

One respondent commented: *“Due to the inherent hierarchy of private practice, the above initiatives need to be led from the top down which they currently are not. The attendance of partners and senior staff at these events is low but they need to be the drivers of this change.”* This theme isn’t limited to private practice, with others commenting engagement from senior leadership in other organisation-types was lacking.

The recommendations throughout this action plan will need initiating and backing by senior leaders. Tangible commitments such as investment through time or money must come as decisions from the top down, whereas good practice such as role-modelling will be most impactful when senior leaders walk the talk, encouraging other employees to follow suit.

Action by senior leaders will also evidence that fostering a mentally healthy workplace culture isn’t the preserve of HR teams. A consistent, inclusive approach needs to be taken at a top-level by senior leaders, with the health of staff a business-critical decision.

Some aspects of workplace culture can be embedded and therefore to create change, require cross-organisational which can only be effectively be coordinated from a senior, strategic level. For example:

- **58% of respondents thought a review of workload pressures would create a healthier workplace culture.**

Other issues may not necessarily be widespread, but their critical nature warrant a clear signal from leadership. For example, when respondents were asked for additional comments about mental health in the legal profession, one of the themes identified was the presence of bullying which may contribute to poor mental health for some colleagues.

What are we committing to do?

➤ **Engage with leadership**

We will engage with senior leadership across the profession through events, forums, one-to-one conversations and targeted communications. Our goal is to make sure all senior leaders receive and understand the findings from this research and appreciate the critical nature of looking after employee wellbeing. We will ensure how senior leaders can positively impact their workplace cultures to make them healthier for all.

➤ **Be a proactive and vocal leader**

We, the Law Society of Scotland, will recognise our role as a leader and ensure that employee wellbeing remains a key priority. We will commit to learning from other organisations and partners to make sure we are supporting our employers and members in the most effective way.

➤ **Promote schemes organisations can adopt to improve workplace cultures**

There are many initiatives available to organisations to sign up to with the aim of embedding positive cultural change. One key example is the Mindful Business Charter which lays out a framework for good practice in client/firm relationships to minimise stress by looking at small changes which can have a wider impact. We will signpost options for employers, reviewing the benefits of different schemes, to allow leaders to identify what might suit their organisation's needs.

➤ **Give senior leaders opportunities to learn from one another**

We will facilitate peer-support opportunities for employers to share information and ideas. However, a Managing Partner from a small high-street practice will have different challenges and therefore require a different approach to, for example, a General Counsel. We will use our existing dedicated networks supporting different sectors of the profession, to host valuable peer-support forums.

2. Conditions for safe, effective and pertinent disclosure

Overview

Improving the workplace culture in relation to mental health will go hand-in-hand with ending stigma and discrimination in the legal profession. At present, the survey results suggest that people do not feel adequately supported in order to speak out about or disclose mental health issues which exacerbates, and is exacerbated by, a culture of stigma. When respondents were asked about disclosure:

- **38% said they would not ask their organisation for help if they were struggling with their mental health;**
- **37% would not want to speak about their mental health in work for the fear of the reaction they would receive from colleagues; 45% from fear of the reaction they would receive from managers;**
- **31% did not feel they could disclose their mental health problem without fear of being moved to another post or of passed over for promotion.**

In terms of making positive progress for the future:

- **46% of respondents identified ‘opportunities for staff to have open and honest conversations about mental health’ as a key area of improvement to create a more positive attitude to mental health.**

What are we committing to do?

- **Provide information about how to set up a safe environment to talk**
We will work with our partners, See Me, to share information with employers about how to create environments where colleagues can feel safe to disclose their mental health conditions.
- **Promote Mental Health First Aiders (MHFAs) in the workplace**
MHFAs can be critical to ensure staff have someone on hand in times of crisis. Like physical first aiders, they are employees already part of your workforce, trained to listen and triage face to face. Having a clear presence of MHFAs can give people a clear place to access non-judgemental support at work. We will promote the benefits of mental health first aid and share where to access training.
- **Promote the importance of consistent implementation of policies and procedures in relation to disclosure**
We will work with See Me to ensure we provide guidance for disclosures that will avoid variation across teams. Policies can play a key role in empowering employees however unless they are actively adhered to, communicated and understood, they may not have the desired impact on culture.

3. Mental health awareness and literacy

Overview

Improving mental health awareness and literacy is about empowering people with more knowledge. By making more information available, employees and managers will be better equipped with the information they need to support their own, as well as others' mental health. This can be a powerful tool to influence workplace culture.

