



Pacific Judicial
Integrity Program

Advanced Managing and Reporting on Fraud and Corruption Cases Online Course

Registrar/ Court Officer Wellbeing
Vicarious trauma training and judicial/court officer wellbeing



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Via Zoom – 1, 8, 15 & 22 August 2024



**FEDERAL COURT
OF AUSTRALIA**



Papua New Guinea
Centre for Judicial Excellence

Overview



Understanding psychosocial workplace risks

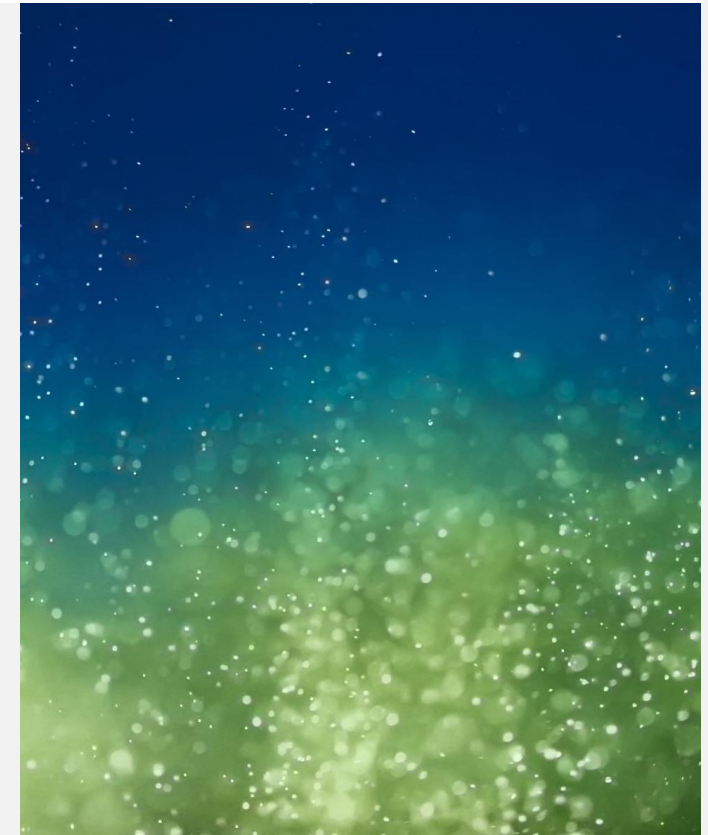
How to recognise psychosocial risks such as **vicarious trauma (VT)** signs and symptoms?

VT in Courts

Overview of legislation governing VT

VT in Australian cases

Raising awareness and preventing harm



Understanding psychosocial workplace risks

Some workplace risks are visible and others, such as psychosocial risks, are not immediately visible but are equally serious and should not be ignored.





(workplace-acquired)

Vicarious Trauma

The experience of a ‘helping professional’ personally developing and reporting their own **trauma** symptoms **as a result of responding to, and empathetic engagement with, victims of trauma** and being exposed to traumatic material in the course of their duties.

Risks of VT in the workplace

- Exposure to traumatic witness evidence
- Exposure to graphic material
- Witnessing occupational violence
- Dealing with victims and distressed parties to a proceeding
- Responding to natural disasters (e.g. fires, cyclones, floods)



How to
recognise
psychosocial
risks such as VT
– signs and
symptoms



VT in Courts



Due to the nature of the work, VT is common in the Court system:

- Judicial officers
- Court staff
- Lawyers
- Law enforcement

The risk of VT needs to be actively managed to avoid:

- Unsafe workplaces
- Personal injury claims
- Sick leave claims

Signs & Symptoms of VT



- Anxiety
- Depression
- De-personalisation
- Feeling overwhelmed (shame, grief, guilt)
- Low self esteem
- No energy
- Sleeping problems
- Substance abuse
- Impact on organisations, relationships, families etc

Signs & Symptoms of VT



Internal - felt by the employee

- **Intrusive reactions:** dreams/nightmares, flashbacks, obsessive thoughts, physiological reactions and other persistent re-experiencing of the traumatic event.
- **Avoidant reactions:** general numbing in responsiveness and avoidance (particularly of things related to the traumatic material).
- **Hyper-arousal reactions:** hyper-vigilance and difficulty concentrating.
- **Other reactions:** anxiety and depression; de-personalisation; feeling overwhelmed by emotions such as anger and fear, grief, despair, shame, guilt; increased irritability; procrastination; low self-esteem; fatigue; increased feelings of cynicism, sadness or seriousness; an increased sensitivity to violence and other forms of abuse for example when watching television or a film; avoiding situations perceived as potentially dangerous; feeling profoundly distrustful of other people and the world in general; disruptions in interpersonal relationships; sleeping problems; and substance abuse; and feelings of helplessness.

