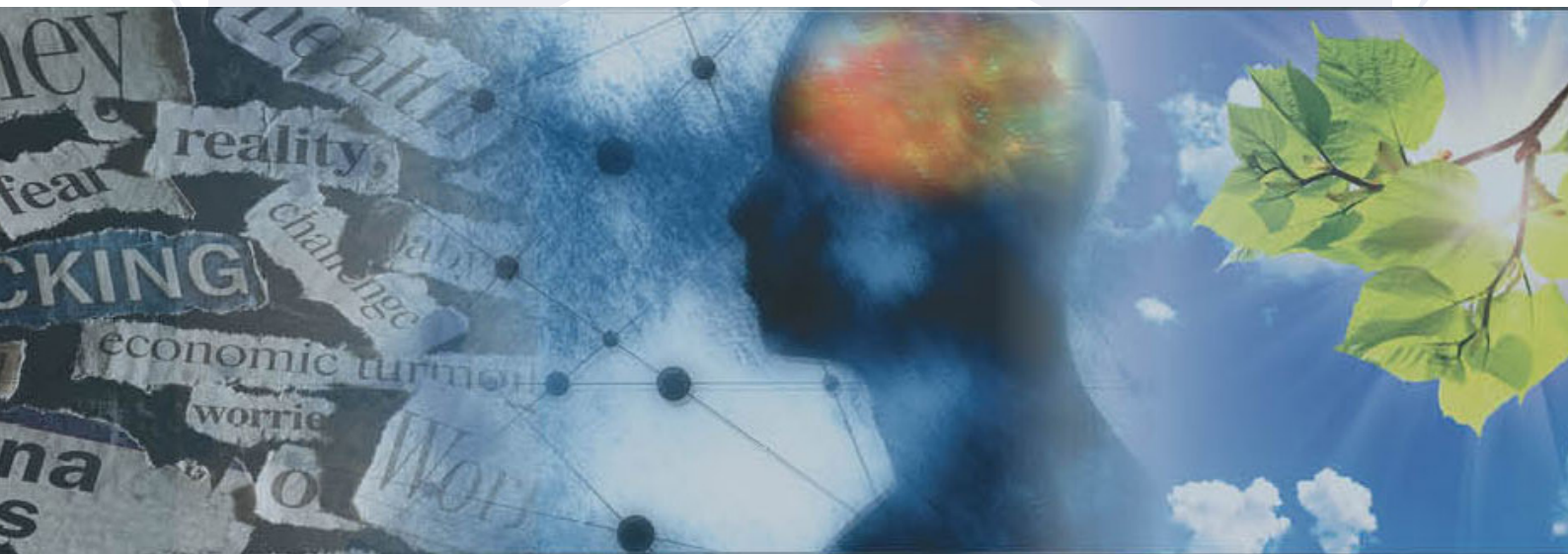




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International Guidelines for Wellbeing in Legal Education



Emma Jones, Caroline Strevens, Rachael Field and Colin James

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Introduction

The IBA's 2021 report *Mental Wellbeing in the Legal Profession: A Global Report* (the IBA's Wellbeing Report) identified a 'global crisis' in the wellbeing of lawyers, across jurisdictions and sectors.¹ The report called on all parts of the legal profession, including law schools, to implement the key principles it formulated to promote positive wellbeing (see Appendix 1 – The IBA Wellbeing Principles).

These IBA International Guidelines for Wellbeing in Legal Education (the Guidelines) apply the IBA Wellbeing Principles specifically to the provision of legal education.² It is recognised that legal education encompasses a wide variety of forms and types of provision. However, the main focus of these Guidelines is on the stages of legal education and training which students commonly undergo to become a legal professional. Some of these stages will be explicitly vocational in nature. Others will be academic and may be focused on law as an academic discipline. For the purposes of these Guidelines, the providers of this legal education and training will be referred to as 'law schools'. Such law schools are commonly part of a wider organisational setting, such as a university. For the purposes of these Guidelines, these settings will be referred to as 'higher education institutions'.

Some stages of legal education and training may be undertaken part time by students undergoing workplace training. Conversely, not all students who participate in these stages will pursue, or obtain, a role in the legal profession. Nevertheless, the role of this education and training in shaping the understanding of law and the legal profession, socialising students into professional and cultural norms, and creating the lawyers of the future, mean it is crucial to implement the IBA Wellbeing Principles in this context. Despite this being the key focus of the Guidelines, it is also acknowledged that many jurisdictions will either mandate, or encourage, Continuing Professional Development (CPD) for existing legal professionals. The Guidelines can and should be adapted by relevant training providers to meet the needs of post-qualification legal professionals.

The Guidelines follow the definition of wellbeing adopted within the IBA's Wellbeing Report. This definition mirrors the World Health Organisation (WHO)'s description of good mental health as 'a state where: "[...] every individual realises his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community"'.³ This document draws on a growing body of research and evidence which demonstrates that legal education can and does have an impact on the wellbeing of both students and staff. There is evidence from several jurisdictions, most notably Australia, the United Kingdom and the United States, that such effects can be detrimental. For students, the law school experience can generate greater levels of stress, anxiety and depression, and lower levels of overall wellbeing than are experienced by the general

1 IBA, *Mental Wellbeing in the Legal Profession: A Global Study* (2021) www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study, accessed 5 October 2023.

2 The Guidelines also seek to align the UN Sustainable Development Goals 3, 4 and 16, as set out at <https://sdgs.un.org/goals>, accessed 5 October 2023.

3 World Health Organization, 'WHO urges more investment, services for mental health' (12 August 2010), www.who.int/news/item/12-08-2010-who-urges-more-investments-services-for-mental-health, accessed 19 March 2023.

population.⁴ The causes of this are varied, but include the academic demands and individualistic nature of legal education, high levels of competition to enter the legal profession, pressures relating to professional identity formation and (in common law jurisdictions at least) the legal system's adversarial norms. For law school staff, pressures relating to workload and resources can have equally detrimental effects, which in turn may negatively impact students' experiences of legal education.⁵ Law schools must seek to ameliorate such detrimental effects where possible.

At the same time, it is possible for law schools to enhance students' wellbeing in positive ways, with a range of initiatives demonstrating beneficial impacts, from the use of tutors providing ongoing pastoral support (UK-context), to integrating wellbeing into curriculum design and delivery. Therefore, the Guidelines seek to move beyond the amelioration of detrimental effects and to promote flourishing within law schools. For flourishing to be authentic and long-lasting within legal education, it must encompass the entire law school community, enabling coordinated improvements in the wellbeing of both staff and students and ensuring that one group's wellbeing is not prioritised at the expense of the other's. Therefore, these Guidelines cover both staff and student wellbeing together.⁶

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- 4 See eg, K M Sheldon and L S Krieger, 'Does legal education have undermining effects on law students? Evaluating changes in motivation, values, and well-being' (2004) 22(2) *Behavioral Sciences and the Law* 261; K M Sheldon and L S Krieger, 'Understanding the negative effects of legal education on law students: A longitudinal study of self-determination theory' (2007) 33(6) *Personality and Social Psychology Bulletin* 883; N Kelk, G Luscombe, S Medlow and I Hickie, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Lawyers*, University of Sydney: Brain & Mind Research Institute 2009; E Jones, R Samra and M Lucassen, 'The world at their fingertips? The mental wellbeing of online distance-based law students' (2019) 53(1) *The Law Teacher* 49.
- 5 C Strevens, R Field and C James, 'An analysis of studies on the wellbeing of law teachers in the UK and Australia in 2020 using the lens of seven psychological hazards of academic work' in C Strevens and E Jones (eds.) *Wellbeing and the Legal Academy* (SpringerBriefs in Education, 2023).
- 6 L Brewster, E Jones, M Priestley, S J Wilbraham, L Spanner and G Hughes, 'Look after the staff and they would look after the students' cultures of wellbeing and mental health in the university setting (2022) 46(4) *Journal of Further and Higher Education* 548.