However, employees may not be getting access to the level of support they need or would like.

- **42% of respondents identified better communication of support available as an action that would improve mental health practices in the workplace.**

The survey suggests there's a great appetite for people wanting to do more themselves to support colleagues.

- **77% of respondents said they want a better understanding of mental health problems so they would know what to say or do to accommodate someone if they disclosed mental health problems.**

One way of providing and relaying information about support to colleagues is through policies. However, the majority of respondents were not aware of workplace policies relating to mental health, which may either be because they don't exist, or they aren't effectively embedded and communicated.

Participating in campaigns and sharing literature can raise awareness of mental health can boost employees' knowledge of key issues, which can have a positive impact on confidence and culture. They are also a useful vehicle for encouraging staff to speak more openly about mental health.

- **36% of respondents felt their organisation encourages staff to talk openly about mental health problems.**

What are we committing to do?

➤ **Promote mental health engagement campaigns**

We will provide information on campaigns employees can engage with to promote the benefits of speaking about wellbeing and encouraging an ongoing open discussion in the legal profession, for example Time To Talk Day, Mental Health Awareness Week and World Suicide Prevention Day.

➤ **Develop our Lawscot Wellbeing online portal to be a one-stop-shop for all resources**

We will use our platform as a clear communication channel to include all mental health literature for employees, managers and leaders like signposting to services (local and national), campaigns and clear messages about implementation of supportive policies.

➤ **Learn from other organisations from inside and outwith the legal profession**

Through Lawscot Wellbeing we will make as much content available as possible to share good practice from within the legal profession by sharing case studies. We will also look beyond the law to learn from other professions, to build up more knowledge about employee engagement strategies and effective campaigns, to share with legal organisations.

4. Effective mental health training approaches

Overview

The results of the survey indicate that either few staff take up opportunities of mental health training in organisations in the legal profession, or they provide few opportunities for mental health training for staff, which merited a 'red' score on See Me's traffic light indicator.

A desire for improvement was reflected by respondents. When asked to reflect on what additional practices their organisation could implement or expand upon in order to create a mentally healthy working environment, free of stigma and discrimination, training was the most commonly identified solution:

- **62% said mental health training for managers;**
- **54% said mental health training for staff.**

Across the board, training can increase individuals' confidence to support their own or others' mental health. By providing knowledge and practical tools, participants are upskilled to better manage situations relating to mental health at work.

The survey results suggest access to mental health-related training is limited:

- **61% of respondents had not received any training at all on mental health;**
- **29% of respondents with a managerial role said they have had access to mental health training in their current organisation.**

The most commonly selected areas of training that respondents would like to be made available were: Mental Health Awareness, Resilience, Mental Health First Aid and Mindfulness.

What are we committing to do?

- **Promote the importance of mental health training**
We will engage with employers to endorse the benefits of making mental health training accessible to all, including leadership, management, peer-support, HR and for personal development.
- **Signpost mental health training**
We will signpost employers to where they can access a range of training resources for employees. See Me in Work provides a free e-learning programme designed to highlight the impact of stigma and discrimination on people with experience of mental health problems in the workplace.
- **Encourage employers to undertake an assessment of training needs for managers**
We will share resources from partner organisation like See Me to enable employers to undertake a comprehensive assessment of training needs for managers. We will work with See Me to create a mental health knowledge and skills framework for the legal profession that members could use. We will connect employers and managers with the training resources they need to support their staff with their mental health confidently and proactively.

5. Confident and informed line management

Overview

Looking at the survey responses, this is a key area of weakness in the legal profession and would therefore make a significant impact if improved.

Respondents were asked to consider what their organisation does to ensure their working environment is free from stigma and discrimination. In the survey report, a high proportion of statements scoring 'red' on the See Me traffic light indicator (indicating improvements are required) related to managers.

- **64% of respondents did not have regular conversations with their supervisor/line manager about their mental health and wellbeing.**
- **24% of respondents felt supervisors/line managers knew how to support staff in relation to their mental health and wellbeing and could confidently signpost them to further support.**
- **37% of respondents felt their supervisor/ line manager prioritised their mental health and wellbeing.**

When respondents were asked for additional comments on mental health in the legal profession, one key theme that emerged was inconsistent approaches from managers to supporting employee mental health.

As identified in the previous section, ensuring appropriate training is undertaken by managers was identified as a way to improve the culture of mental health in the legal profession.

