Lawyer Wellbeing, Workplace Experiences and Ethics: A Research Report

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Foreword

As regulatory partners in the Uniform Law, we are pleased to have supported this in-depth and novel research undertaken by the team of multi-disciplinary researchers at the Australian National University and the University of Melbourne.

This research report provides much-needed evidence on the wellbeing of Australian lawyers and highlights the need for more action from all parts of the legal profession.

In particular, lawyers with leadership roles can influence ethical climate and wellbeing from 'the top down' and bridge gaps in understanding the true experiences of others, which may exist due to hierarchy. This research also highlights the risk of elevated levels of distress for those in principal lawyer roles, alongside the responsibility they may carry for others.

We are committed to focusing on lawyer wellbeing, and we know that change is possible with individual, collective and evidence-based action. It's also important to measure results across the system over time.

We invite all members of the legal profession to join us in considering these results, particularly the specific recommendations and suggested areas for action.

A sincere thanks to the team of dedicated researchers from the Australian National University and the University of Melbourne for their excellent research, analysis and reporting work. We also extend our appreciation to about 2,000 lawyers who contributed their experience and views to this research.

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Legal Practice Board
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Victorian Legal Services
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THE LAW SOCIETY
OF NEW SOUTH WALES

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OF WESTERN AUSTRALIA

Executive summary

This report discusses the findings from survey research conducted in March–April 2024 across the 3 Australian Uniform Law jurisdictions (Victoria, New South Wales and Western Australia). The research examines the relationships between lawyer wellbeing, ethical climate, workplace incivility and wellbeing safeguards in legal workplaces. It also explores how these various factors influence individuals' intentions to leave either their current workplace, or the legal profession.

Core concepts and themes

Ethical climate

The term 'ethical climate' is used to describe the shared experiences of what is ethical and unethical in an organisation. Our participants perceived 3 main dimensions of ethical climate in their workplaces:

a) positive ethical behaviours and relationships

b) self-interest and self-protection

c) rule-breaking and 'ethical flexibility'.

The degree to which participants perceived these dimensions operating in their workplace varied by gender and practice setting. Further, the 3 dimensions were experienced by participants as distinct ethical climate 'types'. Just under half of survey participants reported working within a more positive, ethically engaged climate, characterised by higher positive ethical behaviours/relationships and low levels of self-interested behaviours or ethical flexibility. Approximately one-third were working in an ethically apathetic environment, with lower than average levels of positive ethical behaviours, and slightly higher than average perceptions of the 2 negative dimensions. The remaining participants described an ethically questionable environment, with high levels of self-interest or ethical flexibility, and low levels of positive ethical behaviour.

Psychological distress

Consistent with previous studies of lawyer wellbeing, about 30% of participants reported symptoms indicative of a higher risk for a depressive or anxiety condition. Female participants appear to be significantly more likely to report some degree of distress, but are not significantly more likely to experience moderate or severe levels of distress. Psychological distress was highest in lawyers with <5 years post-qualification experience (PQE). Levels of distress scores decreased significantly with increasing experience.

Incivility

This study indicates that incivility is a widespread problem across the legal industry. However, the intensity of incivility reported does not seem high relative to other studies. Experience of incivility varies by gender, PQE and status: women and junior lawyers generally experience more of it. Principals experience it less than any other practising certificate holder. Peers, supervisors and clients are significant instigators of incivility.

Positive wellbeing

The survey measured positive subjective wellbeing by asking about 9 attributes: positive emotions, engagement, positive relationships, meaning, accomplishment, physical health, mindset, environment and economic security. The strongest contributor to participants' positive wellbeing was their relational experience at work, specifically, encouraging and supporting others in the workplace. Lawyers' sense of meaning – believing that their work was valuable and worthwhile – was also given significant weight in relation to their wellbeing. On the negative side, physical health scored the lowest rating. There is a clear correlation between wellbeing and ethical climate types. Participants in ethically questionable climates experience poorer physical health, relative disengagement and a reduced sense of meaning in the work.

Psychosocial supports

Participants were asked to identify the strength with which they endorsed their organisation's provision of 6 specified psychological and social supports to staff. Two-thirds of the support items identified were positively endorsed by more than 50% of participants. However, nearly half of respondents felt that their workplaces did not show sufficient understanding of the importance of employee mental health. The only 'support' item to be favourably endorsed by over two-thirds of respondents was the ability to count on the support of colleagues in fulfilling the requirements of their job.

The research found (as expected) a strong negative correlation between total psychosocial support and incivility, and a strong positive correlation between positive ethical behaviours and relationships and the presence of good psychosocial supports. The data suggests that organisations that provide a positive ethical climate are better at providing a psychosocially safe environment, while a psychosocially safe environment is also perceived to be one that promotes positive ethical behaviours and relationships.

What predicts higher levels of psychological distress?

Unsurprisingly, there was a marked relationship between higher levels of psychological distress and lower levels of positive wellbeing. Further, higher levels of psychosocial support were associated with lower levels of psychological distress.

The experience of incivility, regardless of the instigator or other demographic or situational factors, was consistently associated with higher levels of psychological distress.

While levels of psychological distress were highest in lawyers with <5 years PQE (see section 2), when controlling for PQE, principal practising certificate holders had significantly higher levels of psychological distress than all other practising certificate holders. This suggests that the fact of being a principal practising certificate holder has a specific adverse effect on wellbeing. The vulnerability of both junior lawyers and principals to psychological distress supports the view that the mental health of lawyers is a top-down problem. In other words, it is consistent with a view that the root problem is structural and, at least in part, shaped by organisational values, and assumptions about professional identity and (work) commitment (cp. Collier, 2025; Lister & Spaeth, 2024; Krill et al. 2022) that not only come from the top of the organisation, but also impact the ability of law firm leaders to address their own wellbeing.

Does experience of workplace incivility predict wellbeing/distress/perceptions of ethical climate?

Greater incivility was associated with lower perceptions of positive ethical behaviours, and higher perceptions on the other 2 negative ethical climate dimensions. Total incivility experience was also associated with lower levels of positive wellbeing. However, the relationship between incivility and wellbeing is better explained through the presence/absence of ethical behaviour or an ethic of care. Nonetheless, incivility experience, regardless of source or perceptions of ethical climate, has a direct impact on psychological distress.

Four distinct clusters of incivility instigators were identified, corresponding to (1) supervisors; (2) external sources (clients, collaborators or judiciary); (3) coworkers and subordinates and (4) incivility from any of these 6 sources. The negative effect of incivility on wellbeing was greater when the source of the incivility was a supervisor. Further, the source of incivility was material to participants' perceptions of workplace ethical climate (a more negative ethical climate, if the source was the supervisor). Nonetheless, the source of incivility had no effect on psychological distress: any form of incivility has a direct and robust effect on distress.

What predicts a lawyer's intention to leave?

Almost one in 3 participants expressed an intention to leave their employer within the next year. Moreover, nearly one in 10 expressed an intention to leave the profession within the year.

Intention to leave employer

Lawyers' intention to leave their employer was predicted by:

a) low levels of positive wellbeing, much more so than high levels of psychological distress

b) low psychosocial support, more so than the extent of incivility

c) incivility from supervisors, rather than from external sources or from peers

d) an ethical climate that valued 'ethical flexibility'.

Intention to leave the profession

Lawyers' intention to leave the profession within the next 12 months was predicted only by low positive wellbeing and high psychological distress. Respondents gave reasons for their intentions to leave. In order of frequency, these included:

a) the 'reward/effort' bargain and working conditions

b) stress, pressure and/or 'burnout'

c) desire for a role or career change

d) poor leadership, management and work culture

e) negative impact of work on physical and/or mental health.

Among those who had been practising for less than 5 years, poor leadership, management and work culture assumed a higher relative importance.

The value of beneficial supports at work

Respondents commented positively on the following, in order of frequency:

a) paid counselling, support from a psychologist or Employee Assistance Program

b) management approach, which included monitoring of workloads/working hours/staff at risk, showing an interest in staff and allowing time for debriefing

c) flexible workload and use of leave (or additional leave) to cope with personal circumstances

d) flexible work arrangements, including working from home

e) additional leave, billing relief to support wellbeing, flextime/time in lieu for excess hours

f) informal peer support.

Other respondents commented on the ineffectiveness of supports at work, inconsistencies between policy and practice, and the futility of providing individually focused supports without addressing unreasonable/excessive workloads and the quality of management.

Conclusion and areas for action

Conclusions

Overall, our findings indicate that there is a gap between the perceptions and experiences of more senior and junior members of the profession. This underscores the importance of investigating the views and experiences of those at lower levels of the hierarchy, and using the results to encourage critical reflection on organisational culture by senior managers. It also highlights how critical the first 5 years of legal practice are to lawyers' wellbeing. For those interested in the sustainability of the legal workforce, targeted attention to improving lawyers' experiences of the first 5 years of practice, as well as (or indeed through) the quality of management, should be a priority. Individual employers should also be concerned as voluntary turnover (employee resignations and retirements) can be associated with declines in productivity, loss of organisational knowledge, disruption in service quality to clients and additional costs of recruitment, induction, and staff training.

The wellbeing analysis indicates a range of areas in which positive wellbeing can be improved. Active attention to both ethical climate and psychosocial support offers a pathway to building the greater sense of community, agency, engagement and motivation required to enhance wellbeing. While there was a high proportion of participants who reported experiencing psychosocial supports in the workplace, this came mostly informally from colleagues (rather than from formal mechanisms in the organisation), or from the introduction of more flexibility in work arrangements – which firms are increasingly adopting. The latter was seen as a priority by many participants.

Specific recommendations/areas for action

A key challenge for many in the legal workforce is that demands more than occasionally exceed resources. This imbalance needs to be addressed by employers, with the support of their professional bodies, and also perhaps with the use of some regulatory levers. We offer some relatively broad recommendations and identify some key areas for action:

a) the implementation of beneficial workplace supports

b) information and education, including
- The wellbeing experiences and needs of Indigenous and ethnically diverse practitioners are insufficiently understood; targeted research and action on that research would be valuable.
- Further research into the experiences of principal practising certificate holders would be beneficial, not least in that interventions targeting principals to support and strengthen their own wellbeing may in turn prove beneficial for our other most vulnerable group, junior lawyers.
- It would be useful to identify and audit/ evaluate examples of effective flexible work arrangements, so that best practice could be better identified and rolled out across the profession.
- Professional and regulatory bodies are encouraged to develop targeted guidance on the legal and regulatory obligations and professional best practice expectations placed on organisations, principals and supervisors to protect and enhance the professional wellbeing of staff.

c) the 'business model'
- We encourage Uniform Law regulators to explore interventions that address harmful economic drivers of law firm practice. In particular, we recommend a thorough examination of practices which:
  – limit lawyers' sense of meaning, purpose and accomplishment in their work, particularly early in lawyers' careers
  – lead to overwork and a neglect of physical and mental health
  – create vulnerabilities to workplace incivility, which arise through stress and misaligned values.
- Further, we recommend that this process of discovery and design should be undertaken together with members of the profession, with representation from early career lawyers and lawyers from underrepresented segments of the profession.
- Finally, regulators should develop a systematic approach to recording and understanding the stories and experiences of lawyers who leave the profession, especially those who leave prematurely or following adverse experiences.

Introduction

This report captures the major findings from survey research conducted in March–April 2024 across the 3 Uniform Law jurisdictions by researchers from the Australian National University and the University of Melbourne. The research was supported by the Victorian Legal Services Board + Commissioner (VLSB+C), the Law Society of New South Wales (LS NSW), and the Legal Practice Board of Western Australia (LPBWA). Matched funding for the data analysis was provided by the VLSB+C and industry research seed funding from the Faculty of Business and Economics at the University of Melbourne. The research examines various relationships that are hypothesised to be material to individuals' self-described positive and negative wellbeing at work. These are: individuals' conceptions of the ethical climate of their workplaces, their experience of workplace incivility, and the value attached by them to a range of workplace wellbeing safeguards. The study also explores how these various factors may correlate with individuals' expressed intentions to leave either their current workplace, or the legal profession. The survey employed standardised measures to capture data on these variables; some of those measures (PERMA+4) being used for the first time in a study of the legal profession.

In terms of an underlying conceptual framework, this set of analyses looks at law organisations as important *field locations*, that is, sites where lawyers (and others) interact, build relationships, and exchange knowledge, services and status. As part of this they explicitly and implicitly construct wellbeing. There are significant wellbeing challenges for elite professions such as law, medicine and academia (Feng et al. 2023, Zhou et al. 2022; Christian et al. 2022, Shen et al. 2020.) These, perhaps more than other occupations, have tendencies to be self-interested, ambitious and territorial and senior professionals in particular have the power to behave in impactful ways that reflect this (Lister & Spaeth, 2024:227; see also Borthwick et al. 2015). The dominant organisational and business models, particularly within private practice,

have also been seen to create challenges for wellbeing policy and practice (e.g. Sommerlad, 2016; Reich, 2020). As a cross-sectional study, we must be cautious in suggesting causality, but we have sought to explore plausible connections and relationships between variables that have been relatively little examined, and to offer some suggestions for interventions that might have a positive impact on professional wellbeing.