1: The structure of these Guidelines

Section 2 outlines the intended approach for implementation of the Guidelines in individual law schools and Section 3 briefly discusses evaluation of this implementation. The Guidelines are included in Section 4. Section 5 contains detailed explanatory notes covering each Guideline. Each Explanatory note provides the rationale behind the scope and content of the relevant Guideline, drawing on a range of academic research which was available prior to publication, as well as feedback from a number of contributors. They also include additional questions for reflection. Section 6 contains a small number of potentially useful further resources which (at the time of compiling the list) were available online free of charge. These are in addition to the various references throughout this document.

Appendix 1 contains the IBA Wellbeing Principles and Appendix 2 contains a series of questions to establish a baseline for evaluating the impact of the Guidelines (see Section 3).

2: Implementing the Guidelines

In relation to legal education, it is important to recognise that there will be specific institutional, sector and societal pressures which will inevitably affect the choices, actions and autonomy of law schools. For example, in some countries which are classified on occasion by terms such as ‘emerging’ and ‘developing’, or ‘low and middle income’, wider societal challenges and economic realities are likely to place significant constraints on law schools’ ability to move beyond survival to a position of thriving.

Given this wider socio-economic context, the Guidelines are intended to be enabling rather than prescriptive in nature, while adhering to evidence-based concepts and approaches (as discussed in the Explanatory notes). Therefore, the operationalisation of these Guidelines may well be an incremental process whose pace is, in part at least, determined or impacted by factors outside the control of individual law schools.

The Guidelines are designed to function as a complete set, covering the activities of law schools as comprehensively as possible. Some law schools may therefore choose to adopt the Guidelines in their entirety, to demonstrate their overall commitment to student and staff wellbeing. Adopting the Guidelines in this way does not imply that all the Guidelines are currently being met. Instead, it signifies a commitment to full implementation within the constraints and opportunities provided by that individual law school’s institutional and wider position. However, it is recognised that not all law schools will be able or willing to adopt the complete Guidelines in this way. Instead, law schools may seek to identify one or two Guidelines to adopt and focus their attention upon initially. For a law school which has no previous experience of school-level wellbeing approaches or initiatives, Guidelines 1 and 2 are likely to be an appropriate starting point. For example, a law school may begin by seeking to foster the inclusion of existing students with mental health conditions to begin to develop its wider organisational resilience.⁷

⁷ WHO, ‘WHO highlights urgent need to transform mental health and mental health care’ (17 June 2022) www.who.int/news/item/17-06-2022-who-highlights-urgent-need-to-transform-mental-health-and-mental-health-care.

3: Evaluating the impact of the Guidelines

Appendix 2 provides a short set of questions which law schools can use to obtain a baseline of whether (and if so, how) wellbeing considerations are currently being acknowledged and responded to within their specific context. These questions could be reflected on by the individual or individuals leading on the implementation of the Guidelines, discussed more widely in internal meetings and/or be used as the basis for more in-depth research (subject to any relevant ethical considerations). The Explanatory notes also provide additional and more detailed questions for reflection in relation to each Guideline.

It is intended that these Guidelines will form the basis for further work across legal educators and law schools internationally, including the ongoing collation of resources, sharing of knowledge, development of examples of good practice and potential research collaborations. This approach is designed to create an international community of practice, open to both individuals and law schools, to continue to promote positive wellbeing throughout legal education.

4: The Guidelines

Guideline 1

Law schools will acknowledge the importance of wellbeing across all activities, informed by an understanding of the research in this area. Law schools should explicitly and proactively facilitate the following aims:

- (a) promote positive wellbeing among both students and staff, including (where possible) prospective and former students;
- (b) ameliorate negative impacts on the wellbeing of both students and staff, including challenging specific aspects of legal education identified as potentially detrimental to wellbeing (such as but not limited to those identified in Guideline 8); and
- (c) develop, deliver, and regularly review a strategic and sustainable approach to wellbeing which integrates it into the decision-making, processes, planning, curriculum and delivery involved in legal education.

This Guideline relates to IBA Wellbeing Principle 1: Mental wellbeing matters.

Guideline 2

Law schools will take an approach to wellbeing which recognises that it is about the flourishing and thriving of individuals, institutions, communities and the discipline of law. Although each law school can decide independently how to define wellbeing, the definition should acknowledge the following:

- (a) the term wellbeing can encompass intellectual, psychological, emotional, physical, spiritual, digital, financial and social health;
- (b) wellbeing has often been stigmatised within law schools and the legal profession, and issues with wellbeing have commonly (and wrongly) been treated as a form of weakness;
- (c) while individuals can take steps to enhance their own wellbeing, many factors which affect wellbeing have broader structural, cultural, economic and societal causes and therefore solutions to enhancing wellbeing should not be solely focused on individuals themselves taking proactive steps;
- (d) the way law is learnt, taught and discussed and the wider experience of legal education and the discipline of law directly affects the wellbeing of those involved, including both students and staff; and
- (e) law schools have an ethical duty to strive to promote positive wellbeing in an explicit, evidence-informed manner which can be sustained and developed in the longterm.

This Guideline relates to IBA Wellbeing Principle 2: Mental wellbeing is not weakness.

Guideline 3

Law schools will explicitly address wellbeing in a range of ways. While the means and format of relevant communications and actions may vary, key focuses will include:

- (a) a recognition of the importance of transitions into, within and out of law school in terms of staff and student wellbeing;
- (b) providing students with appropriate advice on self-care, healthy approaches to study and other aspects of student life (eg, work-life balance);
- (c) providing staff with appropriate advice on self-care, healthy approaches to teaching and other aspects of academic life (eg, research, service and administration);
- (d) providing staff with appropriate time, training resources and support to enable staff to manage their own wellbeing, and effectively support the wellbeing of students;
- (e) providing students with a balanced overall perspective on legal practice and the legal profession which explicitly acknowledges issues identified as detrimental to wellbeing and emphasises that addressing these issues is a vital part of being a competent professional;
- (f) providing students with appropriate advice and support to facilitate their transition into the legal profession or other career paths; and
- (g) having mechanisms in place to signpost students and staff to wider wellbeing support available within the institution or elsewhere.

This Guideline relates to IBA Wellbeing Principle 3: Raising awareness is fundamental.

Guideline 4

Law schools will demonstrate commitment to evidence-based, long-lasting change by taking the following steps to ensure:

- (a) the design and delivery of the law school curriculum, at all levels, is informed by explicit consideration of its impact on the wellbeing of students and staff;
- (b) that, wherever possible, the curriculum intentionally fosters student engagement and inclusion, and supports student autonomy, competence and connection;
- (c) the design and administration of assessment and feedback is informed by explicit consideration of its impact on the wellbeing of students and staff;
- (d) skills development within the law school includes skills related to positive wellbeing, including elements of self-care, emotional literacy and empathy;
- (e) that reflective practice, explicitly referring to wellbeing, is promoted, supported and integrated across the law school at both individual and collective levels;

- (f) the administration of teaching activities, for example timetabling of teaching and programming within blocks of study, is informed by explicit consideration of its impact on the wellbeing of students and staff;
- (g) that change (including changes made in response to these Guidelines) is managed in a way which acknowledges the uncertainty and discomfort this can generate for both students and staff, and proactively seeks to support them throughout the process; and
- (h) that there is appropriate recognition and reward for students and staff who demonstrate the required commitment to change.

This Guideline relates to IBA Wellbeing Principle 4: A commitment to change, and regular continuing assessment, is needed.