Signs & Symptoms of VT



External - visible and communicated to others

- Expressions of anger, cynicism, intolerance for others, irritability and frustration.
- Expressions of sadness, such as tearfulness.
- Discussions with colleagues expressing struggles.
- Abuse of alcohol and drugs.
- Avoidance behaviour and statements such as:
 - *‘I haven’t got time for this.’*
 - *“I’ll sort out later”*
 - *“I don’t need to think about it.”*

Questions to ask



Does your workplace involve employees being exposed to:

- **the cumulative effect of working with survivors of trauma?, or**
- **traumatic material in the course of their duties?**

NOTE: The symptoms of trauma also need to be recognised as culturally diverse and specific and recognise that symptoms may fluctuate

**Legislation
governing VT**



Health and Safety Legislation

Country	Links to current Health and Safety Legislation
Fiji	Health and Safety at Work Act 1996 (paclii.org) Public Health Act (paclii.org) Public Safety Act (paclii.org)
Federated States of Micronesia	Public Health, Safety and Welfare [Title 41] (paclii.org)
Kiribati	Occupational Health and Safety Act 2015 (paclii.org) Occupational Health and Safety (Amendment) Act 2018 (paclii.org)
Marshall Islands	Public Health, Safety and Welfare Act [7 MIRC Ch.1] (paclii.org)



Health and Safety Legislation

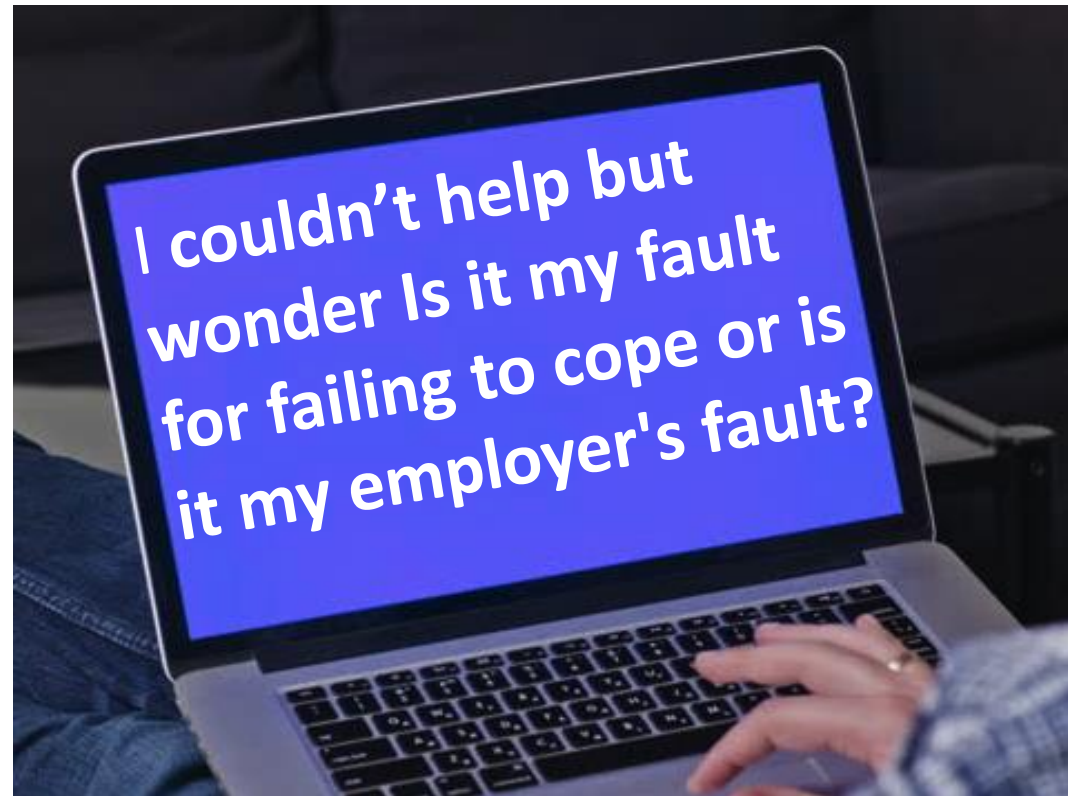
Nauru	No explicit public or occupational health and safety legislation. Instead, it is built into specific industry-oriented acts – i.e. Rescue and Fire Services Act; Food Safety Act; Domestic Violence and Family Protection Act; Civil Aviation Act; Education Act etc.
Palau	<u>Public Health, Safety and Welfare - Title 34 (paclii.org)</u>
Papua New Guinea	<u>Occupational Health, Safety and Welfare Act 1991 (paclii.org)</u> <u>Public Health Act (paclii.org)</u> <u>Public Health (Amendment) Act 2020 (paclii.org)</u> <u>Industrial Safety, Health and Welfare Regulation 1965 (paclii.org)</u>
Samoa	<u>Occupational Safety and Health Act 2002 (paclii.org)</u>