An online survey link was distributed by the VLSB+C, LS NSW and LPBWA to legal practitioners within their respective jurisdictions. A total of 1,890 complete surveys were obtained, representing 2.5% of that total population. This was more than sufficient to conduct the planned statistical analyses.[1] At the same time it should be noted that the sample remains self-selecting from within the larger population, and some self-selection bias cannot be ruled out when interpreting the survey's findings. To preserve confidentiality, the analysis draws on aggregate, de-identified data only. The survey and its analysis have been conducted in compliance with the ethics protocol H/2023/1304, approved by the Australian National University Human Research Ethics Committee (HREC) on 24/01/2024.

An earlier interim report was published in October 2024. That report contains a fuller discussion of the survey background and methodology. A detailed technical description of the research hypotheses and statistical analysis to be undertaken is contained in the project preregistration, lodged on the Open Science Framework (OSF) Registry (Holmes et al. 2024).

The authors and research partners would like to thank all the participants who took time to complete the survey and thus contribute to a better understanding of ethical, wellbeing and longevity challenges facing the legal profession. We encourage the profession to continue to participate in research on these themes; good research data underpins effective measures to address problems.

[1] Using Yamane's formula to calculate sample size from a finite population, the minimum viable sample size based on a population of 75,638 lawyers, using a 5% margin of error, is 398 responses.

1

Participant demographics and work characteristics

1 Participant demographics and work characteristics

1.1 Personal characteristics

In terms of personal characteristics, just under two-thirds (64%) of survey participants identified as female, and just over one-third (34%) identified as male. Two percent identified as non-binary or preferred to self-describe their gender identity. Approximately one in 6 participants (16.2%) spoke a language other than English (LOTE) at home, and 0.6% of participants identified as Aboriginal or Torres Strait Islander. These sample characteristics are, so far as we can approximate, reasonably reflective of relevant population norms[2] **(Table 1.1)**, though female and Indigenous participants appear, respectively, to be over- and under-represented. It should be noted that the professions record binary gender (F/M) as a separate category excluding 'others' and 'prefer not to say', hence the gender totals in this table add up to more than 100%. For purposes of comparison, we have rounded-up the relevant figures from this survey.

Table 1.1 Gender/ethnicity comparison of survey and population demographics

	Female	Male	Non-binary	LOTE	Indigenous
Survey	65%	35%	2%	16%	0.6%
NSW	55%	45%	3%	21%	0.9%
VIC	55%	45%	0.1%	28%#	0.4%#
WA	54%	46%	np	np	0.9%

voluntary question, so totals may under-represent the population; np = no published data available

1.2 Employment type and experience

Turning to workplace demographics, **Table 1.2.1** shows that the majority of participants were in private practice (approaching 42% held an employee practising certificate and 25% held a principal practising certificate). Barristers constituted 5% of the sample, and it should be noted that barrister responses were obtained only from Victoria and WA.

Table 1.2.1 Breakdown of sample by practising certificate type

Practising certificate type	%
Employee	41.5%
Principal	25.3%
Government	16.8%
Corporate	11.4%
Barrister	5.0%

Government legal service in this table includes both lawyers employed in federal or state government legal service, and also those directly employed by state legal aid services. This distribution is broadly consistent with population norms for solicitors, though the survey numbers are slightly skewed towards government lawyers while under-representing in-house counsel.[3] Within private practice, principals (or equivalent) are also slightly over-represented at 37%, where the population norm tends to be closer to one-third.

[2] Comparative population data referenced in this part of the report were obtained as follows: NSW: Urbis/LS NSW, *Annual Profile of Solicitors NSW 2023*; VIC: VLSB+C unpublished statistics as at February 2023; WA: Urbis *National Profile of Solicitors 2022*.

[3] Private practice: range 67%-72% (survey 70%); Government: range 8%-14% (survey 18%); Corporate: range 13%-21% (survey 12%).

If we turn to the distribution of post-qualification experience (PQE), we see that the sample divides approximately 56% to 44% on either side of the 15 years PQE threshold **(Table 1.2.2)**. While population data does not quite match the bands used here, it indicates generally that between about 24% and 28% have been in practice for less than 6 years, and 51%-56% for more than 10 years. The sample data, again, does not seem substantially out of line.

Table 1.2.2 Percentage of survey participants by PQE years and by gender. Note: Columns (each gender category, and the total column) each sum to 100%.

PQE Years	Gender			Total
	Female	**Male**	**Other term**	
Less than 5 years	24.5%	17.3%	23.8%	22.0%
5–15 years	36.7%	27.6%	42.9%	33.6%
16–30 years	30.6%	28.7%	19.0%	29.8%
31 years or more	8.2%	26.5%	14.3%	14.6%
Total	100.0%	100.0%	100.0%	100.0%

What is more interesting is the distinct shift in gender balance, again around that year 15/16 pivot point, such that 61% of female lawyers fall below the line, whereas 55% of males are above the line. In part this reflects the historic increase in the number of women entering law school and legal practice, but also, of course, the higher proportion of female practitioners responding to this survey. It also points to the fact that a higher proportion of female participants than males are likely to be in junior and non-supervisory positions within their organisations. This is likely material to a number of the results discussed in later sections of the report.

1.3 Full-time work and working hours

Eighty-one percent of participants worked full-time, and the remaining 19% part-time. Part-time work was twice as common amongst females (24% of females) compared with males (12%). The (expected) bias towards full-time work was broadly reflected in reported working hours **(Table 1.3)**. This data also highlights, once again, the predominance of a long-hours culture in the profession, with fully 65% of participants reporting working 40 hours per week or more, as compared with a normal working week of 38 hours.

Table 1.3 Reported weekly working hours

Average hours worked per week	%
Fewer than 10	2.6%
10–19	3.7%
20–39	28.7%
40–59	52.9%
60–80	11.0%
More than 80	1.1%

The relationship between working hours, work-life balance and wellbeing is complex (Wallace, 1997). Long hours are not a problem for everyone, but they can be a contributor to poor lawyer wellbeing and decreased life satisfaction (Wallace, 1997; Drew et al. 2015) and were, for example, one of the top 3 negative wellbeing factors (alongside unreasonable workload and poor work-life balance) identified by Victorian lawyers in 2021 (VLSB+C, 2024).

1.4 Summary

In summary then, the sample is somewhat skewed towards female participants, but otherwise broadly representative in terms of employment sector and practice experience. The sample is drawn substantially from the full-time workforce, with twice the proportion of women to men engaged in part-time work. This is reflected in workloads, with over two-thirds working 40 or more hours per week.

1.5 How we use demographics in the following report

We use demographic characteristics as key variables throughout the descriptive analysis and selectively in the inferential analysis. They provide a way of identifying patterns in the data, and particularly help us to understand commonalities and differences in the psychosocial experiences that lawyers are reporting about their careers and workplaces.

Our initial exploratory analysis showed the following demographic features to be consistently important in explanatory terms:

- gender (M/F/non-binary)
- years of post-qualification experience
- type of practising certificate held.

A number of demographic features are not reported here, either because they are not statistically significant, or because numbers are too small to enable reliable analysis or sensible generalisation from this sample. The following demographics are therefore not further explored in this report. This is not to say that they are unimportant; indeed, some highlight a need for more focused research:

- **Practice jurisdiction –** overall there were no statistically significant demographic differences between jurisdictions. Analysis also showed few significant differences between jurisdictions on the substantive ethical climate, incivility and wellbeing measures. Findings in the remainder of this report are therefore recorded for the entire sample only.

- **Ethnicity –** as has been widely acknowledged by social researchers, Australia lacks a reliable and widely agreed model 'ethnicity question'. Following the Census and much professional reporting practice we have used 'language other than English spoken at home' as a proxy measure (albeit an unsatisfactory one). Notwithstanding that 16% of participants fell into this category, no significant differences in terms of PERMA, PHQ-4, psychosocial support or incivility[4] experience emerged. Better measures and more purposive sampling are likely needed to capture the experiences of ethnically diverse lawyers working in Australia. Participants were also asked separately if they identified as an Aboriginal person or Torres Strait Islander.

- **Aboriginal or Torres Strait Islander identity/ Other (self-identified) gender identity –** given the small size of these sub-samples, no statistically meaningful differences could safely be attributed to either Indigenous or non-binary group experience in terms of PERMA, PHQ-4, psychosocial support and incivility. Again, these are groups where larger or more specifically focused research studies may be necessary/desirable to capture the distinctiveness of their experience.[5]

Two other demographics – firm size and hours worked – have also been excluded from the factorial analysis, and hence this report, as we did not wish to add further complexity to the analysis or the report at this stage. They will be explored in later outputs that the research team plan to develop out of this study.

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[4] These constructs are defined in section 2 of this report.
[5] It is notable that in research with larger, more diverse, cohorts, professionals with protected characteristics (living with a disability, Indigenous, LGBTQIA+) are reported to experience, for example, higher than average levels of incivility (Cadieux et al. 2022:320)

2

Core concepts and themes

2 Core concepts and themes

To maximise the reliability of its findings, the survey adopted, so far as possible, a set of standardised measures to assess the core concepts discussed below. This section sets out to explain the nature and scope of the metrics used regarding ethical climate, workplace incivility, psychological distress, positive wellbeing and psychosocial support. We also present the key descriptive (statistical) findings from the present study. Findings from inferential analyses, which examine the relationships between these various concepts, will be explained in the later sections of this report.

2.1 Ethical climate

The term 'ethical climate' is used in various ways, but primarily to describe the shared experiences of what is ethical and unethical in an organisation (Victor & Cullen, 1987). While historically the terms 'ethical climate' and 'ethical culture' have been treated as relatively interchangeable, there is a tendency now to distinguish climate, as the shared meaning attached to experienced events, policies and practices in an organisation, from 'ethical culture', which describes the underlying shared belief system and values developed through socialisation into the organisation's culture (Roy et al. 2024). Notwithstanding difficulties in comparison brought about by different conceptualisations and multiple measures of ethical climate, a range of studies, mostly from within the health sector, suggest that ethical climate can correlate not only with the incidence of unethical behaviours in an organisation, but also with job satisfaction (e.g. Tang et al. 2020), work engagement, turnover intentions, burnout (e.g. Barr, 2021; Borelli et al. 2023) and psychological distress (e.g. Tang et al. 2020; Borelli et al. 2024).

We asked a series of questions about participants' perceptions of the ethical climate of their workplace using the short-form (18-item) version of Arnaud's (2010) validated Ethical Climate Index (ECI).[6] This is a self-report measure of how people perceive the collective moral sensitivity, moral judgment, moral motivation, and moral character of the workplace. It is not an assessment of compliance with substantive professional ethics. Using the short-form of the ECI, an earlier, smaller, study (Tang et al. 2020) identified 3 dimensions of ethical climate (as perceived by lawyers new to practice) and found that these correlated with lawyers' experienced job satisfaction and wellbeing.[7] In this study we wished to see if these dimensions of ethical climate were reflected across the legal profession more broadly, and to examine what correlations might exist with additional measures of wellbeing and workplace culture.

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[6] Supplied by the authors.
[7] Wellbeing was measured in that study by reference to both participants' reported experience of symptoms of anxiety, stress and depression via the DASS-21 instrument, and their satisfaction with respect to their psychological needs for autonomy, relatedness and competence at work, using the BPNS-W questionnaire.

Using exploratory factor analysis to identify the underlying pattern in the ECI responses, we found that, for this sample, the 18 items on the short ECI coalesced around 3 dimensions, as shown in **Table 2.1**.[8] Scores on each of these dimensions were on separate continuums (i.e. with lower than average through to higher than average perceptions).

Male lawyers reported higher levels of positive ethical behaviours and relationships (dimension A) compared with females. Conversely, female lawyers reported higher levels of self-interest/ self-protective behaviours (dimension B) and ethical flexibility (dimension C) compared with males. These findings suggest that there is a gendered perception of ethical climate in legal practice. This issue does not appear to have been widely examined in earlier ethical climate research, and where it has, the results have

been mixed (i.e. varying between some and no evidence of gender differences). It cannot be straightforwardly explained from the data in this study, and indeed, raises complex questions that go well beyond our scope.

There was also a clear difference in perceptions of their organisation's ethical climate by practising certificate type, as shown in **Figure 1**. Principal and government practising certificate holders gave significantly higher mean ratings on the positive ethical behaviours (dimension A) compared with other lawyers. Principals gave lower than average ratings on both negative ethical climate dimensions. Corporate practising certificate lawyers gave higher ratings on ethical flexibility (dimension C) compared with all other lawyers, while barristers showed elevated levels of self-interest/self-protective behaviours (dimension B).