Guideline 5

Law schools will put in place measures to assess and evaluate any actions taken in relation to wellbeing and will respond to the findings to achieve ongoing improvements. This may include:

- (a) continuing dialogue with students and staff;
- (b) quantitative measures, potentially drawing on standardised measures to facilitate comparisons between populations;
- (c) qualitative enquiry, such as interview and focus groups; and/or
- (d) student-led and co-creation/co-production initiatives.

This Guideline relates to IBA Wellbeing Principle 4: A commitment to change, and regular continuing assessment, is needed.

Guideline 6

Law schools will ensure that they create and implement policies and procedures relating to wellbeing which are designed to facilitate the successful implementation of these Guidelines and enhance the wellbeing of students and staff. These will include:

- (a) having a law school-wide wellbeing policy, strategy and/or action plan and encouraging whole-school engagement with these;
- (b) putting in place one or more individuals or a team to lead the work required to implement this policy, strategy and/or action plan, while recognising that such work requires a law school-wide approach;
- (c) factoring in wellbeing considerations when considering the design, adoption and implementation of any other policies, strategies, action plans or procedures which may have direct or indirect implications for wellbeing in the law school;

- (d) where appropriate, considering co-producing policies, procedures and approaches to implementation with both staff and students in partnership;
- (e) emphasising consistency and transparency in how policies and procedures are operationalised; and
- (f) recognising and explicitly acknowledging good practice in the creation and implementation of policies and procedures in ways which enhance student and/or staff wellbeing.

This Guideline relates to IBA Wellbeing Principle 5: Policy matters.

Guideline 7

Law schools will seek to foster supportive, collaborative and mutually respectful relationships among staff and among students, and between students and staff. This will promote a culture of trust, belonging and inclusivity, and ameliorate feelings of isolation or exclusion. Such relationships will be characterised by:

- (a) the maintenance of healthy boundaries which are clearly communicated and understood by all;
- (b) communication which takes place in clear, timely, appropriate and inclusive ways;
- (c) opportunities for both staff and students to have one-to-one conversations with each other and their peers relating to wellbeing;
- (d) clarity and transparency for both staff and students around any issues of confidentiality and anonymity which may arise; and
- (e) providing support and training to equip individuals to signpost/refer to other services where they do not have the competence to advise on specific wellbeing issues.

This Guideline relates to IBA Wellbeing Principle 6: Maintain an open dialogue and communication.

Guideline 8

The design and delivery of all aspects of legal education should seek to ameliorate risks caused or exacerbated by systemic issues which have been identified as detrimental to the wellbeing of students and staff. Some of these may be jurisdiction, sector or institution-specific. However, structural and cultural aspects identified within the existing research literature include:

- (a) adversarial norms and excessive competitiveness;
- (b) a lack of social connectedness and an over-emphasis on individualism;
- (c) a focus on a narrow range of cognitive skills sometimes captured by the phrase ‘thinking like a lawyer’;
- (d) a lack of focus on individual creativity and autonomy;
- (e) a lack of focus on social and emotional literacy;

- (f) a lack of focus on understanding and implementing personal values;
- (g) an approach which stigmatises wellbeing; and
- (h) increasing workload and time pressures on both staff and students.

This Guideline relates to IBA Wellbeing Principle 7: Address systemic problems.

Guideline 9

Law schools will acknowledge and seek to address the intersections between wellbeing and issues of equality, diversity and inclusion. This will include:

- (a) recognising that individual students and staff bring a wide range of experience, skills and perspectives which will be shaped by wider social, cultural and other factors, and provide opportunities to develop and showcase these experiences, skills and perspectives;
- (b) seeking to amplify diverse and marginalised voices and perspectives within staff and student bodies and across all activities;
- (c) explicitly designing the curriculum and the delivery of learning and teaching to ensure it is as inclusive and accessible as possible; and
- (d) acknowledging and addressing the prevalence of trauma within staff and student populations across all activities, adopting trauma-informed approaches including fostering relationships of trust, and providing safe spaces for intellectual and personal learning and development.

This Guideline relates to IBA Wellbeing Principle 8: Recognise intersectionalities.

Guideline 10

Law schools will seek to have an ongoing dialogue both internally and externally in relation to wellbeing. This includes connecting and collaborating with:

- (a) law schools and other stakeholders in legal education (such as research and professional/learned associations);
- (b) law societies and associations and legal professionals, encouraging a two-way process to ensure that the insights, evidence, research and experience of law schools in relation to wellbeing also informs related wellbeing work within the legal profession; and
- (c) others who have an interest in wellbeing, such as a higher education institution's central support services and/or psychology department to assist in designing and evaluating relevant changes and initiatives.

This Guideline relates to IBA Wellbeing Principle 9: Share good practices and IBA Wellbeing Principle 10: Learn from others.

5: Explanatory notes

Explanatory notes for Guidelines 1 and 2

Guideline 1 focuses on the importance of acknowledging wellbeing as a relevant and significant element across all aspects of legal education and all law school activities. Guideline 2 expands on the notion of wellbeing to define its key contours when applied to legal education.

The term ‘wellbeing’ is in common use across many societies in a range of contexts. However, it can be defined and understood in a wide variety of ways. As stated in the Introduction to the Guidelines, the IBA has adopted a definition which mirrors the WHO’s description of good mental health as ‘a state’ where: ‘[...] every individual realises his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community’.⁸ This definition does not simply equate better wellbeing with greater levels of happiness. It also does not mean that legal education is required in some way to become less intellectually rigorous and challenging. Instead, it is about ensuring that law schools approach their work in healthy, psychologically-informed ways which provide the best possible environment for students and staff to flourish, both academically and personally. While Guideline 1 indicates that law schools can seek to adopt their own definition of wellbeing, it is important that any such definition reflects the core values encompassed within Guidelines 1 and 2.

Guideline 2 emphasises that the document’s references to ‘wellbeing’ do not focus on mental wellbeing in isolation. Instead, the Guideline’s definition of wellbeing encompasses other forms of wellbeing which will affect both student and staff mental wellbeing. For example, several of those who contributed to the development of the Guidelines emphasised the extent to which a student’s financial situation was likely to affect their overall wellbeing. Research and discussion focused on higher education from the period of the Covid-19 epidemic demonstrates the challenges to digital wellbeing placed on staff who had to upskill and adapt their teaching methods for online delivery, potentially leading to detrimental impacts on mental wellbeing.⁹ There is also evidence of the links between physical exercise and mental wellbeing among law students.¹⁰

It may be that traditionally many law schools have largely viewed student and staff wellbeing as a pastoral issue, to be dealt with centrally by a higher education institution, for example, through the provision of counselling services. Indeed, a number of contributors to the Guidelines noted that law schools in their jurisdictions did not generally acknowledge wellbeing as a valid and relevant concern. However, as discussed in the Introduction to the Guidelines, there is an increasing body of research which evidences the need for law schools to take account of student and staff wellbeing across all their activities. In relation to students within higher education, there is evidence that many aspects of the student experience can affect their wellbeing, from transitions into, through and out of a higher education institution, to the

8 WHO, ‘WHO urges more investment, services for mental health’ (12 August 2010) www.who.int/news/item/12-08-2010-who-urges-more-investments-services-for-mental-health, accessed 19 March 2023.

9 Y Lavrysh, ‘Influence of COVID-19 pandemic on higher education in Ukraine: Crisis or renewal?’ (2022), *Educational Philosophy and Theory*.

10 N K Skead and S L Rogers, ‘Running to well-being: A comparative study on the impact of exercise on the physical and mental health of law and psychology students’ (2016) 49 *International Journal of Law and Psychiatry* 66–74.

physical environment, to a sense of social belonging.¹¹ There is also clear evidence both that their studies will have an impact on their wellbeing and that their wellbeing will affect their studies.¹² Alongside this, findings from Australia, the UK and the US indicate that specific aspects of legal education can have particularly detrimental effects on student wellbeing.¹³ A number of these aspects are specifically highlighted in Guideline 8.