Health and Safety Legislation

Solomon Islands	<u>Safety at Work Act (paclii.org)</u>
Tokelau	<u>Health Rules 2003 (paclii.org)</u>
Tonga	<u>Public Health Act 2008 (paclii.org)</u> <u>Health Promotion Foundation Act 2007 (paclii.org)</u>
Vanuatu	<u>Public Health Act (paclii.org)</u> <u>Health and Safety at Work Act (paclii.org)</u>

VT in case law



PJIP



**The Age v YZ
(a pseudonym)
[2019] VSCA 313**



The Age v YZ [2019] VSCA 313

- YZ worked as a crime and Supreme Court reporter for The Age (2003-2013)
- Her investigations and reporting duties exposed her to significant amounts of traumatic material and required her to engage with trauma victims including:
 - attending murder, death and rape scenes, funerals, police searches, criminal trials and sentences involving violence, sex abuse and Black Saturday fires;
 - being informed her phone was probably being tapped and threatened by criminal identities (such as Roberta Williams); and dealing with calls from people threatening suicide.
- As a result, YZ developed symptoms of psychological injury - PTSD.



The Age v YZ [2019] VSCA 313

- YZ took various steps to try seek support and to understand and deal with her symptoms, this included:
 - attending Employee Assistance Program (EAP) for counselling sessions.
 - seeing a general practitioner and a psychotherapist.
 - speaking to colleagues about her struggles.
 - making complaints to managers and colleagues and requesting assignments in non-trauma related areas of journalism.
- YZ briefly transferred to sports reporting after she complained of being unable to deal with the trauma she experienced as a crime reporter, however, her managers persuaded her, after she twice refused, to go back to trauma-related reporting.



The Age v YZ [2019] VSCA 313

- Despite YZ taking voluntary redundancy package and not working as a reporter, YZ continued to suffer from her psychological injury.
- After leaving The Age, YZ commenced a part-time Masters of Criminology and began part-time work as a communications professional for the Supreme Court and then for a law firm (2015- ongoing).
- YZ had been on a mental health plan since 2018, which has included counselling, exposure therapy and antidepressant prescription medication.
- At the time of the case, YZ was still experiencing, and taking medication for, nightmares, memory and concentration issues, intrusive flashbacks.

**Zagi Kozarov v
State of Victoria
[2022] HCA 12**





Kozarov v Victoria [2022] HCA 12

- The Plaintiff, Zagi Kozarov, worked as a solicitor in the Office of Public Prosecution's (**OPP**) specialist sexual offences unit (**SSOU**) between 2009 and 2012.
- During her employment, she developed chronic post-traumatic stress disorder and major depression and alleged in the Supreme Court of Victoria that the ongoing, acute exposure to child exploitation and pornography materials that was commonplace as part of her employment in the SSOU was the root cause.
- Centrally, the extent to which the Plaintiff's employer had a duty to protect her from psychiatric harm, given the inherently troubling nature of the work of the SSOU, and whether this had been negligently breached, given the various measures already in place within the organisation to deal with vicarious trauma.
- The trial judge, Justice Dixon, started with the general principle that the OPP owed Ms Kozarov a non-delegable duty of care as an employer to take reasonable care to avoid exposing employees to unnecessary risk of injury, while noting that psychiatric injury raises different questions than cases involving purely physical injury.