Table 2.1 Derived descriptions of ethical climate dimensions

Ethical climate dimension	Description
A. Positive ethical behaviours and relationships	*A perception that people in the workplace are aware and sensitive to ethical issues, follow ethical rules and practices, and develop relationships characterised by an 'ethic of care'.*
B. Self-interest and self-protection	*A perceived tendency by people in the workplace to make decisions motivated by power and that advance personal success, or that protect one's own interests above other considerations.*
C. Openness to rule-breaking and 'ethical flexibility'	*A perceived willingness by people in the workplace to break rules when needed to advance outcomes for clients and others.*

Figure 1 Variation from mean scores on each ethical climate dimension, by practising certificate type.
Note: A score of zero represents the average score on the dimension across all survey participants

■ A. Positive   ■ B. Self-interest   ■ C. Rule-breaking
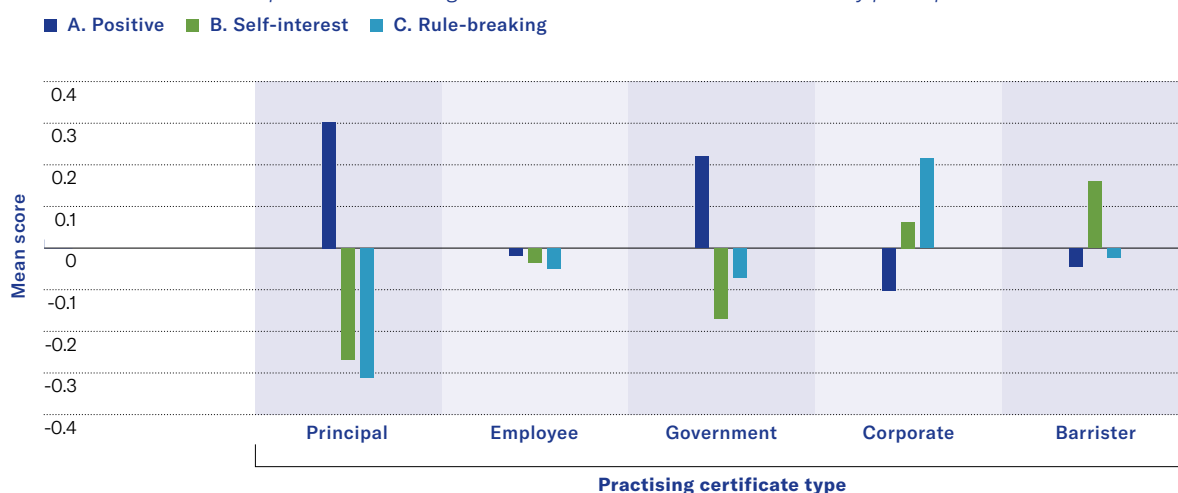
8 Exploratory factor analysis (EFA) is a statistical method that works by grouping related survey questions or behaviours into broader themes called factors or dimensions. Technical note: using the Kaiser-Meyer-Olkin (KMO) test for sampling adequacy (overall MSA = 0.95), we confirmed that the ECI data were well suited for an EFA. Then, following Velicer's minimum average partial (MAP) test, we extracted 3 factors using the maximum likelihood (ML) method with geomin rotation.

That different practice locations may, to some extent, have distinctive ethical climates concurs with what we already know about the different organisational 'logics' and role tensions that may be experienced by, for example, in-house counsel relative to private practice (cp. Moorhead et al. 2019). The extent of the differences within private practice between principals and others is perhaps more interesting and points to one of several possible perceptual gaps between senior and more junior lawyers that this study uncovers. It thereby adds an additional insight to law firm climates, beyond the study of junior lawyers by Tang et al. (2020). It also raises the question whether similar status differences might exist in government, corporate and other practice settings, but practising certificate data does not give us the granularity to explore this.

Using cluster analysis techniques, we sought to identify how these dimensions were experienced by participants as distinct ethical climate 'types'. Just under half (48%) of survey participants could be grouped within a more positive 'ethically engaged' climate (which we refer to as a **Type 1** ethical climate), characterised by higher positive ethical behaviours/relationships and low levels of self-interested behaviours or ethical flexibility. Approximately one-third (34%) were working in an 'ethically apathetic' environment (a **Type 2** ethical climate), with lower than average levels of positive ethical behaviours, and slightly higher than average perceptions of the 2 negative dimensions. The remaining 18% of participants described an 'ethically questionable' environment (a **Type 3** ethical climate), with high levels of self-interest or ethical flexibility, and low levels of positive ethical behaviour. The relationship between ethical climate dimensions and climate types is summarised in graphical form in **Table 2.2.**

In summary, we have presented the concept of ethical climate as a way of understanding the shared ethical meaning that lawyers construct about their organisations. We have identified a set of (ethical) dimensions that are central to constructing that meaning, and shown how the weight attached to these dimensions varies by gender and practice setting. Lastly, we have described the distribution of these climate dimensions into 3 distinct 'types' that can be identified across the sample, and we report that, while the positive sample type is the single largest group, the sample is split, almost 50-50, between the more positive and less positive climate types. The implications of these dimensions and types for wellbeing are discussed below in sections 2.4 and 4.1.

2.2 Psychological distress

A substantial body of research from Australia and internationally has consistently found that legal professionals experience significant levels of psychological distress, possibly at higher levels or more often than the general population (Soon et al. 2024). In a study of poor lawyer wellbeing in the Australian state of Victoria, approximately 39% of participants indicated that working in the legal sector has a 'negative' or 'extremely negative' impact on their wellbeing (Healey et al. 2024). The International Bar Association's (IBA) 2021 global study likewise reported that a third of respondents identified their work as having a negative, or extremely negative impact on their wellbeing. The large study by Cadieux et al. (2022) of the Canadian profession identified anxiety symptoms in 64.3% of those surveyed, with 28.5% reporting moderate to severe depressive symptoms.

Table 2.2 Ethical climate: relating 'dimensions' to 'types'

↑ above average   ↓ below average   ~ close to the average for all survey participants

| Ethical climate type	Ethical climate dimension		
	A: Positive ethical behaviours and relationships	B: Self-interest and self-protection	C: Openness to rule-breaking and 'ethical flexibility'
1. Ethically engaged (48% of participants)	↑	↓	↓
2. Ethically apathetic (34% of participants)	~	~	~
3. Ethically questionable (18% of participants)	↓	↑	↑

Given the evidence base already in place, and for reasons of usability and economy, we adopted the brief 4-item Patient Health Questionnaire for Depression and Anxiety (PHQ-4) as a simple indicator of psychological distress/mental ill-health. The PHQ-4 is commonly used across different settings as a screening measure for anxiety and depression (Kroenke et al. 2009). Unlike more detailed measures, such as the DASS, it only measures symptoms of anxiety and depression, thereby excluding other distinctive aspects of mental ill-health. However, these are the 2 most common mental health conditions in Australia (ABS, 2023), and are widely reported in the professional wellbeing literature. It should also be noted that the survey obtained multiple narrative self-reports of 'ill-being', including experiences of stress, anxiety, burnout and vicarious trauma (see section 5).

We analysed the PHQ-4 data in 2 ways:

1. Using total scores (the sum of the 4 PHQ-4 items) as a general indicator of psychological distress, on the basis that higher scores indicate higher intensity and frequency of symptoms associated with anxiety/depression.

2. Using symptom severity categories – normal, mild, moderate and severe (Kronke et al. 2009: 615), and using a standard cut-off score (≥ 6, corresponding to the moderate and above category) as a 'yellow flag' for the presence of a depressive or anxiety disorder (Lowe et al. 2010).[9]

In terms of descriptive data, about 30% of participants reported symptoms indicative of a higher risk for a depressive or anxiety disorder, that is they recorded a total score above the cut-off just described **(Figure 2)**. This finding is consistent with previous studies of lawyer wellbeing.

Figure 2 Distribution of sample across PHQ-4 symptom categories
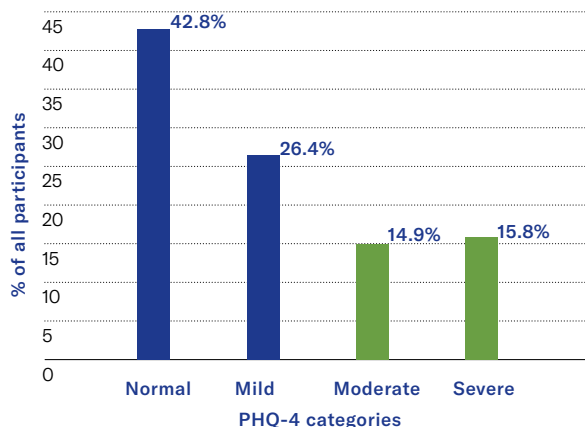
Two variables stood out from the frequency analysis.

- **Gender –** female lawyers had higher levels of psychological distress than males.
  - On the PHQ-4, females had a mean total score of 4.36 while males had a mean total score of 3.81. This difference was statistically significant.
  - However, this did not translate to a significant difference in the proportion of females (32%), males (28%) and non-binary participants (36%) who had a PHQ-4 score in the moderate or severe category, suggesting that the difference between genders mostly occurs within the lower (normal or mild) levels of psychological distress.
  - There was no statistically significant difference between non-binary lawyers (who accounted for 2% of the survey sample) and either male or female lawyers. The small sample size and wide variation in levels of psychological distress amongst this group made it difficult to identify a clear pattern of difference.

- **Experience –** Psychological distress was highest in lawyers with <5 years PQE, and levels of distress scores in general decreased significantly with increasing experience. Almost 43% of <5 years PQE lawyers had an elevated level of psychological distress. Further discussion of experience, and the relationship between PQE and practising certificate status appears in section 3 of this report.

The findings of this subsection can thus be summarised briefly. Psychological distress is the primary measure of 'ill-being' adopted by this study. Consistent with earlier studies we find evidence of symptoms of elevated psychological distress across about one-third of the sample. We find, based on simple frequency data, that junior lawyers experience higher levels of psychological distress than others. Female participants appear to be significantly more likely to report some degree of distress, but are not significantly more likely than men or non-binary lawyers to experience moderate or severe levels of distress.

[9] The symptom severity categories indicate the likely severity of symptoms associated with anxiety and/or depression. The PHQ-4 cannot be used to diagnose the presence of an anxiety or depressive disorder or assess for the severity of a diagnosed condition.

2.3 Incivility

A healthy workplace is one where 'interactions between individuals are respectful and free of incivility' (Cadieux et al. 2022:138). However, workplace incivility has become a growing concern in many industries and, if allowed to flourish, can constitute a distinct feature of poorer workplace cultures and climates.
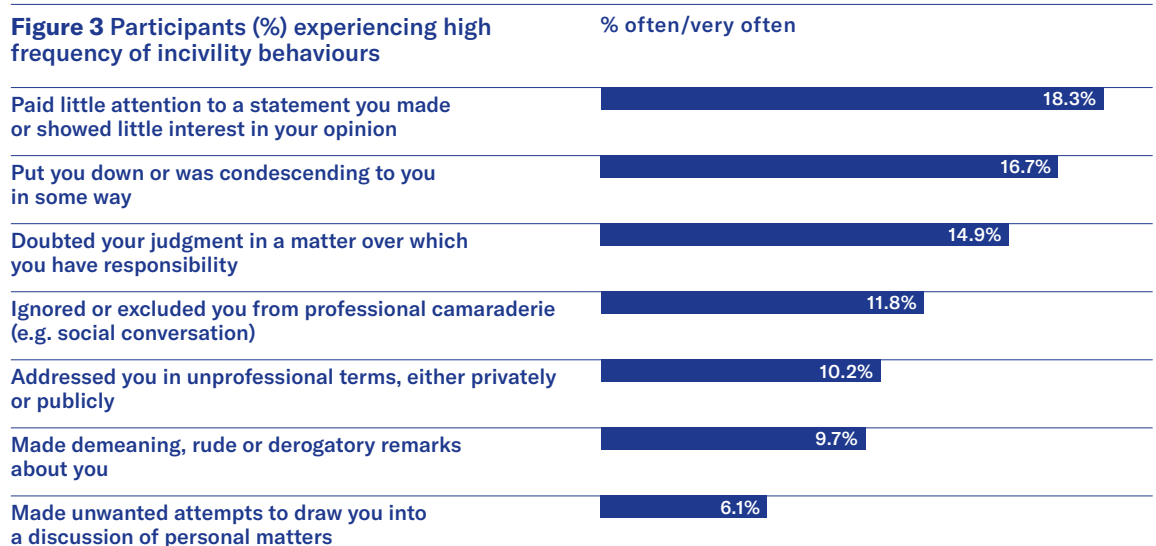
Workplace incivility is generally defined as low intensity behaviours that are in violation of normal workplace norms of mutual respect, and are ambiguous in their intent to harm the target (Pearson et al. 2001; Schilpzand et al. 2016). Incivility remains relatively little researched in relation to legal workplaces outside North America, with studies instead focusing primarily on more overt workplace misconduct such as bullying and harassment. Incivility has been identified in US legal ethics literature as a specific professionalism problem, however, the empirical research studying its incidence (e.g. Scharf & Liebenberg, 2024) has tended to define relevant behaviours more narrowly than in the measures of workplace incivility adopted by researchers more generally, and has often focused on intra-professional incivility to the exclusion of incivility from clients or other outsiders. None of the 'legal' studies have sought to develop and test a specific standardised measure of professional incivility.

For the most part, workplace studies indicate that incivility is both widespread and relatively frequently experienced. At least three-quarters of workers are likely to have experienced workplace incivility (e.g. Cortina et al. 2001; Spence Laschinger et al. 2009) with perhaps as many as 50% experiencing some incivility at least weekly (Porath & Pearson, 2013). These findings should not be surprising given the low intensity nature of incivility; workplaces where there is no or minimal incivility are, essentially, the outliers, but this does not of course make incivility, particularly in its more serious manifestations, non-problematic. Experiencing workplace incivility has been shown to correlate with negative individual and organisational work outcomes, including heightened work distress, workplace relationship strains and poor collaboration, reduced job satisfaction, and loss of trust in managers/superiors. While there is evidence of some correlation with perceived wellbeing, it has not consistently been shown to translate into measurably or significantly poorer psychological or physical health outcomes.

