

# In sickness and in health...

By Greg Barns

**W**hen it comes to being a lawyer there is little that can compare with the stress of disciplinary proceedings. Contrary to what the community thinks, lawyers eat each other when it comes to investigating alleged indiscretions and wrongdoing. And, as a recent case shows, the pace at which these proceedings move can be glacial.

To have hanging over your head for years the possibility of humiliation by media and former colleagues, loss of livelihood and all that both entail is catastrophic for mental and physical health. And there is something wrong with a system that allows such a state of affairs to exist.

Just prior to Christmas last year, a lawyer in Australia was struck off (can't we think of a less brutal and medieval term?) The allegations against this lawyer go way back – to between 2004 and 2007. The disciplinary ball got rolling but a hearing was not held until last year. That's four years after the last incidence of the alleged misconduct. Did this lawyer vanish and have to be hunted down? No. It just seems to take a long time for the disciplinary process to crank up and wend its way to closure.

This is not an isolated case. Another case with which I have some familiarity took about three years between commencement and final disposal in the Supreme Court. And in yet another, misconduct that occurred in 2004 was finally dealt with by the courts in 2007.

Why is it that the wheels of justice appear to turn so slowly, when what is

at stake is a person's future and that of their families and loved ones?

Whatever the reason, it is surely not good health practice, and certainly not consistent with pledges made by the legal industry in recent years acknowledging the importance of mental health and of adequate support and help for lawyers suffering from ill-health and stress.

You do not have to be a trained mental health practitioner to know that it is exceptionally difficult for human beings to cope with any form of serious investigation or disciplinary proceeding. Resorting to alcohol and drugs is a common mechanism for reducing stress, and of course this has an adverse impact not only on the individual involved, but on their family and friends. Depressive illness and even suicide attempts are often triggered by disciplinary proceedings.

The length of time taken to commence and complete proceedings adds fuel to this already toxic mental health fire.

So out of all this there are two issues for the legal industry to address. Firstly, how can disciplinary proceedings – even those where there are multiple allegations – be shortened, so that the person being investigated and accused is not made to suffer any more than they inevitably do because of the nature of the proceedings?

Then there is the issue of support for lawyers who are facing the guns aimed at them by ex-clients, colleagues and the regulator. Surely we owe it to our colleagues to provide medical, psychological and plain old humane friendship and support in these circumstances? We ought to have a



fund which enables lawyers to meet the cost of therapy, medical treatment and the like. And we should not shun colleagues, but make certain we stay in touch with them just to see how they are travelling.

It is a brutal business, this legal industry. It is adversarial, stuffy, formal and often pompous. Like politics, it tends to attract big egos, high achievers and workaholics. All of which means that mental health issues are more likely to be found in the legal workplace than in some other industries. It is no surprise that rates of depression among lawyers are higher than for most other professions.

The disciplinary process is the most unpleasant aspect of legal practice – no one likes it, but clearly it is necessary. But this does not mean that we should allow a person's health to be destroyed, or even severely affected. Support and help are what is required, because it is the mark of a decent society that we care about those who are perceived to be outcasts. ■

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