

Institution: The Open University		
Unit of Assessment: C18 Law		
Title of case study: Improving the wellbeing and 'emotional competence' of legal practitioners		
Period when the underpinning research was undertaken: 2017-2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Dr Neil Graffin Dr Emma Jones	Senior Lecturer in Law Senior Lecturer in Law	13/04/2015 – present 01/12/2014 – 31/12/2019
Period when the claimed impact occurred: 2017-2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact		
<p>Research by Dr Graffin and Dr Jones at The Open University has improved the knowledge and understanding of wellbeing within the legal profession and has led to the development of professional practical initiatives designed to support individual legal practitioners. The research introduced the notion of 'emotional competence' into UK legal practice, influencing approaches to wellbeing amongst key stakeholders in the profession. Working with the UK charity LawCare, the research resulted in a sustainable, evidence-based online course for legal professionals called FitforLaw, which educates users on how to build awareness and maintain good mental health. This course has been accessed by 10,000+ users. The research also led to a change to the educational standards of the professional body CILEx Regulation, explicitly introducing 'emotional competence' as a qualification requirement.</p>		
2. Underpinning research		
Research context		
<p>Historically there has been very little work on wellbeing in the legal profession within the UK, despite a body of international work demonstrating significant issues of low levels of wellbeing in the United States and Australia. This work had demonstrated that wellbeing issues can cause great suffering amongst legal practitioners, including an increased risk of alcohol, and substance abuse. Low levels of wellbeing contribute to low productivity, poor client service, and impaired ethical decision-making. Such issues also have a potential impact on the reputation and standing of the legal profession overall. In the UK, there is an urgent need for empirical research to identify the extent and causes of poor wellbeing amongst the estimated 233,000 legal professionals working across the different jurisdictions and inform practical interventions (https://www.statista.com/statistics/319211/number-of-legal-professionals-in-the-uk/). The research of Jones and Graffin has facilitated growing awareness of wellbeing issues and the delivery of sustainable and evidence-based responses.</p>		
Outline of underpinning research		
<p>Jones's research has engaged with the importance of emotions and wellbeing in the legal profession both theoretically and empirically. Her central argument is that the wellbeing of legal professionals is being impaired because they are encouraged to ignore or suppress emotions. There is a longstanding notion of 'thinking like a lawyer' which focuses on a rigid and analytical mode of thinking, viewed as antithetical to emotions. This leaves legal professionals ill-equipped to deal with the emotive aspects of legal practice which arise, particularly when dealing with clients and sensitive subject-matter [O3, O4]. Jones was the principal investigator in the first mixed-methods study on law student wellbeing in the UK [O5]. As part of this research 344 Open University students completed an online questionnaire which included two standardised measures for assessing mental health and wellbeing, including the Depression, Anxiety and Stress Scales 21 (DASS-21) and the WHO-5 Well-Being Index. This research demonstrates that students may absorb the norms of ignoring and suppressing emotions at an early stage, and this is subsequently reinforced throughout vocational training and legal practice.</p>		

Graffin's research built on a very small body of national and international work, making a substantial worldwide contribution to the literature on the emotional challenges of asylum law practice. It found asylum practice to be a particularly emotionally demanding vocation where the daily working with traumatised clients and hearing traumatic narratives can lead to burnout or depersonalisation of clients, meaning that lawyers may treat them as cases, rather than people. These issues could subsequently affect quality of legal representation, which is of concern given the very high stakes for the client group [O2].

Jones and **Graffin** collaborated on an original qualitative analysis of wellbeing within the UK legal profession, working inter-disciplinarily with two mental health academics (Dr Samra and Dr Lucassen, Open University). This resulted in the publication of the first book in the UK and Ireland which singly addresses the issue of wellbeing in the legal profession, making a substantial contribution to the literature. The book argued that there are manifold issues affecting lawyer wellbeing, including cultural and structural issues engrained within legal practice, and contends for a holistic approach to improve lawyer mental health and wellbeing which involves multiple approaches from various stakeholders [O1].

