

Being blue may be the next black

ANONYMOUS

My symptoms ...

I eat well, exercise regularly and have good relationships with my partner, friends and family. But over the past year and a half, my stress levels have risen noticeably.

An embarrassing rash has flared up on my arms and shins. The muscles around my shoulders have tightened to the point that they now occasionally seize up from motions no more strenuous than eating a bowl of cereal.

I've become notoriously grumpy on Saturday mornings and yogic exercises are essential to prevent difficulty breathing. I've even started to wonder whether IBS isn't simply the medical industry scam I previously suspected it to be.

What disease has caused this Quasimodo-like transformation? There is no disease: I simply work in law firm.

It's a Melbourne law firm in a multi-storey city building. My colleagues and I breathe polluted air (a) while commuting to work and (b) while consuming each other's "conditioned" air for the rest of the day. We are lucky to feel more than an hour of sunlight on our skin during the week – especially in winter. Sitting down all day staring at a computer screen strains our eyes and upper body and the long working hours can instil an unshakeable fatigue. Even so, this has to be one of the most sheltered and safe workplaces on earth. Compared to workers in the construction or mining industries, for example, what have we got to complain about?

The diagnosis: workplace stress

While lawyers in Australia are generally spared day-to-day risk of physical injury at work (paper cuts and flying rubber-bands aside), they are among an increasing number of workers at risk of suffering workplace stress.

The problem of workplace stress permeates all levels of the law firm – from partners through to junior lawyers. However, "job strain" (the combination of high pressure work and low decision latitude) is particularly rife among junior lawyers. Often they feel like a cog in the law firm machinery with limited control over the work they do and how they carry it out.

Workers suffering from job strain can experience a range of psychological, physical and behavioural problems, including musculoskeletal disorders, immuno-deficiency disorders, gastrointestinal disorders, cardiovascular disease, anxiety¹, reduced foetal growth during pregnancy², hastened menopause³ and alcohol and drug abuse⁴.

A recent report by VicHealth confirms that the risk of cardiovascular disease is increased by 1.2 to 4-fold for men affected by job strain and 1.2 to 1.6-fold for women.⁵

Women lawyers who work more than 45 hours a week are also three times more likely to experience a miscarriage in the first trimester of pregnancy than women who work less than 35 hours a week.⁶ ("Oh to be able to work 35 hours a week rather than *bill* 35 hours a week!" I hear you exclaim.)

Which can lead to depression ...

While the cause and effect relationship is somewhat circular, there is a significant causal link between job strain and depression. Further, lawyers are 2½ times more likely to suffer from depression than the average person.⁷

Professor Martin Seligman has attributed unhappiness and depression among lawyers to three main causes: their professionally desirable pessimism, or "prudence"; working in a high pressure job with "low decision latitude", or lack of control over their work; and the "zero-sum game" of law, in which the success of one side is counterbalanced by the loss of another.⁸

With the same irony as an army funding the Red Cross, many law firms espouse their support for and even make regular fiscal donations to health charities such as beyondblue, which helps people affected by depression. While this would be admirable if lawyers were in tip-top shape around the country, it appears contradictory in light of the above findings.

At what cost?

It follows that the legal industry as a whole must change its working culture and client expectations. In a profession where time sheets shadow every thought and action, this may seem an unlikely prospect. But when faced with crippling WorkCover premiums due to costly mental stress claims,⁹ high levels of absenteeism, decreased performance, productivity and profitability and high staff turnover, firms may be faced with little choice.

In addition to workers' compensation claims and the "operational" costs associated with workplace stress and depression, employers face the financial and legal risk of prosecution for breaching their occupational health and safety obligations.

Under the *Occupational Health & Safety Act 2004 (Vic)*, every employer has a duty to provide its employees, so far as is reasonably practicable, a working environment that is safe and without risk to health. The term "health" includes psychological health, so there is no doubt that this duty extends to guarding against the risk of mental harm.