Like most research on incivility, this study uses a version of the Workplace Incivility Scale (WIS) (Cortina et al. 2001; Blau & Andersson, 2005) as a measure. This invited participants to identify the frequency with which they had experienced 7 incivility behaviours over the previous 12 months.[10] The behavioural labels are shown in Figure 3. To restrict the length and complexity of the survey, this study focused on experienced incivility only, not the behaviours and motivations of those instigating incivility (cp. Blau & Andersson, 2005).

Eighty-seven percent of survey participants reported experiencing some form of incivility within the last 12 months, and 28% (overall) experienced some form of incivility at least weekly. As **Figure 3** shows, the most common form of frequently experienced incivility (18.3%) involves relative inattention to, or disinterest in, one's statements or opinions.

Figure 3 Participants (%) experiencing high frequency of incivility behaviours

% often/very often

Behaviour	%
Paid little attention to a statement you made or showed little interest in your opinion	18.3%
Put you down or was condescending to you in some way	16.7%
Doubted your judgment in a matter over which you have responsibility	14.9%
Ignored or excluded you from professional camaraderie (e.g. social conversation)	11.8%
Addressed you in unprofessional terms, either privately or publicly	10.2%
Made demeaning, rude or derogatory remarks about you	9.7%
Made unwanted attempts to draw you into a discussion of personal matters	6.1%

[10] These 7 items showed good internal consistency (alpha = .92, omega-hierarchical = .85), meaning that they are measuring different aspects of behaviour, which are all related to a single construct (i.e. workplace incivility).

Our analysis of the incivility items showed that female lawyers reported experiencing higher total levels of incivility compared with males. Thirty-two percent of females reported experiencing some kind of incivility at least weekly, compared with 20% of males.[11]

Experienced incivility generally decreased with increasing PQE. Lawyers with <5 years PQE reported the highest experience of incivility, while those with the most (31+ years) experience reported the lowest level of incivility. Principal practising certificate holders had the lowest level of incivility experience, as compared with government and employee practising certificate holders. More than twice as many employee practising certificate holders (35%) experience frequent incivility behaviours compared with principals (15%).

One criticism (see Schilpzand et al. 2016) of much of the earlier incivility research has been that it did not sufficiently differentiate between the sources of incivility – whether superiors, co-workers, clients/customers or others. Participants in this survey were therefore asked to identify the frequency with which different categories of person (supervisors, co-workers, subordinates, clients, collaborators at other organisations, and judges) instigated incivility in the last 12 months.

Table 2.3 shows that incivility from co-workers was the most common (only 38.8% never experienced it). Incivility from both clients and supervisors was also experienced by a majority of participants. Given the broad practice type and experience base of the sample in this study, the real incidence of judicially-instigated incivility is likely to be understated in this data, that is the frequency of experienced incivility would likely be higher were we able to isolate participants with actual exposure to regular judicial contact. There may be a similar effect with client-instigated incivility, insofar as very junior lawyers may have limited client exposure, and the distinction between supervisor and client incivility may be blurry for the in-house sector.

It is not possible to offer a direct comparison with the Canadian findings in Cadieux et al. (2022:325), since they used a more restricted set of incivility measures, and collapsed instigator data to include incivility, bullying and sexual harassment, and apprehended or actual violence. They found that the top 3 most common instigators were work colleagues, clients and colleagues from other organisations. Supervisors came in a close fourth to outside colleagues. While we cannot authoritatively say that this is a substantive difference, the emphasis on supervisor incivility in our data is, at face, more consistent with findings in respect of sexual harassment and bullying in the Australian legal profession, which would support the view that the Australian profession may have a hierarchy problem that is not experienced to the same degree in at least some other industries/jurisdictions (cp. VLSB+C, 2020). Client-lawyer incivility may represent another distinct power dynamic, but one that is not embedded in intra-organisational relationships in the same way.

In summary, then, the incivility data shows that incivility is a widespread problem across the legal industry. We cannot, however, easily assert (given the variation in potential 'benchmark' data) that it is a more significant problem in law than other industries. The intensity of incivility does not seem high relative to other studies. Experience of incivility varies by gender, PQE and status: women, and junior lawyers generally experience more of it. Principals experience it less than any other practising certificate holder. As might be expected, peers, supervisors and clients are significant instigators of incivility. The extent of supervisor incivility does highlight a significant internal power-hierarchy dynamic, and one that might have distinctively Australian features in its intensity.

How incivility interacts with other variables as a possible source of ill-being, and whether the source of incivility has a distinct and measurable effect on participants' experience of ethical climate and wellbeing is discussed further in section 4.

Table 2.3 Frequency of experienced incivility from specific instigators

Instigator	Never	Rarely/ sometimes	Often/ very often
Supervisor	45.8%	38.7%	15.6%
Co-worker	38.8%	50.9%	10.3%
Client	42.6%	49.7%	7.7%
Subordinate	66.1%	29.4%	4.5%
Collaborator	61.9%	34.1%	4.0%
Judiciary	70.4%	25.9%	3.7%

[11] These figures were derived by combining points 4 (at least once a week) and 5 (once a day or more) on the Likert scale into a new dichotomous variable of 'frequent' incivility experience.

2.4 Positive wellbeing

Most wellbeing research on the legal profession has been research into 'ill-being' or the extent of negative psychological symptoms or impairment within the workforce (Soon et al. 2024). A small number of studies have sought to explore indicators of, or affective proxies for, positive wellbeing, including factors such as work engagement or job satisfaction (e.g. Brough and Boase, 2019; Tang et al. 2020). To this extent, work in the field lacks balance, and has paid minimal attention to the components or 'building blocks' of positive wellbeing as they manifest in legal practice. This matters insofar as subjective wellbeing (SWB) has been linked to important outcomes such as improved personal resilience, work performance and physical health. Once identified, it is anticipated that 'deficits' in SWB can also inform the design of training and other workplace interventions to enhance positive workplace wellbeing. Standardised instruments have been developed in recent years to identify the experience of these 'building blocks' in the workplace.

One well-regarded model, called PERMA, appears to be a strong predictor of wellbeing and social functioning (Cabrera & Donaldson, 2023). The 5 PERMA attributes are:

- **P** ▪ **Positive emotions –** hedonic feelings, e.g. of joy, contentment or cheerfulness.

- **E** ▪ **Engagement –** positive psychological connections to activities or organisations (e.g. workplaces), such as feeling interested or absorbed in activities, and engaged in life.

- **R** ▪ **Positive relationships –** including feeling supported by others or cared about, and satisfied with one's social connections and networks.

- **M** ▪ **Meaning –** refers to a sense that one's life is valued/valuable, or a feeling of (positive) connection to something greater than oneself.

- **A** ▪ **Accomplishment –** includes a sense of capability and achievement around one's activities, and of progressing towards one's goals.

Four further wellbeing attributes have been added by researchers on the basis that these explain additional variance in work-related wellbeing – hence PERMA+4 (Donaldson, van Zyl and Donaldson, 2022):

- ▪ physical health
- ▪ mindset
- ▪ work environment
- ▪ economic security.

To reduce the risks of attrition through survey fatigue, this study has adopted a relatively new PERMA+4 Short Scale. This 9-item shortened version of the PERMA+4 was only validated in 2023, with further psychometric support being found for the scale in assessing workplace PERMA at individual, team and supervisor level by Donaldson et al. (2024).[12] The current study is significant as the first professional sector-specific study (so far as we are aware) to examine PERMA+4 factors. In addition to referencing specific items, for the purposes of this report, survey participants' total PERMA+4 scores have been used as a composite measure of overall positive wellbeing.[13]

Figure 4 shows the gap between each of the 9 PERMA+4 dimensions and participants' overall PERMA+4 item mean.[14] This demonstrates which aspects of wellbeing were more strongly endorsed, and those which were less strongly endorsed, than average. Our analysis shows that the strongest contributor to participants' positive wellbeing was their relational experience at work, specifically encouraging and supporting others in the workplace. This finding is consistent also with our findings on participants' endorsements of psychosocial support (see section 2.5), and points also to the potential importance in this regard of the positive ethical climate dimension. Participants, on average, endorsed this aspect of the PERMA+4 more strongly than they did other items in the same scale. Lawyers' sense of meaning – believing that their work was valuable and worthwhile – was also given significant weight in terms of their subjective wellbeing.

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[12] The short scale PERMA+4 takes one item from the original PERMA scale as representative of each attribute, thus P = I felt positive at work; E = I was deeply engaged and interested in my work; R = I was encouraging and supportive of others; M = I felt that the work I did was valuable and worthwhile; A = I set and achieved clear goals; H = I felt physically healthy and strong; Mindset = I have a bright future at my current workplace; Workplace = My physical environment (e.g. office space) allows me to focus on my work; Economic security = I am comfortable with my current income. While these are intended to be representative of the wider PERMA+ attributes, where we reference individual item responses, we have reflected the specificity of these items in our commentary and analysis.

[13] Statistical analyses supported the use of total PERMA+4 scores as an overall indicator of positive wellbeing. See also Donaldson et al. (2024). Given the relative novelty of PERMA+4, and the absence of other (legal) profession specific studies, it is not possible to 'benchmark' results from this study meaningfully against a positive wellbeing 'norm'.

[14] This analysis uses the original PERMA+4 scale responses, which ranged from 0 (Never/Not at all) to 10 (Always/Completely), with the mid-point of the range scored at 5. This is inevitably reflected in the analysis by higher mean scores than under a conventional 5-point scale, with scores above 5 representing more positive wellbeing.

Figure 4 Difference between PERMA+4 item means and overall scale mean
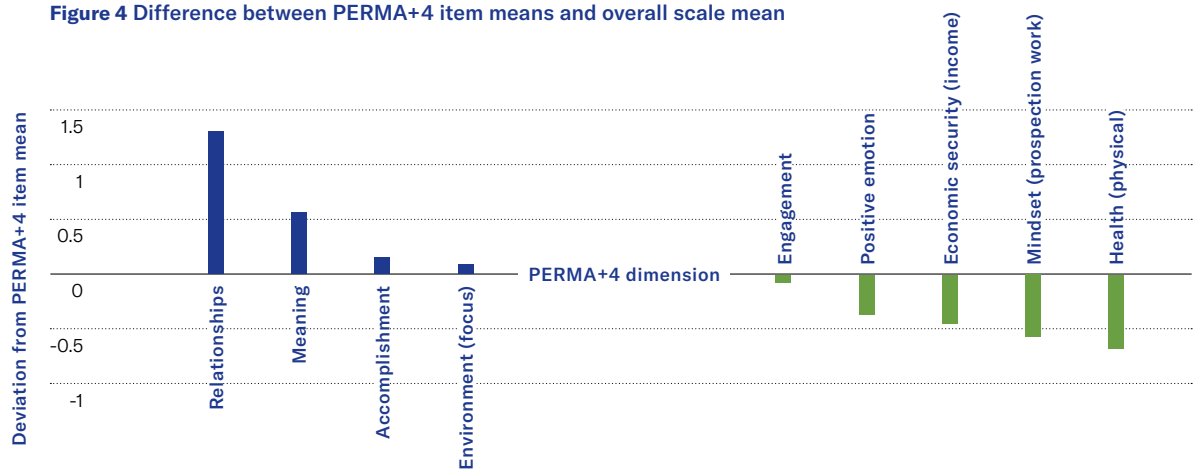
On the other hand, participants tended to rate their physical health lower than all other indicators of wellbeing. Additionally, across all practice settings, female lawyers rated their physical health worse than male lawyers. There are strong links between mental and physical health, but the relationship between them is complex, and the pathways not always well understood (Doan et al. 2023; Ohrnberger, Fichera & Sutton, 2017). A limited amount of wellbeing research in law has discussed the consequences of poor mental health on physical health, but the contribution of physical health to mental health and overall wellbeing has received relatively little attention so far. It may warrant further investigation and intervention, since a better understanding of the direct and indirect effects between them could be helpful in mapping causal pathways, and thence in designing interventions. Participants' ratings of the mindset dimension, which asked participants whether they felt they had a 'bright future' at their current workplace, was also lower than average, pulling down overall ratings of wellbeing alongside lower than average perceptions of economic security, positive emotion and work engagement.

Female lawyers not only had a lower rating of physical health compared with males, they also felt less positively about how their physical work environment (e.g. office space) allowed them to focus on their work. Beyond considerations about how the physical workplace infrastructure could be better designed to suit females and non-binary lawyers, these results suggest that employers may need to be more aware of the gendered impact on positive wellbeing and productivity, of return to office mandates, flexible work and working from home policies.

Finally, we consider 2 relevant comparisons.[15] The first looks at variations in PERMA ratings by reference to PQE **(Table 2.4)**. Despite the overall importance of work-related meaning, as noted above, lawyers with < 5 years PQE had significantly lower ratings on this dimension compared with more senior lawyers (16+ years PQE). There was also a gap in the sense of accomplishment between more junior lawyers (0–15 years PQE) and the most senior cohort (31+ years). Similarly, there was a statistically significant difference in how the physical work environment was seen to be conducive to focus and productivity between these groups. While physical health ratings were low overall, earlier-career lawyers (0–15 years) had lower ratings compared with mid-to-senior career (16–30 years) lawyers. Only < 5 years PQE lawyers had ratings of economic security (income) lower than the midpoint on the scale.