In relation to staff, there is evidence that working within higher education generally can have detrimental impacts on wellbeing, and this is also reflected in the more limited literature available on legal academics.¹⁴ The Guidelines are intended to cover both legal academics and those who provide professional support and administrative services within law schools, many of whom have close and regular connections and communication with law students.

Guideline 1 and 2 both demonstrate that adopting an understanding of wellbeing aligned with the WHO's definition requires law schools to acknowledge and work to ameliorate the risks legal education can present to student and staff wellbeing. However, they also go beyond that and require law schools to seek to promote better wellbeing proactively across all their activities. This is an interpretation which draws on the scientific findings of positive psychology. Positive psychology is a branch of psychology which challenges its traditional focus on alleviating mental ill-health and instead focuses on positive factors associated with good health and wellbeing.¹⁵ The terms 'flourishing' and 'thriving' used within Guideline 2 are commonly adopted within positive psychology.¹⁶ Depending on the context and needs of individual law schools, other terms such as 'empowered' may also be used as proxies for the forms of positive wellbeing the Guidelines envisage.

There are myriad benefits towards adopting a proactive approach towards law school wellbeing. These include complying fully with any relevant legislation on student and staff welfare, benefitting the motivation and engagement of students and staff, improving staff retention, and potentially enhancing student progression and attainment.¹⁷ However, arguably most importantly, there is also an ethical imperative for law schools to act for the benefit of not just individuals, but also law, the legal profession and society as a whole.¹⁸

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- 11 G Hughes and L Spanner, *The University Mental Health Charter*, Student Minds (2019), www.studentminds.org.uk/charter.html, accessed 2 October 2023.
 - 12 See eg, A M Houghton and J Anderson, *Embedding mental wellbeing in the curriculum: maximising success in higher education*, Higher Education Authority (2017) www.advance-he.ac.uk/knowledge-hub/embedding-mental-wellbeing-curriculum-maximising-success-higher-education, accessed 2 October 2023.
 - 13 See eg, K M Sheldon and L S Krieger, 'Does legal education have undermining effects on law students? Evaluating changes in motivation, values, and well-being' (2004) 22(2) *Behavioral Sciences and the Law* 261; K M Sheldon and L S Krieger, 'Understanding the negative effects of legal education on law students: A longitudinal study of self-determination theory' (2007) 33(6) *Personality and Social Psychology Bulletin* 883; N Kelk, G Luscombe, S Medlow and I Hickie, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Lawyers*, University of Sydney: Brain & Mind Research Institute 2009; E Jones, R Samra and M Lucassen, 'The world at their fingertips? The mental wellbeing of online distance-based law students' (2019) 53(1) *The Law Teacher* 49.
 - 14 C Strevens, R Field and C James, 'An analysis of studies on the wellbeing of law teachers in the UK and Australia in 2020 using the lens of seven psychosocial hazards of academic work' in C Strevens and E Jones (eds) *Wellbeing and the Legal Academy* (SpringerBriefs in Education, 2023).
 - 15 C Vázquez, G Hervás, J J Rahona, and D Gómez, 'Psychological well-being and health. Contributions of positive psychology', (2009) 5 *Anuario de Psicología Clínica y de la Salud/Annuary of Clinical and Health Psychology* 15–27.
 - 16 M E P Seligman, *Flourish: A visionary new understanding of happiness and well-being* (Free Press, 2011).
 - 17 S Ketchen Lipson and D Eisenberg, 'Mental health and academic attitudes and expectations in university populations: results from the healthy minds study, (2018) 27(3) *Journal of Mental Health* 205–213; What Works Wellbeing, *Barriers to Learning* (2018), <https://whatworkswellbeing.org/wp-content/uploads/2020/01/Barriers-to-Learning-briefing-July-2018.pdf>, accessed 4 October 2023; E Riva, R Freeman, L Schrock, V Jelcic, C T Ozer and R Caleb, (2020) 'Student wellbeing in the teaching and learning environment: A study exploring student and staff perspectives' (2020) 10(4) *Higher Education Studies* 103.
 - 18 N Duncan, C Strevens and R Field, 'Resilience and student wellbeing in higher education: A theoretical basis for establishing law school responsibilities for helping our students to thrive' (2020) 1(1) *European Journal of Legal Education* 83–115; J van der Meer, 'The importance of an increased focus on developing the "whole student" during and beyond their time at higher education, with a particular focus on first-year students' (2022) 10 *Open Journal of Social Sciences* 297–316.

When seeking to address wellbeing, there are two key parameters underlying the Guidelines. The first is that the issue should not be individualised. Levels of individual wellbeing are significantly influenced by wider structural, cultural, social and economic factors.¹⁹ Therefore, it is not ethically or practically feasible to place sole responsibility for improving their wellbeing levels onto an individual. While fostering individual resilience can have a value, the limits of this approach must be clearly recognised. Over-individualising issues can perpetuate a harmful cycle in which the root causes and structural and systemic aspects of the wellbeing issue are not addressed.²⁰ The second key parameter can be quoted directly from the IBA Wellbeing Principles, namely, ‘Wellbeing is not weakness’ (see Appendix 1). Both the wider research literature, and the input of contributors to the Guidelines, indicate that stigma around wellbeing still exists and can influence the help-seeking behaviours of individuals experiencing wellbeing issues.²¹ The continuing stigma around wellbeing within areas of the legal profession may further negatively influence the attitudes of law students and staff towards wellbeing.²² This potentially leads to wellbeing being disregarded or deliberately ignored. It also leads to the type of problematic individualisation discussed previously.

Questions for further reflection on Guidelines 1 and 2

- 1 How does our students’ and staff’s experience of our law school affect their wellbeing?
2. How does our students’ and staff’s wellbeing affect their experience of law school?
3. Which external and internal factors have the most detrimental impact on the wellbeing of our students and staff?
4. Are there any specific aspects of legal education that may be particularly detrimental to student and staff wellbeing?
5. Can the law school take action to address these factors/aspects and/or ameliorate their impacts?

Explanatory note for Guideline 3

Guideline 3 focuses on the need to raise awareness of wellbeing among students, staff and other stakeholders in legal education. To do this it is necessary to acknowledge explicitly, discuss and take account of wellbeing across the law school’s activities. Taking this approach provides students and staff with the understanding and vocabulary to confidently and openly explore issues relating to wellbeing. It also positions wellbeing as a valid and relevant part of the ‘normal business’ of the law school. Relevant communications are key to this, but must be supported by the forms of action and deeper change envisaged by the Guidelines as a whole.

19 A Steptoe, J Ardlie, A Tsuda and Y Tanaka, ‘Depressive symptoms, socio-economic background, sense of control, and cultural factors in university students from 23 countries’ (2007) 14(2) *International Journal of Behavioral Medicine* 97–107; K Peltzer and S Pengpid, ‘Depressive symptoms and social demographic, stress and health risk behaviour among university students in 26 low-, middle and high-income countries’ (2015) 19(4) *International Journal of Psychiatry in Clinical Practice* 259–265.

20 P Baron, ‘Althusser’s mirror: lawyer distress and the process of interpellation’ (2015) 24(2) *Griffith Law Review* 157–180.

21 See eg, J Andoh-Arthur, K Oppong Asante and J Osafo, ‘Determinants of psychological help-seeking intentions of university students in Ghana’ (2015) 37 *International Journal for the Advancement of Counselling* 330–345.

22 IBA, *Mental Wellbeing in the Legal Profession: A Global Study* (2021), www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study, accessed 5 October 2023.