The importance of ensuring leaders, sole principals and managers are supported too was a key theme identified in respondents' additional comments on mental health. One respondent commented: *"I am a Principal. There is very little, if any, support available for practice managers like myself. There is a perception, whether true or not, that we are all "super-humans" but we are not."* Managers need to know where to access support, otherwise they are at risk of being isolated with a lack of dedicated mental health provision and the expectation to support others.

What are we committing to do?

- **Produce a resource to help managers hold conversations about mental health confidently**
We will collaborate with See Me to produce a tailored 'Let's Chat' resource for the legal profession, which is designed as a tool to help managers more confidently broach one-to-one conversations about mental health with staff, using scenarios and examples, and signpost to existing support.
- **Improve consistency of support delivered by managers**
We will share clear and consistent guidance on the role of a manager or senior colleague in relation to their role in supporting colleagues with their mental health. We will work to understand the barriers to implementing good practice, by undertaking focus groups with managers and employees.
- **Highlight or facilitate networks for management peer support**
We will engage leadership across the profession to identify how employers could form, or utilise existing, cross-professional networks for peer-support, ensuring everyone will have a colleague to turn to if they need support.

6. Effective implementation of reasonable adjustments

Overview

For employees with a mental health issue that affects their working life, being able to discuss the implementation of reasonable adjustments is essential to supporting them.

As the legal profession, we recognise our member organisations will be familiar with the legal requirement to support employees with their mental health at work. Under the Equality Act 2010 a mental health issue can be considered a disability under the law if it causes a substantial and long-term impact on the employee. If these apply, the employer must not discriminate against the individual because of their disability and must make reasonable adjustments for the employee, if necessary, to accommodate their disability.

However, the results suggest employees and managers have a lack of practical knowledge in relation to reasonable adjustments in order to apply them to their own or colleagues' personal situations.

- **47% of respondents felt they knew enough about reasonable adjustments to have a conversation about them.**
- **39% of respondents believed that line managers understood and adopted reasonable adjustments to support staff to stay in and/or return to work.**

One way of providing and relaying clear information about support to colleagues is through policies.

- **41% of respondents were aware of their organisation's policy relating to reasonable adjustments.**

What are we committing to do?

➤ **Provide specific guidance relating to reasonable adjustments**

Focusing on mental health needs, we will produce practical guidance designed to assist

- employees in requesting reasonable adjustments
- managers in having conversations about what might assist
- those involved in recruitment and selection processes about how to broach reasonable adjustments
- decision makers on what might be reasonable in any given situation
- in understanding the potential impact of a request for reasonable adjustments on workplace culture

Similar findings were identified in our 2018 Profile of the Profession report relating to reasonable adjustments. One of our commitments in response to the 2018 research was to empower employees to ask for, and managers to consider requests for reasonable adjustments, was to produce guidance on the legal requirements as well as examples of the types of adjustments that might be made. We will incorporate mental health into future guidance we produce.

7. Stigma-free organisational culture and ethos

Overview

We know across society mental health problems are common in the general population. According to Business in the Community's Mental Health at Work 2019 report, 30% of the UK workforce have been formally diagnosed with a mental health condition at some point in their lifetime².

- **61% of survey respondents identified as having experience of mental health problems, which frequently occurred while working in the law.**

Note that we did not ask respondents whether they had a formally diagnosed condition, so this data is not a direct comparator. In the survey respondents were asked whether they had personally experienced any mental health problems and it was for the respondent to make a subjective decision based on their own definition.

While mental health issues among respondents appear to be widespread, stigmatising and discriminatory attitudes were still regularly reported.

- **24% of respondents have observed (or are aware of) stigmatising attitudes towards mental health in their organisation, with 23% feeling the same about discriminatory behaviour.**

When asked for additional comments on the topic of mental health, a key theme to emerge from the responses was the identification of a culture of stigma towards people experiencing mental health problems. One respondent commented: *"Mental health is very much stigmatised and those experiencing issues are afraid to raise them for fear of being seen as weak or unable to cope with the demands of the job."*

The survey identified that stigma was perceived as having an impact on job security, recruitment and selection.

- **35% of people said they would be comfortable to disclose a mental health condition during the recruitment process.**
- **52% of respondents thought that if they disclosed a mental health problem during the recruitment process they would be treated fairly, would not be discriminated against and would be given the opportunity to discuss reasonable adjustments required, should they be given the job.**
- **58% of respondents felt they would be able to disclose a mental health condition without losing their job.**

In terms of returning to work after a period of poor mental health, generally the results showed a perception that managers and colleagues would be supportive and that reasonable adjustments would be made where possible.