Table 2.4 Average PERMA+4 item scores across PQE levels

PERMA+4 dimension	PQE years			
	< 5	5-15	16-30	≥ 31
Positive emotion	5.6	5.7	6.2	6.0
Engagement	5.9	6.0	6.5	6.3
Relationships	7.3	7.3	7.5	7.5
Meaning	6.3[ab]	6.6	7.0[a]	6.8[b]
Accomplishment	6.1[a]	6.2[b]	6.7	6.4[ab]
Health (physical)	5.1[a]	5.2[b]	6.1[ab]	5.7
Mindset (prospection work)	5.6	5.6	5.5	5.8
Environment (focus)	6.0[a]	6.2[b]	6.8	6.5[ab]
Economic security (income)	4.8[ace]	5.6[bde]	6.5[ab]	6.2[cd]

Note: Where the same superscript letter (e.g. *a, b, c*) appears across the same row, there is a statistically significant difference between that pair (e.g. there was a statistically significant difference in the 'Meaning' dimension of the PERMA+4 between <5 year PQE lawyers and lawyers with 16-30 years PQE, as well as between <5 year PQE lawyers and those with ≥31 years PQE).

[15] Again, these analyses control for jurisdiction, practising certificate type and gender. Technical note: the Holm–Bonferroni method was used to adjust for the multiple comparisons involved in these analyses, reducing the likelihood of false positives.

The second comparison considers the relationship between PERMA scores and ethical climate types **(Figure 5)**. It would be reasonable to hypothesise a positive correlation between ethical climate and participants' sense of positive wellbeing, and this is indeed the case, however the consistency and scale of observed difference between the categories is notable. The difference between each pair of the ethical climate types (e.g. ethically engaged vs. ethically apathetic) was statistically significant for each of the PERMA+4 dimensions.

Participants in the second climate type had higher ratings in all items than type 3 (ethically questionable), but the highest ratings were observed in those in the ethically engaged (type 1) ethical climate. Lawyers in the ethically questionable climate type consistently had the lowest ratings on all 9 PERMA+4 items. Moreover, 6 out of those 9 items were scored below the mid-point of the scale, with mindset (feeling like there is a positive future at one's current workplace) being particularly low for this cohort, followed by positive emotion and physical health.

In summary, only 4 PERMA+4 factors received positive endorsements across the sample: relational experience at work; finding meaning in work; participants' sense of accomplishment; and the workplace environment. On the negative side, physical health scored the lowest rating. There is a clear correlation between PERMA values and ethical climate types. The results strongly indicate that (the minority) type 3 ethical climates appear troubling in wellbeing terms. Characterised by poorer physical health, relative disengagement and a reduced sense of meaning in the work, participants in these environments lack both present pleasure and anticipated fulfilment in their work. These results also substantially depressed some average scores across the sample.

2.5 Psychosocial supports

Shared experiences of policies, practices and procedures are, as we have noted, a key feature of organisational culture and provide the groundwork for a healthy and productive workforce (Dollard et al. 2017; Roy et al. 2024). It is no surprise, therefore, that studies indicate that the strength of perceived organisational support is directly associated with levels of work-related stress, affective distress, and burnout (see, e.g. Chlap & Brown, 2022).

Hence, we asked participants to identify the strength with which they endorsed their organisation's provision of 6 specified psychological and social supports to staff (see **Figure 6**). There is currently no industry-specific standardised measure in use within the legal practice context. Instead, we crafted a set of questions drawn from the Minds Count Foundation's (MCF) 13 *Workplace Factors required to safeguard employee health*,[16] specifically Factor 2. We see these MCF factors as useful indices, and operationally robust,[17] given their acceptance as good practice within the Australian legal services industry, and their basis, in turn, in the highly regarded Canadian Mental Health Commission's 13 Workplace Factors.[18]

Figure 5 PERMA+4 ratings tabulated across 3 ethical climate types

■ 1: Ethically engaged ■ 2: Ethically apathetic ■ 3: Ethically questionable
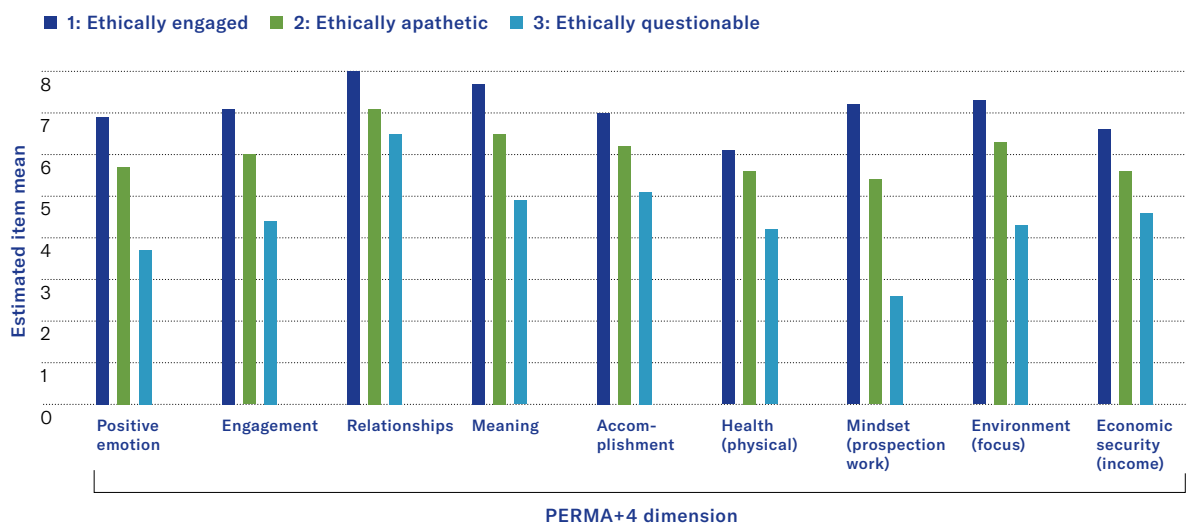
[16] See https://mindscount.org/introduction-to-the-guidelines/
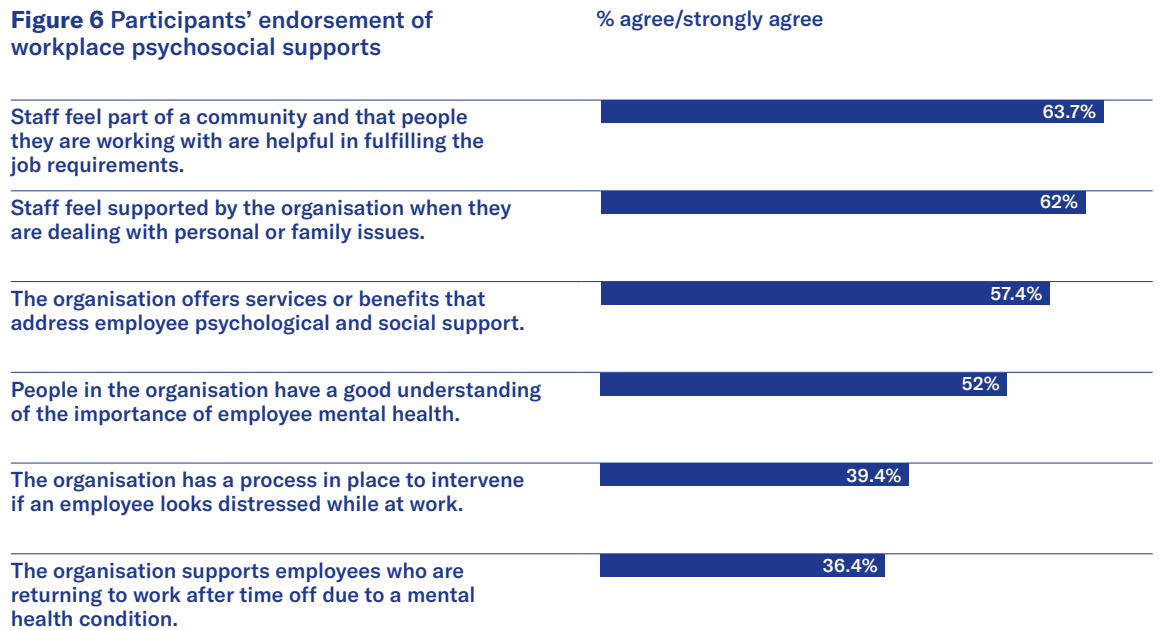[17] We also tested these items for internal consistency and unidimensionality in measuring the psychosocial support construct. Scores for both Cronbach's alpha (0.91) and omega-hierarchical (ω_h) (0.84), which looks at a single, general factor, indicate good internal consistency and unidimensionality.
[18] See https://www.workplacestrategiesformentalhealth.com/resources/guarding-minds-psychosocial-factors).

Item	% agree/strongly agree
Staff feel part of a community and that people they are working with are helpful in fulfilling the job requirements.	63.7%
Staff feel supported by the organisation when they are dealing with personal or family issues.	62%
The organisation offers services or benefits that address employee psychological and social support.	57.4%
People in the organisation have a good understanding of the importance of employee mental health.	52%
The organisation has a process in place to intervene if an employee looks distressed while at work.	39.4%
The organisation supports employees who are returning to work after time off due to a mental health condition.	36.4%

The descriptive statistics in **Figure 6** show that two-thirds of the support items identified were positively endorsed by more than 50% of participants. At the same time, this suggests that a significant proportion of employers may still, in the eyes of their employees, be doing too little to actively provide (or make known) processes of psychosocial support to their workforce. Nearly half of participants felt that their workplaces did not show sufficient understanding of the importance of employee mental health, while over 60% felt that their organisations lacked any/effective distress protocols or processes.[19] It is perhaps notable that the only item to be favourably endorsed by over two-thirds of the sample is the least formal: the ability to count on the support of colleagues in fulfilling one's job requirements. This sense, for many, of a lack of meaningful organisational supports also came through in the qualitative data, reported in section 6.

Endorsement was not uniformly distributed across practice types or experience. Government and corporate practice certificate holders had lower ratings of total psychosocial support than those in private practice. Newer lawyers (<5 years PQE) gave the highest ratings of psychosocial support compared with those with more experience.

Finally, the research found (as expected) a strong negative correlation between total psychosocial support and incivility. There was also a strong positive correlation between the positive ethical climate dimension (discussed above) and the presence of good psychosocial support. This seems an important finding, as it lends empirical weight to the view that there is a bi-directional connection between ethical climate and psycho-social support: organisations that provide a positive ethical climate are better at providing a psychosocially safe environment, while a psychosocially safe environment is also perceived to be one that promotes positive ethical behaviours and relationships.

We discuss these findings later, in the context of the qualitative data reported in section 6. We now turn to the main research questions posed for this project, and the corresponding inferential analysis.

[19] Forty-three percent of the sample gave a neutral response to the item support for employees returning to work after a mental health condition. This was the highest neutral response across the 6 items, suggesting that many participants had limited knowledge or experience of this.

3

What predicts higher levels of psychological distress?

3   What predicts higher levels of psychological distress?

In this section we seek to identify which of the variables explored in this research appear to have predictive value for the higher levels of psychological distress noted in section 2.2. The analysis here focuses, first, on risk factors for heightened psychological distress, that is, incivility, or a relative lack of positive wellbeing, or psychosocial support. In the second part we look (further) at the role that professional experience and leadership play in explaining psychological distress.

For the first set of analyses we used a generalised linear model[20] to see what predicted higher levels of psychological distress, measured using:

- participants' total PHQ-4 score and
- whether participants were in the moderate or severe category on the PHQ-4.[21]

These models controlled for participants' jurisdiction and gender, which had no direct impact on levels of psychological distress.

We found, unsurprisingly, that there was a marked relationship between higher levels of **psychological distress** and lower levels of positive wellbeing, as shown in **Figure 7**. Thus, a survey participant who was one standard deviation below the mean (average)[22] in PERMA+4 total scores (i.e. who had lower than average positive wellbeing) was likely to have a 33% higher PHQ-4 total score (i.e. higher psychological distress).

We also looked at how positive wellbeing, measured by the PERMA scale, relates to the likelihood of being in the moderate or severe categories of psychological distress on the PHQ-4 measure. We found that, as a person's PERMA+4 score increases by one standardised

score unit (which represents a meaningful improvement in wellbeing), the odds of being in the moderate or severe psychological distress category are reduced by approximately 65%.[23] In other words, higher wellbeing is also strongly associated with a lower likelihood of significant psychological distress.

Figure 7 Effect of lower (-1 SD), average (mean) and higher (+1 SD) of PERMA+4, psychosocial support and incivility experience scores on total PHQ-4 scores
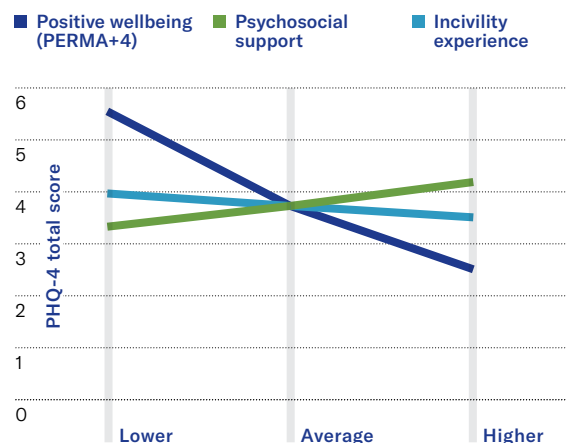
20 In statistics, linear (regression) models are a form of multivariate analysis that provide a way of describing how well a response variable (here psychological distress) is explained in terms of a linear combination of possible predictor variables (here, e.g. positive wellbeing, incivility, psycho-social support, etc). Generalised linear models (GzLMs) are essentially more robust for analysing a wider range of continuous, count or categorical data than standard linear models.