One part of this acknowledgment and incorporation of wellbeing is ensuring that both students and staff are equipped with appropriate advice on self-care and healthy approaches to their studies/work. This includes signposting and/or referral to further support or resources where appropriate. The Guideline recognises that the student journey through legal education consists of a variety of transitions, from entering law school to moving between topics, approaches and years to leaving law school.²³ Students' wellbeing needs are likely to fluctuate across these transitions and law schools should seek to recognise and respond to this. For example, this could involve initially focusing more on developing students' social support systems, before emphasising stress management techniques around assessment periods.²⁴ Law school staff will also experience a range of transitions, from shifts in job role, contract type, workload and career expectation and demands to wider life events such as parenthood or bereavement. Once again, this is likely to lead to fluctuations in wellbeing needs, requiring differentiated and evolving responses.²⁵

The Guideline also emphasises the need to support staff appropriately so they can effectively support the wellbeing of students. The term 'support' in the Guidelines is not intended to imply that law school staff should be expected to act as therapists or counsellors. Instead, it recognises the reality that law school staff are often, as a result of their proximity to their students, the first point of contact for students with wellbeing concerns.²⁶ It also acknowledges the fact that many aspects of the work of legal educators indirectly impacts on (and is affected by) student wellbeing, from pedagogical approaches to teaching to levels of empathy and approachability.²⁷ Therefore, the term 'support' is designed to acknowledge and validate the often-undervalued work that takes place in these spaces. Such 'support' requires the law school to provide training and resources to ensure it is carried out effectively and without detriment to staff's own wellbeing.

Several contributors emphasised the importance of preparing students for their next steps after leaving law school. This can relate to careers and employability, for example, in the US, the Council of the American Bar Association Section of Legal Education and Admissions to the Bar requires law schools to work with students on their professional identity development.²⁸ Wellbeing is a vital part of this development, enabling students to work in healthy and productive ways and ameliorating some of the risks of mental ill-health experienced by legal professionals.²⁹ However, preparation for the transition out of law school also needs to be broader and more holistic, equipping students with the broader skills, abilities and social and cultural capital to navigate new life experiences, opportunities and challenges in a healthy manner. At the same time, this approach must acknowledge and where possible work to challenge

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- 23 E Cage, E Jones, G Ryan, G Hughes and L Spanner, 'Student mental health and transitions into, through and out of university: Student and staff perspectives' (2021) 45(8) *Journal of Further and Higher Education* 1076–1089.
 - 24 L McLean, D Gaul and R Penco, 'Perceived social support and stress: A study of 1st year students in Ireland' (2022) *International Journal of Mental Health and Addiction* 1-21; A Pitt, F Oprea, G Tapia and M Gray, 'An exploratory study of students' weekly stress levels and sources of stress during the semester' (2017) 19(1) *Active Learning in Higher Education* 61–75.
 - 25 A Urbina-Garcia, 'What do we know about university academics' mental health? A systematic literature review' (2020) 36(5) *Stress and Health* 563–585; L S Franco, C T Picinin, L A Pilatti and A C Franco, 'Work-life balance in Higher Education: A systematic review of the impact on the well-being of teachers' (2021) 29 *Ensaio: Avaliação e Políticas Públicas em Educação* 691–717.
 - 26 G Hughes, M Panjwani, P Tulcidas and N Byrom, *Student Mental Health: The Role and Experiences of Academics*, Student Minds (2018) www.studentminds.org.uk/uploads/3/7/8/4/3784584/180129_student_mental_health_the_role_and_experience_of_academics_student_minds_pdf.pdf, accessed 6 October 2023.
 - 27 C Baik, W Larcombe and A Brooker, 'How universities can enhance student mental wellbeing: The student perspective' (2016) 38(4) *Higher Education Research & Development* 674–687.
 - 28 ABA Section of Legal Education and Admissions to the Bar, 2023-2024 *Standards and Rules of Procedure for Approval of Law Schools*, (Standard 303 and interpretation 303-5), www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2022-2023/22-23-standard-ch3.pdf, accessed 6 October 2023.
 - 29 IBA, *Mental Wellbeing in the Legal Profession: A Global Study* (2021) www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study, accessed 5 October 2023.

the wider inequalities which students experience both inside and outside the workplace.³⁰ Alumni could also have a role in preparing students by providing mentoring and workshops and/or sharing experiences and challenges.

A question raised by contributors related to the boundaries between law school-specific provision for wellbeing support and that provided by the higher education institution more generally. This relationship is likely to be different depending on the time, resources and commitment of the law school and institution respectively. Nevertheless, the presence of central institutional support (however effective) does not undermine the need for law schools to acknowledge explicitly the importance and relevance of wellbeing to its own activities and discipline. This is necessary to normalise discussion and dialogue around wellbeing within law. The strongest approach is likely to be one where the two work in partnership. For example, one contributor described how at the University of Cape Town, during Orientation Week, students are introduced to a faculty-specific psychologist who is available for consultations three times a week. The psychologist presents a session on issues of mental wellness in legal education and hands out cards containing their contact details for making online bookings. These steps assisted in emphasising confidentiality, the availability of support and the normalisation of counselling as a strategy to avoid subsequent mental health challenges.

Questions for further reflection on Guideline 3

1. How frequently is wellbeing referred to or discussed across the activities of the law school?
2. Are there existing up-to-date resources available to law school students and staff to support their wellbeing? If so, are they well-promoted and utilised?
3. Are law school staff provided with any training, resources or other support to assist them to appropriately support student wellbeing?
4. To what extent are student and staff transitions explicitly acknowledged and supported by the law school?

Explanatory note for Guideline 4

Guideline 4 focuses on the need for law schools to create long-lasting change, with a particular emphasis on the inclusion of wellbeing considerations within all academic activities. Doing this makes wellbeing part of the ‘core business’ of the law school and therefore has the potential to positively impact the entire student body.

There are a wide range of ways in which wellbeing considerations can be incorporated into academic activities. This includes integrating aspects of wellbeing into the content and skills being taught: for example, Fordham Law School in the US offers a course on Positive Lawyering, which focuses on teaching students how they can use the positive psychology strategies to achieve greater satisfaction and sustainable success in their lives and work. Wellbeing can also be integrated into courses on

³⁰ T McKee, R A Nir, J Alexander, E Griffiths, P Dargue and T Hervey, ‘The Fairness Project: the role of legal educators as catalysts for change. Engaging in difficult dialogues on the impact of diversity barriers to entry and progression in the legal profession’ (2021) 55(3) *The Law Teacher*, 55(3) 283–313.

professional identity, dispute resolution and ethics.³¹ In more traditional substantive legal topics Guideline 4 involves highlighting wellbeing-related topics, such as psychiatric harm in the common law of tort or digital wellbeing when considering law and technology. Incorporating wellbeing considerations should also include reviewing the ways in which teaching is designed and delivered and the ways in which academic activities are administered, such as the setting of schedules and timetables. Such reviews, and the wider incorporation of wellbeing considerations, should take place at multiple levels, including at law school, programme and module levels (or the equivalents). Where possible, the wider higher education institution should also be encouraged to incorporate wellbeing considerations into its regulations and procedures.