The reach and significance of the research in this case study is both national and international. It has added to international understandings of wellbeing in the legal profession by providing high quality qualitative data on key structural and cultural influences. Within the UK, it has pioneered empirical research into this area and demonstrated the specific importance of emotional awareness in promoting better wellbeing amongst legal professionals. In doing so, it has introduced the notion of 'emotional competence' into legal practice within the UK and provided the theoretical and empirical grounding required for sustainable, evidence-based, interventions.

3. References to the research

- O1. Jones, E., Graffin, N., Rajvinder, S., & Lucassen, M.** *Mental Health and Wellbeing in the Legal Profession* (Bristol University Press, 2020). <https://doi.org/10.2307/j.ctv17260hh>
- O2. Graffin, N.** (2019) 'The emotional impacts of working as an asylum lawyer', *Refugee Survey Quarterly*, 38(1), pp. 30-54. <https://doi.org/10.1093/rsq/hdy019>
- O3. Jones, E.** (2018) 'Making practice more affective: Emotional intelligence as a legal meta-competency', *European Journal of Current Legal Issues*, 24(1), article no. 2. <http://webjcli.org/index.php/webjcli/article/view/565/796>
- O4. Jones, E.** (2018) 'Affective or Defective? Exploring the LETR's characterisation of affect and its translation into practice', *The Law Teacher*, 52(4), 478-489. <https://doi.org/10.1080/03069400.2018.1529275>
- O5. Jones, E., Samra, R., & Lucassen, M.** (2019) 'The world at their fingertips? The mental wellbeing of online distance-based law students', *The Law Teacher*, 53(1) pp.49-69. <https://doi.org/10.1080/03069400.2018.1488910>

To support the research and reach wider audiences, an article was published in *The Conversation* (21,470 reads at time of writing on 28 January 2021) and blog articles were published on the LawCare website. The UK charity LawCare promotes and supports good mental health and wellbeing in the legal community. They help all branches of the legal profession from student to retirement: solicitors, barristers, barrister's clerks, judges, Chartered Legal Executives, paralegals, trademark attorneys, patent attorneys, costs lawyers and their staff and concerned family members.

4. Details of the impact

Dr **Jones** and Dr **Graffin's** research interests in wellbeing and emotions led to them approaching the UK charity LawCare (with Dr Samra and Dr Lucassen), the only body in the UK dedicated to promoting better wellbeing in the legal profession. It was agreed that **Jones** and **Graffin** would conduct empirical work to inform the creation of a free open access online course

for legal professionals ('FitforLaw') funded by LawCare [C1]. This work also led to the publication of the monograph 'Mental Health and Wellbeing in the Legal Profession' [O1].

Impact on Public Awareness

The research and development of FitforLaw was supported by the Legal Professions Wellbeing Taskforce, a body designed to bring together key stakeholders from across the UK legal profession. After Jones presented to them on 'emotional competence' research, advocating for its recognition in regulatory approaches, the taskforce decided to hold a roundtable event focused on this concept on 26 February 2018 which was attended by 30+ people. Jones was part of a panel at this event alongside the Director General of the Bar Standards Board, the Chair of the Bar Wellbeing Initiative, the CEO of CILEx Regulation, representatives from the Solicitor's Regulation Authority (SRA), and other key legal stakeholders.

In December 2019, Jones appeared on BBC Radio 4's 'All in the Mind' discussing her and Graffin's empirical research on wellbeing in the legal profession, specifically referring to the FitforLaw research. 'All in the Mind' explores psychology, mental health and other aspects of the mind with approximately 800,000 listens per episode (excluding iPlayer) [C2]. This debate also featured in the print version of Legal Cheek, the magazine for the legal profession [C3].