In terms of the impact respondents would perceive colleagues suffering with a mental health problem might have on team dynamics:

- **27% said they would be concerned about the impact on morale and performance of a team;**

² <https://www.bitc.org.uk/report/mental-health-at-work-2019-time-to-take-ownership/>

- **30% said they would be concerned they would become unreliable and put extra pressure on the rest of the team.**

Looking at the profile of respondents who disclosed they had experience of mental health problems, a higher proportion were female at 64%, in comparison to male at 57%. According to the World Health Organization, women are more likely to suffer from mental health issues than men³, but the Office for National Statistics figures show recent suicide rates in the UK are higher in men⁴. Respondents aged under 25 most commonly identified as having experience of mental health problems at 72%. According to Young Minds, 75% of mental health issues manifest by the age of 24⁵, which suggests there could be a higher incidence in a younger age category.

What are we committing to do?

➤ **Report stigmatising or discriminatory behaviour**

No-one working in the legal profession should be witnessing or experiencing discriminatory or stigmatising behaviour in relation to mental health. We will explore how organisations could report instances of poor behaviour, whether internally, or externally. We will signpost clear, best-practice information about how organisations and employees should deal with complaints.

➤ **Inclusive engagement**

We will engage with people across the board in the legal profession, to ensure groups are not missed due to their age, gender or any other characteristics. 70% of survey respondents identified as women, which may point to a lack of engagement from all segments of the profession. We will promote the importance of targeting different groups to employers and making sure campaigns and initiatives are inclusive, as well as ensuring this is mirrored by the work of Lawscot Wellbeing.

➤ **Adopt a zero-tolerance approach to stigma and discrimination in the legal profession**

While Lawscot Wellbeing is an essential sign of our commitment to ending stigma in the legal profession, we will continue to drive change and promote the conversation of mental health in the legal profession. The creation of a three-year strategy arising from this action plan will underpin our commitment to changing the culture and making sure stigma and discrimination are addressed and ultimately, eradicated. We will engage with employers and employees to share our goal to adopt a zero-tolerance approach.

³ https://www.who.int/mental_health/prevention/genderwomen/en/

⁴

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicidesintheunitedkingdom/2018registrations>

⁵ https://youngminds.org.uk/about-us/media-centre/mental-health-stats/?gclid=EAIaIQobChMIivvyI5TC6AIVGNtRCh2tjQcFEAAAYiAAEgLiTvD_BwE

Conclusion

The actions laid out in this plan are the basic framework that we will build on, to shape a comprehensive programme of work focused on reducing mental health stigma and discrimination over the next three years.

Ultimately, we will be able to measure our success by contrasting the results of the 2019 survey with the future survey, where we would hope to see improvement in all areas outlined in the report.

To ensure the Scottish legal profession can continue to attract and retain talented individuals across a large cross-section of roles and organisations, we need deal with the issue of mental health stigma and discrimination head-on.

Almost one in two survey respondents reported they had personal experience of mental health issues. This is about supporting a huge number of people working in our sector and it is the duty of every employer and leader to drive a positive mental health agenda forward and engage colleagues along the way. It is our role through Lawscot Wellbeing to support the profession with resources, a clear strategy and champion a positive approach to mental health.

Sources

See Me website (accessed April 2020): Cost calculator

<https://www.seemescotland.org/workplace/see-me-in-work/step-1-sign-up/cost-calculator/>

Business in the Community website (accessed May 2020): Mental Health at Work 2019 report

<https://www.bitc.org.uk/report/mental-health-at-work-2019-time-to-take-ownership/>

World Health Organization website (accessed April 2020): Mental Health – Gender and women’s mental health

https://www.who.int/mental_health/prevention/genderwomen/en/

Office for National Statistics website (accessed April 2020): Suicides in the UK – 2018 Registrations

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicidesinthetunitedkingdom/2018registrations>

Young Minds website (accessed April 2020): Mental Health Statistics

https://youngminds.org.uk/about-us/media-centre/mental-health-stats/?gclid=EAlaIqObChMlivvyI5TC6AIVGNtRCh2tjQcFEAYAiAAEgLTvD_BwE

For further information, please contact:

Olivia Moore
Careers Development Officer
Law Society of Scotland
DD: 0131 476 8203
oliviamoore@lawscot.org.uk