The requirement to integrate wellbeing considerations into the academic activities of law schools is not intended to in any way undermine or lessen the intellectual currency and academic integrity of legal education. Instead, it is designed to facilitate a learning and teaching environment where students can flourish intellectually, fully demonstrating their academic capabilities without being impeded by approaches and practices which act as barriers to full and effective engagement.³²

The reference in Guideline 4 to student autonomy, competence and connection and their importance in the curriculum reflects a key element of Self-Determination Theory known as Basic Psychological Needs Theory.³³ This states that satisfying individuals' needs for autonomy, competence and connectedness will increase autonomous motivation and wellbeing, while frustration of these will impede autonomous motivation and wellbeing. Autonomy is an individual's ability to self-regulate their actions: for example, a student choosing to study law because the discipline interests them rather than because their family has pressured them to do so. Competence is an individual's sense of effectiveness and mastery, for example, a student mastering a complex legal concept. Relatedness is an individual's social connectedness, for example, when a student feels supported by staff and their peers and experiences a sense of belonging.³⁴ These concepts provide a valuable framework for planning and implementing law school curricula.

Guideline 4 also emphasises the key role of both skills and reflective practice. There is an increasing recognition that a range of skills relating to wellbeing can be developed, including self-care strategies, emotional literacy and empathy.³⁵ It may be that law school staff do not always feel well-equipped to assist students in developing these skills. In this situation, it could be that other departments or services within the higher education institution in question are able to assist, or that the law school can provide further training and/or resources in this area. However, there is also an increasing range of free online resources available.³⁶

Assessment is another key part of law schools' academic activities. In some jurisdictions, the forms, content and delivery of assessment may be constrained by professional regulations and requirements. However, even in this situation, it is still possible to ensure that preparation for assessments is scaffolded carefully and that students' are equipped with a good knowledge of the support services available and

31 Recommendation 30 in The National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (2017, 35) <https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>, accessed 19 October 2023.

32 N Bromberger, 'Enhancing law student learning-the nurturing teacher' (2010) 20(1/2) *Legal Education Review* 45–57.

33 R M Ryan and E L Deci, *Self-Determination Theory: Basic Psychological Needs in Motivation* (2017, Guildford Press).

34 See eg, R Field, J Duffy and A Huggins, 'Teaching independent learning skills in the first year: A positive psychology strategy for promoting law student well-being' (2015) 8(2) *Journal of Learning Design* 1–10.

35 A Gascón-Cuenca, C Ghitti and F Malzani, 'Acknowledging the relevance of empathy in clinical legal education. Some proposals from the experience of the University of Brescia (IT) and Valencia (ESP)' (2018) 25 *International Journal of Clinical Legal Education* 218–247.

36 See eg, the Fit for Law courses on professional resilience and emotional competence offered by the UK charity LawCare.

a clear understanding of healthy study and stress management techniques.³⁷ Where there are fewer constraints on assessments, then wellbeing considerations should once again be factored into each stage of the process, from initial design to the level and tone of feedback provided.³⁸

It is acknowledged that a whole range of considerations affect the chosen content, skills and assessments within legal curricula and the administration of academic activities. This Guideline is not intended to suggest that wellbeing considerations must be prioritised at all times above all else. However, it does require wellbeing considerations to be acknowledged and explored as a valid pedagogic and administrative concern.³⁹ It also requires there to be a clear and justifiable rationale in situations where a choice is made which has potentially harmful consequences for the wellbeing of students or staff. This can be viewed as a form of risk assessment activity, mirroring the way that other aspects of health and safety must be taken into account by law schools.⁴⁰

Within law schools any changes relating to academic activities will affect both students and staff. Students will have to adjust to potentially novel approaches, perspectives and initiatives which require different skills and impose different intellectual demands. Staff will have to design and implement such changes, investing time and resources in doing so. In addressing Guideline 4 it is vital that law schools recognise the practical and emotional impacts of dealing with such changes and adequately support and resource them.

In terms of reward and recognition for students and staff demonstrating commitment to change, this may take a variety of forms. For students, examples could include the creation of a law school student prize or certificate, recognition within references provided and the opportunity for paid work on related matters. For staff, examples could include an adjustment in staff workload allocation to reflect the amount of time being spent on related matters, recognition in staff promotion applications and nomination for internal or external awards.

Questions for further reflection on Guideline 4

1. Does the design and delivery of the current law school curriculum take wellbeing considerations into account?
2. How intentionally does the curriculum foster student autonomy, competence and connection?
3. Does skills development within the law school include skills related to positive wellbeing, such as self-care, emotional literacy and empathy?
4. Is the design and administration of assessment informed by explicit consideration of its impact on the wellbeing of students and staff?

37 M Versteeg and R Kappe, 'Resilience and higher education support as protective factors for student academic stress and depression during Covid-19 in the Netherlands' (2021) 9 *Frontiers in Public Health*.

38 E Jones, M Priestley, L Brewster, S J Wilbraham, G Hughes and L Spanner, 'Student wellbeing and assessment in higher education: The balancing act' (2021) 46(3) *Assessment & Evaluation in Higher Education* 438–450. P J Manning, 'Understanding the impact of inadequate feedback: A means to reduce law student psychological distress, increase motivation, and improve learning outcomes' (2012) 43(2) *Cumberland Law Review* 225.

39 E Riva, R Freeman, L Schrock, V Jelcic, C T Ozer and R Caleb, 'Student wellbeing in the teaching and learning environment: A study exploring student and staff perspectives' (2020) 10(4) *Higher Education Studies* 103–115.

40 O Kuzmina and S Hoyle (eds), *Challenges for Health and Safety in Higher Education and Research Organisations* (2020, Royal Society of Chemistry).

5. Are the administration of academic activities, such as timetabling of teaching, and holidays, informed by explicit consideration of their impact on the wellbeing of students and staff?
6. Does the law school have a plan in place to manage change in a way which supports both students and staff through the process?
7. Is there appropriate recognition and rewards for students and staff who demonstrate the required commitment to change?

Explanatory note for Guideline 5

Guideline 5 focuses on the need for continuing assessment and reassessment of the work and activities carried out to operationalise these Guidelines. There is evidence that successful long-term implementation of wellbeing initiatives requires such flexibility and reflexivity to enable ongoing meaningful change which aligns with the needs and expectations of key stakeholders, including students and staff.⁴¹

The mechanisms for consulting with key stakeholders and assessing/reassessing the work and activities carried out to operationalise these Guidelines are likely to vary depending on the resources and expertise available within individual law schools. Many jurisdictions and/or higher education institutions already have mechanisms for obtaining student feedback which may already refer to wellbeing issues: for example, in Denmark these are incorporated in a student survey conducted by the Ministry of Higher Education (the Danmarks Studieundersøgelse).⁴² Individual law schools may also collect data relating to students which encompasses aspects involving wellbeing. Similarly higher education institutions and/or law schools may obtain relevant staff data.⁴³ This data can provide a valuable baseline, from which to track and evaluate the impact of the Guidelines.

There is also a range of published studies focused on wellbeing in both individual and multiple universities and disciplines, taking qualitative and/or quantitative approaches, which can be used to help inform the methodological design of research exploring the impact of the Guidelines.⁴⁴ Such existing studies can also be used as comparators; for example, the wellbeing of students as a population could be contrasted with the wellbeing of the general population within a jurisdiction. In the Guidelines the term ‘population’ is being used to refer to a group of people with a specific set of characteristics, such as individuals studying law within a higher education institution.

While more formalised data-gathering and research is valuable, it does have limitations and can require specialist skills and resources. It will also require careful consideration of ethical issues and the obtaining of any relevant ethical approvals. Therefore, it is also important to acknowledge the value and importance of the more informal and personalised conversations and discussions which arise in everyday transactions

41 See, for example, A Brooker, M McKague and L Phillips, ‘Implementing a whole of curriculum approach to student wellbeing’ (2019) 10(3) *Student Success* 55–63.

42 L L Sarauw, S S Bengtson and O Filippakou, ‘The psychological turn in higher education and the new taxonomy of attitudes and emotions: Denmark as a case study’ (2023) *Policy Futures in Education* 14782103231173017.