21 For those interested in the statistical methods, a GzLM with Poisson link function was used because of the non-normal distribution of total PHQ-4 scores, consistent with other studies that have applied a similar model with the PHQ (see e.g. Nichols et al. 2024; Taouk et al. 2024).

22 Standard deviation (SD) measures the amount of variability, or dispersion from the arithmetic average or 'mean' found across a set of individual data values. It is commonly used to indicate how well the mean represents

the sample data, but since it serves as a measure of variance, it can also be used, as here, to demonstrate how a standardised unit change in a predictor variable would affect a response variable. The 'real world value' of 1 SD will depend on the data in use. Broadly, in a normal distribution, 68% of responses would be expected to fall within 1 SD of the mean, so 1 SD lower or higher than the mean will usually indicate a result that is some distance from it. In the chart below, +1 SD and -1 SD are thus somewhat arbitrary points used to represent a (hypothetical) lawyer who is either above or below average respectively (compared with all survey participants) on the relevant predictor variable.

23 Odds compare how likely something is to happen versus not happen (i.e. whether the person is in the moderate/severe category or not), while probabilities show the chance of it happening out of 100%. Changes in odds do not directly translate to changes in probability.
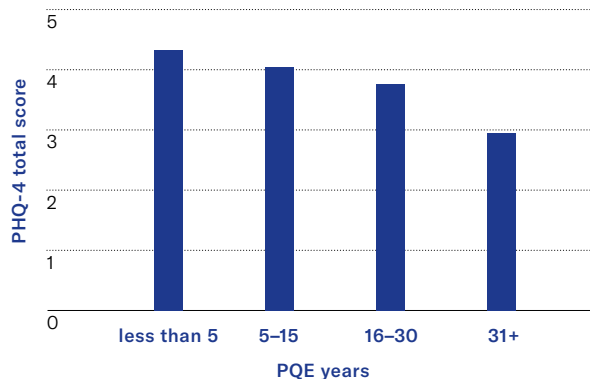
A similar, but smaller effect, was observed for perceived psychosocial support **(Figure 7)**, with higher levels of psychosocial support being associated with lower levels of psychological distress. A one standardised score unit increase in total psychosocial support scores was associated with a 6% decrease in PHQ-4 total scores, and a 20% decrease in the odds of being in the moderate/severe category. The smaller effect size here recognises the somewhat limited efficacy and engagement with psychosocial supports found in the data. Our analysis does not rule out that more efficacious use of psychosocial supports could generate a larger effect size.

There was a relationship in the opposite direction between total incivility experiences and psychological distress. A one standard deviation increase in total incivility experience scores was associated with a 12% increase in PHQ-4 total scores, and a 40% increase in the odds of being in the moderate/severe category.

These findings have obvious significance in designing wellbeing interventions. If the objective is to reduce psychological distress, then we can reasonably assume that interventions that effectively enhance positive wellbeing, psychosocial support, and reduce incivility will have some measurable impact.

Secondly, we noted in section 2.2 that levels of psychological distress were highest in lawyers with <5 years PQE. This finding is consistent with work on other elite professions, such as medicine and academia, where the professionalisation process locates newer entrants as a higher risk cohort in terms of mental health (e.g. Harvey et al. 2021). This appears to be borne out[24] in our research by the apparently lower levels of psychological distress apparent in more senior cohorts **(Figure 8)**.

Figure 8 PHQ-4 total score by PQE years[25]

However, when accounting for the influence of PQE, principal practising certificate holders (who were more likely than other practising certificate holders to have 16+ years PQE) had significantly higher levels of psychological distress than all other practising certificate holders, other than barristers (for whom there was greater variability in levels of psychological distress). This suggests that after accounting for the decrease in psychological distress that accompanies greater experience in the profession, the fact of being a principal practising certificate holder has a specific adverse effect on wellbeing **(Table 3.1)**. Supplementary analyses showed that there was no difference in PHQ-4 scores (or PERMA+4 scores) in principals across different practice sizes. Specifically, principals in sole practice did not have a higher level of psychological distress than principals in larger practices.

Table 3.1 Probability of participants having a PHQ-4 score in the moderate or severe categories by practising certificate type, controlling for other influences.[26]

Practising certificate type	Probability of having a PHQ-4 score in moderate/severe category
Principal	33.1%
Employee	24.5%
Corporate	20.8%
Barrister	20.5%
Government	19.5%

A number of the findings in this section are of potential policy (and practice) importance. First, the strength of associations between positive wellbeing, psychosocial support, incivility and psychological distress points to the potential for training organisations, employers and perhaps also professional bodies to design interventions that effectively enhance positive wellbeing, psychosocial support, and reduce incivility so as to impact psychological distress. (This, of course, also assumes some burden on employers and/or other bodies to monitor changes in psychological distress in response to such initiatives.) Secondly, the vulnerability of both junior lawyers and principals to psychological distress supports the view that the mental health of lawyers is a top-down problem that requires effective change at the top (Lister & Spaeth, 2024). Our findings at least raise the possibility that interventions with principals to support and strengthen their own wellbeing might be an important part of that picture.[27]

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[24] Though the cross-sectional nature of the study is a limitation here. We cannot properly talk of a decline in psychological distress without longitudinal data.
[25] Controlling for jurisdiction, gender, ethical climate dimensions, PERMA, psychosocial support and incivility experience.
[26] This table estimates the direct effect of practising certificate type, controlling for PQE, jurisdiction, gender, ethical climate dimensions, PERMA, psychosocial support and incivility experience.

[27] We note one qualifier: a high proportion (50%) of principals in this study are sole principals, so while this by no means negates the importance of their wellbeing, further analysis of the principal cohort would be desirable to get a better sense of how ill-being is distributed across that part of the workforce, and what kind of flow-through effects targeted interventions might achieve.

4

Does experience of workplace incivility predict wellbeing/ distress/perceptions of ethical climate?

4 Does experience of workplace incivility predict wellbeing/distress/perceptions of ethical climate?

We have noted that incivility encompasses a broad range of low intensity behaviours that may nonetheless have significant consequences for individual wellbeing. In this section we explore this question through a series of regression models, looking at the impact of incivility (both as total incivility experiences, and whether lawyers experienced frequent incivility) on positive wellbeing (PERMA+4), psychological distress (PHQ-4) and perceptions of the ethical climate of their workplace.[28]

In sum, we find that total incivility experience was correlated for our sample with each of the 3 dimensions of ethical climate perceptions (positive ethical behaviours and relationships, self-interest/self-protection, and ethical flexibility). Greater incivility is thus associated with participants' lower perceptions of positive ethical behaviours, and higher perceptions of the other 2 negative dimensions.

Total incivility experience was also associated with lower levels of wellbeing on the PERMA+4. However, this relationship disappeared if the positive dimension of ethical climate (positive ethical behaviours and relationships) was introduced into the model, suggesting that the relationship between incivility and wellbeing is better explained through the presence – or absence – of ethical behaviour or an ethic of care.

We also found a smaller but more robust relationship between incivility experience and psychological distress. This remained even after considering the ethical climate dimensions. Incivility experience, regardless of source and perceptions of ethical climate and psychosocial support, has a direct impact on psychological distress.

4.1 Frequent incivility experience

Participants who reported experiencing one or more types of incivility at least weekly had:

- slightly lower PERMA+4 average item scores (5.91 vs. 6.31, on a scale from 0-10) and slightly lower average item psychosocial support ratings (3.06 vs. 3.21, on a scale from 1-5)
- a higher likelihood of being in the moderate or severe PHQ-4 category (30% vs. 19%)
- lower perceptions of positive ethical behaviours in their workplace, and higher perceptions of negative aspects of ethical practice (see **Figure 9**).

Figure 9 Differences in average perceptions on the three ethical climate dimensions, by whether the participant experienced frequent (at least weekly) incivility

■ Low incivility ■ Frequent incivility
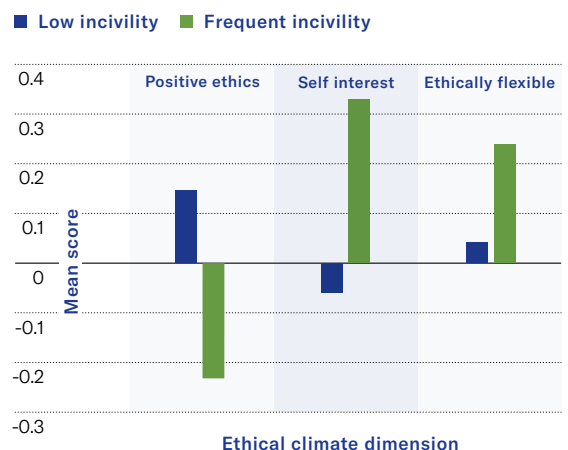
[28] Once again, we controlled for jurisdiction, PQE, practising certificate type and gender. Psychosocial support was also included in the model.

4.2 Incivility source

To examine whether the source of incivility has an effect in addition to the intensity of incivility experiences, we first sought to group the 6 incivility instigator types in the survey (supervisor, co-worker, subordinate, client, external collaborator and judiciary) into common clusters. This analysis identified 4 distinct clusters of incivility instigators, corresponding to:

1. incivility experienced primarily from supervisors (17% of participants)

2. incivility experienced primarily from external sources (i.e. clients, collaborators or the judiciary, 13% of participants)

3. incivility experienced primarily from co-workers and subordinates (i.e. peers; 11% of participants)

4. infrequent incivility from any of these identified sources (59% of participants).

There was no significant difference in the overall frequency of incivility experience between the first 3 clusters of incivility instigators (supervisor, external or peer). Also, the intensity of incivility experience did not differ by the source of incivility: for example, lawyers who experienced incivility primarily from supervisors did not report a higher level of total incivility than those who experienced incivility from peers or external sources.[29]

Using a regression model, which included both participants' total incivility experience and the incivility instigator cluster (and the interaction between the 2), we found that:

- The negative effect of incivility on positive wellbeing (PERMA+4) was greater when the source of the incivility was from a supervisor, compared with other incivility sources (peers, or external sources).

- The source of the incivility had no statistical effect on psychological distress as measured by PHQ-4. As noted above, incivility from any source has a direct and robust effect on distress.

- However, the source of incivility was material to participants' perceptions of workplace ethical climate, as

  – lawyers had lower perceptions of positive ethical behaviours and relationships in their workplace if they had experienced incivility primarily from supervisors, compared with if they had experienced incivility from their peers (co-workers and subordinates)

  – similarly, participants were more likely to rate their organisation's ethical climate as self-protective/self-interested if they experienced incivility primarily from their supervisors, compared with peers or external sources.

While these results are perhaps intuitively unsurprising, the heightened negative effects of top-down incivility on positive wellbeing and perceptions of ethical climate are noteworthy and emphasise the important 'respect role' that those with any supervisory or managerial function play in setting the tone for an organisation.

[29] Substantively this means that on the response scale used for the incivility items (*Never, Rarely, Sometimes, Often and Very Often*), the average item rating on the incivility items centred around the 'Often' response. As expected, the average level of incivility experiences was significantly lower (around the 'Rarely' response) for those who infrequently endorsed any of the 6 measured sources of incivility.

5

What predicts a lawyer's intention to leave?

5   What predicts a lawyer's intention to leave?

The legal profession often appears ambivalent about attrition. It is both a recognised concern within the legal services sector, but also sometimes seen as an integral part of a business model where high workloads are often the norm and it is assumed that not everyone will have the resilience or desire to remain on the fee-earning track. A recent survey by the industry practice management body ALPMA (2022) found that the average staff turnover rate for law firms surveyed bounced back after the COVID pandemic to 21%. Much of that attrition has historically been borne by junior lawyers. The Australian Young Lawyers Committee report (2004, cited in Drew et al. 2015:290) thus found that 45.8% of survey participants were considering leaving their current job. For that cohort (positive) work–life balance was the most common reason for young lawyers choosing to remain.

In comparison, almost one in 3 participants in this survey (29%) expressed an intention to leave their current employer within the next year. Moreover, close to one in 10 (8.4%) expressed an intention to leave the profession within the next year. While this can be explained partly by an intention to retire for those with 31+years PQE, this is not the full picture.

Not unexpectedly, principal practising certificate holders were far less likely to report an intention to leave their employer compared with all other practising certificate types (employees, government and corporate), except barristers. Barristers were even less likely to report an intention to leave compared with principals, consistent with the nature of most barristers' work arrangements.

To understand what predicts a lawyer's intention to leave either their employer or the profession within the next year, we used logistic regression models, controlling for PQE, jurisdiction, practising certificate type, and gender.

5.1 Intention to leave employer

We found that lawyers' intention to leave their employer was independently predicted by:

- low levels of positive wellbeing, more so than high levels of psychological distress (both significant, but the effect of PERMA was much greater: see **Figure 10**)

- low psychosocial support, more so than the extent of (global) incivility (see **Figure 10**)

- incivility from supervisors, rather than from external sources or from peers (when compared with lawyers who had low levels of incivility experience)

    – lawyers who identified their supervisor as the main source of incivility were 1.7 times more likely to want to leave their employer, compared with those who could not identify any incivility instigators

- an ethical climate that valued 'ethical flexibility' (a willingness to bend or disregard ethical rules or principles to achieve instrumental outcomes).