Kozarov v Victoria [2022] HCA 12



Risk specific to the plaintiff

- Other various features particular to the plaintiff satisfied the Court that there was a clear risk to her mental health that should have been noticeable to management.
- Her outspokenness at staff meetings, high caseload made up significantly of child complainant cases, keenness to avoid taking on a particular child incest case, and evidence of the emotional and physical toll the workload was taking on her (including a spell of dizziness at work and tense professional relationships with staff in management positions) were all held to collectively indicate that she was at a heightened risk.

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**Raising
awareness and
preventing harm**

Control Measures – Prevention



Minimise exposure to potential traumatic events and triggers

- Identify the events or risk factor that can cause VT.
- Raise awareness about VT.
- Redesign work practices to minimise exposure (set clear boundaries about what is required and not required when completing a task).
- Conduct regular and relevant training courses for employees with exposure to VT and their managers.
- Provide supervision, mentoring and counselling.
- Recruit people with capacity to be resilient.
- Induct people to recognise and manage the risk of VT.
- Recognise that people react different to the same incident (reactions may differ due to age, experience, training and culture).
- Encourage people to speak up about ‘hard days’

Control Measures – Managers

- Build capability to manage potential VT impact
- Build individual and organisational capability and skills to manage VT
- Build leadership capability to help support those experiencing VT
- Provide mechanisms for supervision and debriefs (if they do not re-traumatise)
- Enable access to tools and resources for managing VT (e.g. EAP, peer support).



Control Measures – Safety Net

Support those impacted by VT

- Ensure adequate response to instances of vicarious traumatisation
- Provide, where deemed necessary, professional support mechanisms for individuals experiencing VT (e.g. EAP, peer support)



Personal risk factors

- Pride, commitment to social justice
- “A Type” personalities
- Belief in being stoic
- Remaining steadfastly responsible
- Embarrassed to ask for help
- Perfectionism
- Low resilience

**Self-coping
Strategies?**

STOP



Recommended practices

- **Awareness:** Be candid about reality of the practice
- **Extend first aid training** to mental health training
- **Normalise:** The risk is primarily the organisation's responsibility – Court officers are not expected to simply “cope” with the risk
- **Modelling good behaviour**
 - Open conversations about risk
 - De-briefing
- **Structuring practice** to reduce exposure



Plan for support

- Create and encourage a “buddy system”:
 - Someone who can be available — in person, by phone, via Skype
 - Someone who won't preach or rush in with solutions
 - Someone who respects absolute confidentiality
- Empower through “self care routines” not “coping”
- Support lawyers to make good decisions
- Trauma-aware supervision
- Monitor rosters for risk
- Schedule routine debriefing – not “counselling”
- Trauma-informed principles and practice
- De-escalate charged interactions and arousal



Trauma-informed principles

- Embedding of principles of safety, trustworthiness, choice, collaboration, empowerment.
- Attention to what has happened to a party, rather than what is “wrong” with a party.
- Recognition difficult behaviour may result from coping mechanisms and attempted self-protection
- Strengths-based approach which acknowledges people’s skills, while remaining cognisant of enormous challenges of trauma:
 - E.g. in supporting a parent and child who have experienced trauma – recognise the parent knows their child best . . . to affirm that parent in their relationship with their child



Trauma-informed principles

- Attuning to all aspects of a service and how it is delivered:
 - formal and informal
 - policy and procedure
 - first contact, and the manner of client engagement
- Trauma-informed practice:
 - applies to all levels of service delivery; from senior management to front line workers (all staff, paid and unpaid; “top down and bottom up”)

Psychiatric injuries v Physical injuries



Difficulties in dealing with psychiatric injuries

- The **risk of psychiatric injury may be less apparent.**
- Perceptibility may depend upon the **vagaries and ambiguities of human expression and comprehension.**
- Whether a response to a perceived risk is reasonably necessary to ameliorate that risk is more uncertain given the **private and personal nature of psychological illness, complicate the discharge of an employer's duty in this respect.**
- Issues of **some complexity arise in relation to when and how intervention by an employer to prevent mental illness should occur.**

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Questions