In January 2020, five launch events were held in Belfast, Cardiff, Dublin, Edinburgh and London. Notable attendees included the President of the Law Society of England and Wales, as well as the President of the Law Society of Northern Ireland. These events received significant media attention (e.g. The Times and in the wider legal press [C6]), enhancing public awareness of wellbeing issues and the importance of emotional competence. In describing the course in the press, the chief executive of LawCare, commented, "*We know from our work in supporting lawyers for over 20 years how difficult it is for lawyers to admit they are struggling with the pressures of work [...]. Providing legal professionals with resources to enable them to understand and develop key emotional competencies such as emotional self-awareness, self-reflection and better strategies for emotional self-regulation will equip them more effectively for practice, enhance their wellbeing and potentially reduce levels of stress, anxiety and depression*" [C6b]. In May 2020, LawCare ran a webinar with approximately 65 attendees to promote FitforLaw and the concepts of emotional competence and professional resilience. They also regularly advertised the course.

Impact on Professional Development

The FitforLaw online course is designed to up-skill legal practitioners and employers by developing an evidenced-based understanding and awareness of emotional competence and professional resilience. FitforLaw has been described by LawCare as "*an important resource for educating the legal community that maintaining good mental health and wellbeing is crucial for being a competent and effective lawyer*", stating that it helps practitioners to be better prepared for life in practice [C4]. As of January 2021, this course has received over 26,000 views and has 1,441 registered users [C4]. Users who complete the course can request a Certificate of Participation to be used as part of their Continuing Professional Development in England or Wales. Feedback from participants has described FitforLaw as "*an excellent resource for those working the legal profession [...] The materials give a clear explanation as to why emotional competency is so important, in particular, for those working in the legal profession [...] I have recommended the course to friends and colleagues*" [C5].

Impact on Professional Regulations

At the 'Legal Education and Training Review: Five Years On' conference at The University of Leeds Law School, the Director of Authorisation and Supervision of CILEx Regulation, was part of a panel of regulators and specifically identified 'emotional competence' as one of two upcoming competencies, referencing the research [O3, O4] and the work of the researchers with LawCare. This led to a change to the educational standards of CILEx Regulation. CILEx

Regulation is the independent regulatory body of the Chartered Institute of Legal Executives regulating around 20,000 Chartered Legal Executive lawyers, paralegals and other legal practitioners in England and Wales.

Following a public consultation on the inclusion of emotional competence, CILEx Regulation chose to adopt it as an explicit part of their Education Standards (the competencies Chartered Legal Executives are required to demonstrate before qualifying) [C7]. The Director of Authorisation and Supervision for CILEx Regulation commented that “*Emma and her team were invaluable in their experience and input which enabled us to successfully embed [emotional competence] within our standards [...] Emma and the team helped us to realise the inclusion of emotional competency within the education standards for CILEx Lawyers, which should benefit not only the CILEx Lawyers but the clients and service users of CILEx Lawyers*” [C7]. Jones, Graffin, Samra, and Lucassen provided the draft specification intended to be used. This change is currently in the final stages of approval from the Legal Standards Board before the change can be officially made.

5. Sources to corroborate the impact

- C1. ‘Fit For Law’ course on OpenLearn:
<https://www.open.edu/openlearncreate/course/view.php?id=3476>
- C2. Email giving Radio 4 listener numbers for ‘All in the Mind’ programme
(<https://www.bbc.co.uk/programmes/m000c4qx>).
- C3. Legal Cheek article discussing the Radio 4 programme above: ‘Embattled barristers “masquerading as sociopaths” and stressed-out solicitors who don’t want to be “seen as weak”’ (11th December 2019): <https://www.legalcheek.com/2019/12/embattled-barristers-masquerading-as-sociopaths-and-stressed-out-solicitors-who-dont-want-to-be-seen-as-weak/>
- C4. Testimonial from the CEO of LawCare, 25th January 2021.
- C5. Testimonial from practising solicitor and participant of the FitforLaw Course, 13th January 2021.
- C6. Evidence bundle: press coverage of FitforLaw, various dates.
- C7. Testimonial from Director of Authorisation and Supervision at CILEx Regulation, 26th October 2020.