Figure 10 Effects of PERMA+4, PHQ-4, psychosocial support, incivility and 'ethical flexibility' scores on estimated probability of leaving employer

■ PERMA+4   ■ PHQ–4   ■ Psychosocial support   ■ Incivility   ■ Ethical flexibility
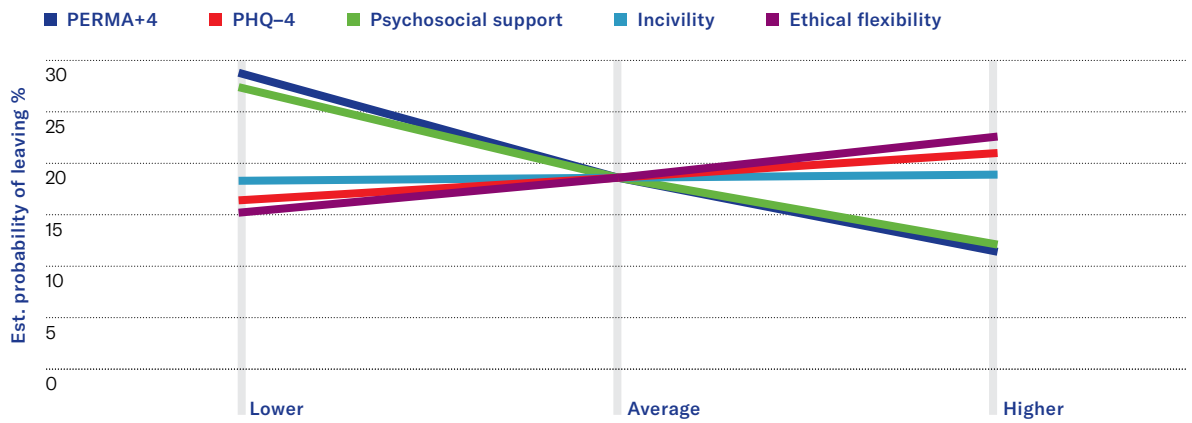
5.2 Intention to leave the profession

In looking at lawyers' intentions to leave, we focus on the cohort of lawyers who expressed an intention to leave within the next year, as this is likely a better proxy for a reliable intention to leave than those who express longer-term plans or desires.[30]

Lawyers' intention to leave the profession within the next 12 months was predicted only by low positive wellbeing (PERMA+4) and high psychological distress (PHQ-4). More specifically, we found that:

- Higher psychological distress had a bigger effect on lawyers' intention to leave the profession than lower levels of positive wellbeing. A decrease in PERMA+4 scores by one standardised score unit was associated with a 36% increase in the odds of intending to leave the profession, while an increase in PHQ-4 scores by one standardised score unit was associated with a 45% increase in the odds of intending to leave the profession.

- Unlike lawyers' intention to leave their employer, there was no significant influence of ethical climate, incivility experiences and instigator types, psychosocial support, or practising certificate type on lawyers' intention to leave the profession.

- Lawyers with the most experience (31+ years PQE) were more likely to report an intention to leave the profession, which can be explained by likely impending retirement. However, the proportion of <5 years wanting to leave the profession within 12 months was 10.7% (the highest of all PQE categories), compared with only 7.8% for 31+ year PQE lawyers. If anything, this suggests that attrition risk is highest in lawyers new to the profession.

These results suggest that the subjective experience of heightened distress or low wellbeing, including the personal impact of work on that participant's life, are the key drivers of a lawyer's intention to leave the profession within a year. While other results show that psychological distress and wellbeing is influenced by workplace and ethical factors, this finding shows that an intention to leave the profession within the next year is more clearly linked to the lawyer's own subjective experience of heightened psychological distress. This finding also suggests that, by the time a lawyer has formed an intention to leave the profession, they are likely to have had (and absorbed) experiences that are counterproductive to wellbeing, and sustainable and ethical practice.

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[30] This difference was sometimes apparent in the language used and degree of intentionality expressed by participants in their qualitative responses to the leaving question – see next subsection.

Survey participants were able to give reasons for their intentions to leave the profession. We received comments from nearly half of the sample, though not all of these were negative and a number referenced retirement rather than, or in addition to, other considerations. We include a cross-section, which are organised by (primary) theme and in order of frequency, so as to reflect and capture more fully the personal experiences of participants:[31]

a) The 'reward/effort' bargain and working conditions

The most frequently mentioned reason for intending to leave was workload and working hours, relative to the rewards people received. This included comments about unreasonable demands and expectations, a lack of work-life balance and flexibility in work arrangements.

Common concerns voiced were:

▬▬▬ *'More and more is expected year on year which is leading to proportionately diminishing work-life balance.'*

Employee, more than 40 principals, 5–15 years PQE male

▬▬▬ *'I am in my 11th year of practice working as a Senior Associate at a top tier firm. To put it bluntly, the work rate at which I am currently operating, which is required to meet the billable targets and budgets set for us, cannot be sustained for my whole working life – it's too much.'*

Employee, more than 40 principals, 5–15 years PQE, female

▬▬▬ *'The pay is not worth the stress. I can't sleep because I'm constantly worried about deadlines or making mistakes, and I got paid more when I was a bartender. I love the work, but it's a very tough slog and damaging my own wellbeing for what?'*

Employee, 2–3 principals, less than 5 years PQE, female

b) Stress, pressure and/or 'burnout'

The second most prevalent reason given was stress, unsustainable and unreasonable pressure from work and/or 'burnout'. Some participants indicated they were already experiencing 'burnout' while others anticipated they would reach that state in the future, given current work pressures, workload and hours worked.

Common concerns voiced were:

▬▬▬ *'Burnt out, constantly stressed, no work-life balance. My current workload for the last 3 years has been overwhelming and is now impacting my health.'*

Principal, 21–40 principals, 16–30 years PQE , female

▬▬▬ *'Working in the area of Family Law for over 20 years has taken its toll on my mental health and my relationships. I would consider I am close to burnout.'*

Barrister, independent practice at the Bar, 16–30 years PQE, male

▬▬▬ *'Extremely stressful work, high caseload, struggle to disconnect and find balance. Inability to take adequate or proper time off from work. Dealing with highly vulnerable clients with not enough resources to support complex needs within the community legal sector. Recurring burn out and insufficient time to recover.'*

Employee, community legal service, less than 5 years PQE, female

[31] Details in brackets after the quote give practising certificate type, size and type of workplace, years of PQE and gender.

c) Desire for a role or career change

A significant number of participants stated they intended to leave to undertake a change in role or career. This included those seeking a law-adjacent role as well as those who intended to move away from law entirely, or who would do so if the opportunity arose:

▬▬ *'I suspect it will likely be because one of my clients offers me a more flexible role which is more interesting (a more dynamic, more consuming and demanding role), higher paid, and better hours with admin support for me to manage my children as a single mother.'*

Principal, 2–3 principals, 16–30 PQE years, female

▬▬ *'If I could identify a less stressful job that pays about the same, I would take it. It is difficult to transition out of a legal career, once you have been in it for as long as I have.'*

Employee, 11–20 principals, 16–30 years PQE, female

The relative effort and educational level needed to practise law (and the commensurate rewards received) were compared unfavourably with other professions with similar educational requirements.

Common concerns voiced were:

▬▬ *'The legal industry is not as you expect. Overworked and underpaid.'*

Employee, sole principal, less than 5 years PQE, female

▬▬ *'Poor pay (electricians and landscapers get paid more than I do), poor conditions – ridiculous amounts of unpaid overtime, no ability to get into partnership because the baby boomers won't retire, ridiculous expectations of clients and the court. Absolutely no ability to be a lawyer and a primary parent with school aged children.'*

Employee, 2–3 principals, 16–30 years PQE, female

▬▬ *'The compensation for workload, work-life balance is out of step with any number of other mid-level white collar roles that carry far less responsibility and stress.'*

Employee, more than 40 principals, 5–15 years PQE, male

d) Poor leadership, management and work culture

The fourth most frequently mentioned category of reason for leaving the profession related to the approach to leadership and management participants had experienced. This included a lack of support (by management or colleagues), a 'toxic' work culture, a lack of appreciation or respect for the work they undertook (and a lack of respect for the profession by those outside of it), as well as bullying, discrimination or marked incivility within their workplace and by clients and judges.

Common concerns voiced were:

▬▬ *'Lack of debriefing and supports, lack of formal mentoring and supervision, mental health toll, high workload and poor workplace culture, lack of training and supports to deal with clients in crisis, not family friendly profession.'*

Government, government legal services, 5–15 years, PQE female

▬▬ *'If I end up leaving the legal profession it will be because of bullying and harassment in the workplace. My experiences have been that if you are bullied or harassed, you either put up with the harassment and bullying or complain to your principal/HR and lose your job.'*

Employee, not currently working, less than 5 years PQE, female

▬▬ *'Stress and burnout, which has caused severe anxiety with depression. The workload of being a lawyer is untenable, and the extremely high expectations from not only clients but the judiciary are just getting worse. Judicial bullying is still rampant, despite all of the wellness programs that cost money and frankly, do nothing. I have raised judicial bullying with my employer on multiple occasions as junior practitioners are too afraid to speak up. It just gets pushed under the carpet. Having said all of this, I am known as a 'good operator' by senior members of the profession, and superior court judges.'*

Government, government legal service, 16–30 years PQE, male

▬▬ *'Client management takes a big toll on mental wellbeing. There is always a struggle to have people understand and pay for good advice and representation. Clients do not respect our wellbeing or boundaries.'*

Employee, 11–20 principals, 5–15 years PQE, female).

▬▬ *'Poorly run law firm, no staff feedback or encouragement, no incentives, no acknowledgement of achievements, all staff taken for granted, poor leadership.'*

Employee, 2–3 principals, 5–15 years PQE, male

e) Negative impact of work on physical and/or mental health

Reasons relating to the impact of work on participants' physical and/or mental health and wellbeing were frequently mentioned. Some participants indicated they were already experiencing negative health effects, while others were anticipating negative health outcomes would soon result from their current working patterns. A sub-group of participants stated they experienced 'vicarious trauma' arising from the type of law they practised, with this being higher among those in government, community legal centres and family law.

Common concerns voiced were:

▬▬▬ *'I'm not convinced I can maintain my mental health and wellbeing in the legal sector. It's disappointing but the same workload issues appear to permeate the profession. Put simply, I am burnt out.'*

Employee, more than 40 principals, less than 5 years PQE, female

▬▬▬ *'Being a lawyer is an unhealthy job, it promotes long, excessive hours, high stress, no work-life balance and lawyers are often treated with little respect and yet expected to work above and beyond any other profession.'*

Corporate, in–house, 5–15 years PQE, female

▬▬▬ *'This is a hard game with debilitating effects on mental health and wellbeing and confidence. The positive interactions with the Court and other barristers/practitioners are few and far between, and outweighed by the negative experiences of bullying, often degrading treatment from bench and bar. The subject matter is difficult and there is nothing worse than belittling responses and criticisms of performance when trying to do your job.'*

Barrister, 31 years or more PQE, female

▬▬▬ *'This is an intense job and the vicarious trauma can be intense. I always have a mindset that I will not be doing this job forever so that I do not lock myself into being a lawyer forever.'*

Principal, sole principal, 16–30 years PQE, female

The data also allowed a focus on particular sections of the profession. Among those who had been practising for less than 5 years, the most frequently voiced reasons for intending to leave the profession were in descending order:

1. the 'reward/effort' bargain and working conditions
2. poor leadership, management and work culture
3. desire for a role or career change
4. stress, pressure and/or 'burnout'
5. negative impact of work on physical and/or mental health.

This hierarchy is broadly consistent with the responses of the overall sample, with some variation in relative frequency. Notably, poor leadership, management and work culture assumed a higher relative importance for those with less than 5 years' practising experience than for those who had been practising for 5 years or more.

6

The value of beneficial supports at work

6   The value of beneficial supports at work

6.1 A recap of survey items/responses

In section 2.5 we reported that two-thirds of the MCF psychosocial supports listed in the survey were endorsed as something of value by over 50% of the total sample. These factors were relatively generic and included the feeling that participants worked within a collegial professional community, that their organisation had a good understanding of wellbeing issues, was supportive of staff dealing with personal issues, and provided appropriate wellbeing supports and benefits.

We also invited participants to provide free text responses on what they found of value. A representative selection of those responses is included in section 6.2.

The survey results also indicate that employer provision of (at least) some elements of psychosocial support either was not adequate for a substantial part of the sample, or (as we note) was not something of which they had sufficient knowledge to assess. Notwithstanding the question posed, several participants took the opportunity to use the space in the survey to identify the shortcomings of current provision. We have also included a cross-section of those comments in the following as they add a useful gloss to the data collected.

6.2 In the participants' own words

When asked what beneficial supports for wellbeing they had experienced at work, participants voiced the following positive comments in order of frequency:

a)   Paid counselling, support from a psychologist or employee assistance program

'The counsellors provided as part of the employee assistance program were very good.'

Corporate, in–house, 16–30 years PQE, male

'Employee Assistance Program for access to qualified psychologists. Wellbeing checks by psychologist every 6 months.'

Government, government legal service, 5–15 years, female

b)   Management approach that included supervisors actively monitoring workloads and working hours, monitoring staff at risk, showing an interest in staff and allowing time for debriefing

'The most useful thing I have found is the support of my immediate team and managers, it is not something broader in the organisation. Factors like check-ins, workload monitoring, encouragement to take mental health days and leave, strong team culture. This is dependent on the specific wonderful managers within my team and is not a reflection of the organisation more broadly.'