The duty of law firms to improve and monitor the mental health of their workers and stress hazards in the workplace is arguably even more onerous than that of other employers, as lawyers are at such a high risk of suffering mental illness.



This duty includes ensuring that employees don't work themselves into the ground. Law is a competitive industry. It is sometimes said that a lawyer's fiercest competition is sitting in the next office.

However, the willingness of an employee to work unsafely does not diminish their employer's responsibility unless the risk of psychological injury is unforeseeable.¹⁰

This is particularly important in the legal profession, where young lawyers are expected to be willing to work long hours and do so with enthusiasm. While employees have a responsibility to let their employers know if their work is harming their health, it is ultimately the employer's obligation to ensure that the workplace and systems of work are safe.

The cure

So what can be done? As an employer, stress risks can be reduced in the same way as any occupational health and safety risk: identify the hazards; decide who is at risk and why; evaluate the risk and take action; and monitor and review the effectiveness of the plan.

Job strain can be lessened if employers regularly communicate with staff about job pressures and how to manage them, and provide additional resources when workload increases.

Good mentoring and earlier client contact can help junior lawyers to feel that they are part of the "bigger picture" and increase their job satisfaction and sense of career control. In addition to combating job-strain, optimism and "cooperative litigation" can be learned and encouraged.¹¹

Of course, a reconsideration of the achievability and effectiveness of individual daily budgets and the focus on "billable units" could also do wonders for the mental health of lawyers.

As for employees – well, it's not easy. Fortunately for me, my stress was mainly caused by a discrete one-month project.

When the project came to an end I was so exhausted that I took a couple of "mental health days" off work, although I never told my employer that this leave was stress-related.

Talking openly about work-related stress is perhaps the most difficult step for employees to take. In dealing with workplace stress, however, it is the most important. It is particularly helpful to talk with your employer about ways to alleviate your stress.

You may suggest working from home for a period, engaging additional staff, reallocating work, or obtaining mentoring or guidance to help prioritise and manage your workload. If things don't improve at work, try stress-relieving techniques such as meditation, see a counsellor or contact beyondblue.

Don't let your health suffer as a result of your work. While a law firm may be a high pressured and challenging place to work, it should also be one of the safest workplaces on earth. ■

1. *Workplace Stress in Victoria: Developing a systems approach*, a report by VicHealth (May 2006) www.vichealth.vic.gov.au/workplacestress accessed on 18 August 2007.
2. Maureen Hatch, Bu-Tian Ji, Xiao Ou Shu, Mervyn Susser, "Do standing, lifting, climbing, or long hours of work during pregnancy have an effect on fetal growth?" (1997) Vol 8, No 5 *Epidemiology* 530-536.
3. B Cassou, L Mandereau, P Aegerter, A Touranchet and F Derriennic, "Work-related factors associated with age at natural menopause in a generation of French gainfully employed women", (2007) 166(4) *American Journal of Epidemiology* 429-438.
4. Beyondblue and Beaton Consulting, *Annual Professions Survey* (April 2007) www.beaton.com.au/PDF/professionsSurvey.pdf accessed on 18 August 2007.
5. As above at note 1.
6. Marc B Schenker, MD, Muzza Eaton, Rochelle Green, MS, Steven Samuels, "Self-reported stress and reproductive health of female lawyers" (1997) 39(6) *Journal of Occupational & Environmental Medicine* 556-568.
7. Beyondblue and Beaton Consulting, *Annual Professions Survey* (April 2007).
8. Martin E P Seligman, Paul R Verhuil & Terry H Kang, "Why lawyers are unhappy", (2005) 10 *Deakin Law Review* 50.
9. The number of mental stress workers compensation claims increased by 83% between 1996-97 and 2003-04: Australian Safety and Compensation Council, *Compendium of Workers' Compensation Statistics Australia 2004-05* (May 2007).
10. *Koehler v Cerebos (Australia) Limited* (2005) 214 ALR.
11. As above at note 1.
12. www.beyondblue.org.au or beyondblue info line 1300 22 4636.