43 D Gadhavi, A Parikh, V Patel, N Joshi and D Thaker, ‘Employee wellbeing and employee’s happiness: A study of an Indian University’ (2021) 20(6) *Academy of Strategic Management Journal* 1–11.

44 See eg, I Eloff and M Graham, ‘Measuring mental health and well-being of South African undergraduate students’ (2020) 7 *Global Mental Health* e34; D Jaffe, K M Bender and J Organ, ‘“It Is Okay to Not Be Okay”: The 2021 Survey of Law Student Well-Being’ (2021) 60 *University of Louisville Law Review* 441–96.

and/or interactions within law schools. The type of open dialogue envisaged by Guideline 7 is likely to provide a shared understanding of the challenges and opportunities faced by the individual law school in question, leading to more effective and meaningful actions and interventions.

Students are a key stakeholder within law schools. It is therefore vital that the implementation of these Guidelines reflects the voice of the students and that they are given opportunities to take ownership of aspects of putting them into operation. One aspect of this involves ensuring that students understand the relevance and importance of wellbeing considerations within legal education and the legal profession. This is likely to influence their perceptions of their studies and encourage them to make well-informed choices and decisions.⁴⁵ Integrating wellbeing into the curriculum, as envisaged by Guideline 5, is likely to be an important part of fostering such understanding.

Another valuable aspect is likely to be the adoption of co-production or co-creation techniques. In this context, such terms can be used interchangeably and relate to students and staff working together as equal partners in the generation of definitions, values, ideas, policies, initiatives and other actions relating to wellbeing. This approach can generate higher levels of commitment to the outputs generated from those involved. There is also evidence that the process of co-creation or co-production itself can generate higher levels of wellbeing.⁴⁶

Further questions for reflection on Guideline 5

1. Has the law school previously implemented any wellbeing-related initiatives? If yes, how effective were they?
2. Has the law school assessed the impact of the current curriculum, teaching methods, and assessment practices on the wellbeing of students and staff?
3. Has the law school sought feedback from students and staff on their wellbeing and identified any areas of concern?
4. What wider data or other resources are available to assist the law school in understanding student and staff wellbeing?

Explanatory note for Guideline 6

Guideline 6 focuses on law schools putting in place an effective framework for implementation of the Guidelines, through the devising and implementation of appropriate policies, strategies, action plans and procedures relating to wellbeing. This will embed the Guidelines into the institutional workings of individual law schools in a way which demonstrates the importance of wellbeing considerations and encourages clear and consistent implementation. It also requires wellbeing considerations to be factored into other forms of law school policy and procedure.

⁴⁵ N K Skead and S L Rogers, 'Do law students stand apart from other university students in their quest for mental health: A comparative study on wellbeing and associated behaviours in law and psychology students' (2015) 42 *International Journal of Law and Psychiatry* 81–90.

⁴⁶ See eg, G Pipoli de Azambuja, G Rodríguez-Peña and E Tarazona Vargas, 'The Role of Value Co-Creation in the Happiness of the Students' (2021) 27(6) *Journal of Promotion Management* 900–920; D Quoc Bao, N Dong Phong, N Dinh Tho, 'Co-creation in higher education and quality of college life: The roles of students' co-creation effort, interactions, and mindfulness' (2023) 21(3) *The International Journal of Management Education* 100862.

We recognise that the term ‘law school’ has different meanings in different jurisdictions and within different higher education institutions within jurisdictions. These differences will be relevant to law schools’ power and/or responsibility to write their own policy documents. For example in England and Wales a law school may be a faculty or school, a department within a faculty or school, or a subject group within a faculty or school.⁴⁷ Therefore, although it is tempting to provide a template policy, this is unhelpful and inconsistent with the recognition that law schools must take their own culture, context and resources into account when setting their priorities and timelines.

It may be that a higher education institution has an existing policy or policies relating to staff and/or student wellbeing.⁴⁸ If this is the case, the law school will need to discuss explicitly how this relates to the Guidelines and the discipline of law, to ensure that any such document is used as a vehicle for meaningful change. It is also important to consider to what extent any such policy or policies address poor mental health rather than focusing on enhancing flourishing. It is likely that a law school-specific strategy and/or action plan will still be necessary to translate the higher education institution’s overall approach to wellbeing in a way which meets the needs of the law school and emphasises flourishing and thriving. Law schools will need to explicitly adopt best practice to develop a culture of support and belonging.⁴⁹

The principles of change management (the process used by an organisation or institution to assist people to make changes) tell us that it is important to have early adopters and enthusiasts, although this alone is not sufficient for lasting change. A clear message of support for the implementation of relevant policies and procedures from leaders is vital, as is the modelling of appropriate behaviour.⁵⁰ The literature on change in higher education emphasises four human factors which need to be considered in such situations: resistance, communication, empowerment and involvement, and organisational culture.⁵¹ Resistance can be described as the force that pushes back against change. It is context specific and may be linked to factors such as the structure of higher education, poor communication or a lack of resources.

It is possible that the leadership team within a law school may encounter resistance to policy changes or to the creation of new policies, strategies, action plans and procedures from staff members. There is some debate within the legal academy as to who should take responsibility for adopting and implementing policies and procedures designed to enhance the wellbeing of law students or, indeed, what should be included.⁵² The power of disagreement and differing viewpoints can be a strength through the provision of rigorous critique and scrutiny. Therefore, law schools should acknowledge the disparity of views on these points and encourage constructive discussion around such issues, whilst adhering to evidence-based solutions.⁵³

47 For a discussion of jurisdictional differences, see M Idris, A S Khan and M Minaz, ‘Bench Marking the Legal Education Process of Pakistan in Relation to Australia, the United States of America, and the United Kingdom’ (2023) 10(1) *Journal of Arts & Social Sciences* <https://ojs.jass.pk/ojs/index.php/jass/article/download/296/118>, accessed 20 October 2023.

48 According to the UK’s Department of Education research report dated May 2023, ‘HE providers’ policies and practices to support student mental health’ the proportion of higher education institutions with a specific mental health, and/or wellbeing strategy increased from 52 per cent in 2019 to 66 per cent in 2022. A large proportion of the remainder (26 per cent) had one in process. Most providers designed their mental health and/or wellbeing strategy for both students and staff with just under a quarter of providers with an existing or planned strategy covering students only.

49 See eg, I Moore and V N Drisceoil, ‘Wellbeing and transition to law school: The complexities of confidence, community and belonging’ in E Jones and C Strevens (eds), *Wellbeing and Transitions in Law: Legal Education and the Legal Profession* (Springer, 2023) pp17–41; A Moriarty and R O’Boyle, ‘The law school and the psychology of belonging’ in E Jones and C Strevens (eds), *Wellbeing and Transitions in Law: Legal Education and the Legal Profession* (Springer, 2023) pp181–204.

50 C Shann, A Martin, A Chester and S Ruddock, ‘Effectiveness and application of an online leadership intervention to promote mental health and reduce depression-related stigma in organizations’ (2019) 24(1) *Journal of Occupational Health Psychology* 20–35.

51 E Verhulst and W Lambrechts, ‘Fostering the incorporation of sustainable development in higher education. Lessons learned from a change management perspective’ (2015) 106 *Journal of Cleaner Production* 189–204.

52 See eg, C Parker, ‘The “moral panic” over psychological wellbeing in the legal profession: A personal or political ethical response?’ (2014) 37(3) *University of New South Wales Law Journal* 1103–1141.

53 M Syed, *Rebel Ideas. The Power of Diverse Thinking* (Flatiron Books, 2021).

Academic literature indicates a higher success rate for change strategy when more people are involved and given authority to contribute to the process.⁵⁴ As research also indicates that student and staff wellbeing is interlinked, this implies a need for the two groups to work in partnership on policy and procedure.⁵⁵ The concepts of co-creation and co-production in this context were discussed in the Explanatory note to Guideline 5.