Employee, governmental legal services, less than 5 years PQE, female

'Managers actively scheduling times to discuss ongoing work and proactively redistributing work'.

Corporate, community legal service, 5–15 years PQE, female

'When my billable hours were very high, my practice group leader reached out to discuss work-life balance.'

Employee, solicitor in private practice, less than 5 years PQE, female

c) Flexibility in workload and use of leave (or additional leave) to cope with personal circumstances (e.g. illness, mental health, bereavement)

'Discretion with leave and flexible work schedules'.

Employee, community legal service, 5–15 years PQE, female

'If time off is needed to attend an appointment or because of ill health, even at short notice, support and the time needed is offered.'

Employee, 6–10 principals, less than 5 years PQE, female

'Flexibility in being able to take time off for mental health reasons when needed and return to work in a flexible way (i.e. reduced hours for a period of time).'

Corporate, in–house, 5–15 years PQE, female

d) Flexible work arrangements including working from home

'Flexible hours and location of working. Not going into the office has been a lifeline.'

Corporate, in–house 16–30 years PQE, female

'Being able to work from home, and work flexibly, has had the biggest positive impact on my mental wellbeing.'

Employee, more than 40 principals, less than 5 years PQE, male

'When we had some flexibility, including working from home, it was better for maintaining some balance. But now we are back in the workplace full time, the long hours plus travel time have significantly impacted any balance.'

Corporate, in–house, 16–30 years PQE, female

e) Additional leave, billing relief to support staff health and wellbeing, and/or flex time or time in lieu for excess hours

'Provided a mental health day off at least once a month which means not using personal leave time.'

Employee, 2–3 principals, 16–30 years PQE, female

'No billable hours and flexible working, including remote work whenever I need. This has been life changing for me. I am much more present at home and I live a much healthier lifestyle.'

Corporate, in–house, less than 5 years PQE, female

'Flexible work hours and location, tracking overtime worked to record time in lieu owed to employees.'

Employee, community legal service, less than 5 years PQE, male

'A health and wellbeing day with billing relief.'

Employee, more than 40 principals, 5–15 years PQE, female

f) Informal peer support

'On-site psychologist available but best support comes from fellow colleagues who have lived experience and willing to offer support, independent of organisation's irrelevant corporate wellness officer.'

Employee, community legal service, 5–15 years PQE, male

'Informal support such as debriefing with colleagues has been most beneficial for me. Formal support is available through EAP, however I've never accessed this.'

Employee, government legal service, 5–15 years PQE, female

By contrast, other participants voiced negative comments about the effectiveness or adequacy of supports available at work, the inconsistencies between policy and practice, and the futility of providing individually focused supports without addressing the fundamental problems of inadequate resourcing, unreasonable or excessive workload and working hours, and the quality of management.

Common concerns voiced were:

'There is a lot of training and updates to employees and referrals to EAP. However, it is lip service. The burden of dealing with demands is put down to personal "resilience", and doesn't consider the constant cost-cutting, headcount reductions and requirement to do more with less as being the cause of mental health issues, rather than someone's "resilience".'

Corporate, in–house, 5–15 years PQE, female

'I have not used any specific workplace supports. I answered strongly disagree to the first question because although the organisation has an employee assistance program through [name] health, a telephone counselling service is a bandaid solution for a much deeper, profession-wide problem. It does nothing to address the organisation's expectations and culture that are a significant cause of poor mental health. As someone in need of effective, ongoing support, I have my own psychologist who I see regularly. I don't think ad hoc telephone counselling is sufficient. People in the organisation might have a good understanding of the importance of employee mental health but the organisation does the bare minimum.'

Employee, more than 40 principals, 5–15 years PQE, female

'I understand that the firm I work for has workplace supports in place. However, the reality is that my role (a junior solicitor) is likely to lead to poor mental health. The focus and pressure is to exceed billable hour targets, which in reality require significant amounts of overtime.'

Employee, 11–20 principals, less than 5 years PQE, male

'They have regular mental health sessions on various topics. The issue with them though is that if you attend them, you then end up losing time to do the work you have to do so in some ways, they kind of have the opposite impact of what they are hoping to achieve.'

Corporate, in–house, 5–15 years PQE, female

'I wish there was an acknowledgement that we need to take personal leave for stress reasons sometimes. I feel embarrassed to tell my workplace if I need time off for mental health reasons and prefer to lie about a physical condition. EAP services are provided everywhere but always seem to focus on CBT therapy and resilience rather than simply acknowledging how hard life can be sometimes. Every mental health day or seminar echoes this – it's all about being better and more resilient, and never about making the legal industry a nicer place to work.'

Employee, 11–20 principals, less than 5 years PQE, non–binary

'The EAP program is available but I didn't find it very helpful as it wasn't tailored to legal professionals, and I thought there was a lack of understanding of the job pressures.'

Government, government legal service, 5–15 years PQE, female

7

Conclusion and areas for action

7.1 Main findings
7.2 Specific recommendations/areas for action

7 Conclusion and areas for action

This research aimed to investigate how perceptions of ethical climate, experiences of workplace incivility and the presence of organisational supports influenced individuals' positive and negative wellbeing in legal workplaces. Our results identify some aspects of effective practice, but also observe some important patterns in participant experience, and how these are related to undesirable outcomes, particularly for some cohorts of the profession.

Specifically:

- A significant level of psychological distress was identified across the sample.

- Female lawyers had generally higher levels of psychological distress than males, and higher incidents of incivility, and experienced the ethical climate of their workplaces less positively than males.

- Lawyers with less than 5 years PQE reported the highest experience of incivility and experienced higher than average levels of psychological distress, as well as lower levels of positive wellbeing.

- Incivility experience, regardless of source and perceptions of workplace culture, has a direct impact on psychological distress.

- Incivility from supervisors was particularly detrimental to perceived wellbeing (as compared to other sources) and could contribute to intentions to leave the current employer.

- Significant challenges to wellbeing are created by the 'business model' in some parts of the legal profession, particularly in respect of designed or implicitly sanctioned structures, norms and behaviours that support

  – excessive workloads

  – unreasonable working hours

  – inadequate attention to resourcing of psychosocial supports

  – poor quality management.

Overall, our findings indicate that there is a gap between the perceptions and experiences of more senior and junior members of the profession, resonating with points made in earlier research by Parker and Aitken (2011) and Trevino, Weaver and Brown (2008). This underscores the importance of investigating the views and experiences of those at lower levels of the hierarchy, and using the results to encourage critical reflection on organisational culture by senior managers.

It also highlights how critical the first 5 years of legal practice are to lawyers' experienced wellbeing. This is a formative time of socialisation into the profession as well as vulnerability to incivility. Management approach appears to be a key factor in both negative and positive lawyer wellbeing as well as intentions to leave. **For those interested in the sustainability of the legal workforce, targeted attention to improving lawyers' experiences of the first 5 years of practice, as well as (or indeed through) the quality of management should be a priority. In addition, individual employers should also be concerned about employees' intentions to leave as a predictor of voluntary turnover.**[32] Voluntary turnover can lead to loss of organisational productivity and knowledge, decline in quality of service due to workforce instability, and additional costs of recruiting, inducting and training new staff (Firth et al. 2003, Bevan, 2016, Mohammed et al. 2016). It may even inhibit the employer's capacity to bring in new business and contribute to increased workload and pressure for remaining employees, thereby increasing their levels of dissatisfaction and propensity to quit (Bevan et al. 2016, p. 83).

[32] Intention to leave has been established as the best indicator of voluntary turnover among employees (where an employee resigns or retires) (Firth et al. 2003).

Our study also investigated not just negative but also positive wellbeing. The ethical climate, PERMA and psychosocial support data offer a new contribution to understanding lawyer wellbeing. The PERMA+4 analysis indicates a range of areas in which positive wellbeing can be improved, and active attention to both ethical climate and psychosocial support offers a pathway to building the greater sense of respectful community, agency, engagement and motivation, required to enhance wellbeing.

While there was a high proportion of participants who reported experiencing psychosocial supports in the workplace, this came mostly informally from colleagues (rather than from formal mechanisms in the organisation) or from the introduction of more flexibility in work arrangements – which firms are increasingly adopting (ALPMA 2024). The latter was seen as a priority by many participants.

7.2 Specific recommendations/areas for action

This project can be seen as contributing to a 'job design and resources' understanding of legal practice (cp. Bakker et al. 2005; O'Keefe et al. 2024; Soon et al. 2024). The design and resources approach recognises that work roles involve a combination of demands and available resources. Job resources may be both material (e.g. flexible work policies, reasonable billing targets) and less tangible (e.g. sympathetic and engaged leadership, socially meaningful work). Resources are critical in enabling workers to cope with the demands of their role and can serve not just to protect but actively promote wellbeing (Soon et al. 2024). A key challenge for many in the legal workforce is that demands more than occasionally exceed resources. This imbalance needs to be addressed by employers, with the support of their professional bodies, and also perhaps with the use of some regulatory levers.

The data on which this report is based does not provide a blueprint for intervention. We are aware that legal professional and regulatory bodies are also all engaged with wellbeing, but at different stages of their journey. We therefore offer only some relatively broad recommendations and identify some key areas for action influenced by the data obtained. We are conscious too, as are the professional and regulatory bodies, that while (poor) wellbeing can trigger personal and organisational risk and regulation issues, a (negative) framing of wellbeing is fundamentally unhelpful.

Our proposals fall into 3 categories: beneficial workplace supports; information and educational initiatives; and change to the business model.

The implementation of beneficial workplace supports

Beneficial supports that could be implemented by employers include:

- more flexibility in work arrangements and use of leave to accommodate life circumstances
- additional days of leave as time in lieu for extra hours worked or as 'health and wellbeing' supports
- closer monitoring and redistribution of excessive workloads and more active and positive attention paid to employees by management (see also Soon et al. 2024:567)
- evaluation, adoption or development of effective formal employee assistance programs (EAPs). Such programs should not be seen as a way of avoiding organisational responsibility for improving the culture and structure of legal workplaces by focusing on individual–level coping strategies.

Beneficial supports developed by the professional bodies:

We acknowledge that professional bodies are already playing an important role in supporting professional wellbeing through resources, training, helplines and other supports. This study identifies 2 possibly significant gaps in provision:

- Professional bodies should (if they have not already done so) consider the development of a tailored profession-wide EAP. This would provide significant support to principals and employees in smaller organisations that are unable to provide ready access to an effective EAP.
- Professional bodies should evaluate whether there is sufficient demand for a tailored support program for practitioners returning from extended mental and physical health-related leave.

Information and education

Information and education needs arise in 3 ways. First, there are still areas of the professional life where we have limited understanding of wellbeing specifics; some further research is needed if tailored interventions are to be developed. Secondly, consideration needs to be given to the information-sharing role of employers, professional bodies and regulators, and this links, thirdly, to their role in educating the profession.

We also note:

- The wellbeing experiences and needs of Indigenous and ethnically diverse practitioners are insufficiently understood; more targeted research and action would be valuable.

- Principal practising certificate holders have emerged as a group with significantly heightened levels of psychological distress. Further research into this cohort's experiences would be beneficial, not least in that interventions targeting principals to support and strengthen their own wellbeing may in turn prove beneficial for our other most vulnerable group, junior lawyers.

- It would be useful to identify and audit/ evaluate examples of effective flexible work arrangements and other areas of wellbeing policy and practice currently in use, so that best practice could be better identified and rolled out across the profession.

- Where they have not already done so, professional and regulatory bodies are encouraged to develop targeted resources and guidance to the profession on legal and regulatory obligations and professional best practice expectations placed on organisations, principals and supervisors to protect and enhance the professional wellbeing of staff.

- Professional and regulatory bodies should encourage and support training organisations to develop high quality CPD resources targeting (as a priority) incivility behaviours, vicarious trauma and managing staff wellbeing, particularly where the training can be incorporated into, or count towards, core Practice Management or Ethics education.[33]

- Professional and regulatory bodies are encouraged to consider whether the *Uniform Continuing Professional Development Regulations* should be amended to include Wellbeing as an additional compulsory head of training.

The 'business model'

As noted already, many of the underlying issues identified by wellbeing research are structural, particularly in the way that private law firms operate. This is an area where it is relatively easy to develop superficial interventions that ultimately maintain the status quo, but where well-designed systematic interventions are urgently needed.

At this point, we make the following recommendations:

- We encourage Uniform Law regulators to explore potential interventions which address harmful economic drivers of law firm practice – including the billable hour (Cadieux et al. 2022). In particular, we recommend a thorough examination of practices that:
  - limit lawyers' sense of meaning, purpose and accomplishment in their work, particularly early in lawyers' careers
  - lead to overwork and a neglect of physical and mental health
  - create vulnerabilities to workplace incivility which arise through stress and misaligned values
  - nonetheless lead to lawyers feeling economically insecure.

- Further, we recommend that this process of discovery and design should be undertaken together with members of the profession, with representation from early career lawyers and lawyers from underrepresented segments of the profession.

- Finally, regulators should develop a systematic approach to recording and understanding the stories and experiences of lawyers who leave the profession, especially those who leave prematurely or following adverse experiences.

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[33] These are exemplary rather than exhaustive. We also recognise that good quality training in respect of other competences might help directly or indirectly support wellbeing.

[34] Preferably using a human centred design (HCD) methodology: see https://www.vic.gov.au/introduction-human-centred-design

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