It is vital that policies, strategies and action plans are clearly explained, and communicated, and implemented evenly and consistently, across the law school. The IBA acts as a connector, enabler and influencer for the administration of justice, fair practice and accountability worldwide and this approach should also be adopted at the level of individual law schools to ensure transparency and consistency. Such an approach requires adequate resources so that the effect of proposed changes is not undermined by poor process. The need for such documents to be easily accessible and understandable means training is likely to be required both for those implementing and those affected by the policies, strategies and action plans.

Methods for recognising and rewarding good practice are discussed in the Explanatory notes to Guideline 4.

Questions for further reflection on Guideline 6

1. Does the law school have a current wellbeing policy, strategy and/or action plan in place? If not, what steps can be taken to develop these?
2. Has the law school identified an individual or team to lead on the implementation of the policy, strategy and/or action plan? If not, how can the law school create this role and/or identify someone to fill it?
3. How can whole-law school engagement with the wellbeing policy, strategy and/or action plan be encouraged, both among students and staff?
4. Are wellbeing considerations routinely identified and discussed by the law school when designing, adopting and implementing new policies and procedures?
5. Are there opportunities for staff and students to co-produce policies and procedures in partnership? How can the law school best involve both groups in the process?
6. How can the law school ensure consistency and transparency in how policies and procedures are operationalised?

Explanatory note for Guideline 7

Guideline 7 focuses on the need to foster healthy and positive relationships across the law school community to create a culture where individuals feel safe, respected and that they belong. The empirical research underpinning Self-Determination Theory indicates that social contexts which

⁵⁴ J P Kotter, 'Leading change: Why transformation efforts fail', *Harvard Business Review*, January 2007, <https://hbr.org/2007/01/leading-change-why-transformation-efforts-fail>, accessed 18 October 2023.

⁵⁵ L Brewster, E Jones, M Priestley, S J Wilbraham, L Spanner and G Hughes, "Look after the staff and they would look after the students" cultures of wellbeing and mental health in the university setting' (2022) 46(4) *Journal of Further and Higher Education* 548–560.

provide individuals with regular experiences of autonomy, competence and relatedness, the three basic psychological needs discussed in Guideline 4, support higher levels of wellbeing.⁵⁶

The term ‘belonging’ here can be defined as an individual’s sense of being valued, included and accepted.⁵⁷ Community and belonging research demonstrates that there are links between a sense of belonging and motivation and enjoyment of study.⁵⁸ This makes it an important concept for law schools to engage with. Fostering a sense of belonging requires communication founded on active listening and non-judgemental person-centred inquiry.⁵⁹ Non-judgemental communication involves being open-minded about the individuals and groups being communicated with and their abilities to receive and respond to information. Person-centred inquiry recognises, respects and prioritises the needs of people affected by the subject of the communication. There will also be a need to consider the particular impacts of the law school experience on specific cohorts of students and staff, for example, international students.⁶⁰

The development of a culture of trust, belonging and inclusivity is likely to involve the provision of training for staff and students. For example, students could be empowered to help other students in need in a range of ways, including via peer mentoring schemes.⁶¹ The research on reverse mentoring indicates the power of reflecting on students’ perspectives of their educational experiences.⁶² Therefore, parts of this training may involve bringing staff and students together and include working with student societies and associations.⁶³ This raises the wider importance of resourcing for change initiatives. Lasting change requires time for training, reflection and new behaviour.⁶⁴

A key focus of any such training is likely to be the setting and maintenance of healthy boundaries throughout relationships within the law school community. For example, many staff in different jurisdictions form the first port of call for students in need of pastoral advice, which can raise issues over boundaries being unclear and staff potentially becoming over-emotionally involved.⁶⁵ There is also the issue of a lack of confidence among staff, perhaps resulting from a lack of training.⁶⁶ At a law school level it is vital that staff are equipped to respond appropriately to disclosures and direct students to the most appropriate support and resources, and feel supported and confident. It cannot be assumed that all higher education institutions have centralised services to which referral of student matters can be made.

56 R M Ryan and E L Deci, ‘Intrinsic and extrinsic motivation from a self-determination theory perspective: Definitions, theory, practices, and future directions’ (2020) 61 *Contemporary Educational Psychology* 101860.

57 C Goodenow, ‘The psychological sense of school membership among adolescents: Scale development and educational correlates’ (1993) 30(1) *Psychology in the Schools* 70–90; M L Pedler, R Willis and J E Nieuwoudt, ‘A sense of belonging at university: Student retention, motivation and enjoyment’ (2022) 46(3) *Journal of Further and Higher Education* 397–408.

58 I Fatimawati binti Adi Badiozaman, H Leong and O Jikus, ‘Investigating student engagement in Malaysian higher education: A self-determination theory approach’ (2020) 44(10) *Journal of Further and Higher Education* 1364–1378.

59 All Party Paliamentary Group on Restorative Justice, *Implementing Restorative practices in education, health and social care*, Advisory Board Investigation Report, May 2023 <https://restorativejustice.org.uk/resources/appg-investigation-implementing-restorative-practices-education-health-and-social-care>, accessed 18 October 2023.

60 L Jin, E Yang and G Zamudio, ‘Self-determined motivation, acculturation, academic burnout, and psychosocial well-being of Chinese international students in South Korea’ (2022) 35 *Counselling Psychology Quarterly* 1–18.

61 Recommendation 29 in The National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (2017, 35) <https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>, accessed 19 October 2023.

62 R O’Connor, ‘Supporting students to better support themselves through reverse mentoring: The power of positive staff/student relationships and authentic conversations in the law school’ (2023) *The Law Teacher* 1–18.

63 See eg, A Cook-Sather and K Seay, ‘“I was involved as an equal member of the community”: How pedagogical partnership can foster a sense of belonging in Black, female students’ (2021) 51(6) *Cambridge Journal of Education* 733–750.

64 T G Reio Jr, T S Rocco, D H Smith and E Chang, ‘A critique of Kirkpatrick’s evaluation model’ (2017) 29(2) *New Horizons in Adult Education and Human Resource Development* 35–53.

65 G Hughes, M Panjwani, P Tulcidas and N Byrom, *Student Mental Health: The Role and Experiences of Academics*, Student Minds (2018), www.studentminds.org.uk/uploads/3/7/8/4/3784584/180129_student_mental_health_the_role_and_experience_of_academics_student_minds_.pdf, accessed 6 October 2023.

66 E Wakelin, ‘Personal tutoring in higher education: An action research project on how to improve personal tutoring for both staff and students’ (2022) *Educational Action Research*, 1–16.

Where such internal services are not present, law schools should provide details of external agencies which can provide such assistance.

Questions for further reflection on Guideline 7

1. What is the current culture and climate of the law school among the law school community?
2. What mechanisms are in place for maintaining healthy boundaries and communicating them effectively to all staff and students?
3. What channels are available for students and staff to communicate with each other in clear, appropriate, and inclusive ways?
4. Are there opportunities for one-to-one conversations relating to wellbeing, and are they widely known and used?
5. How equipped are staff and students to signpost or refer to other services where they do not have the competence to advise on specific wellbeing issues?

Explanatory note for Guideline 8

This Guideline focuses on specific aspects of law and legal education which have been identified as problematic in terms of student wellbeing. Such aspects are also likely to negatively affect staff wellbeing both due to such individuals' own experience of adhering to potentially damaging norms, and their role in dealing with subsequent wellbeing-related issues among students.

The systemic issues listed in this Guideline are informed by research and helpful references are included in this footnote.⁶⁷ However, the research has been largely undertaken in Australia, the UK and the US; consequently there may be jurisdiction-specific systemic issues not yet identified. As research is undertaken within differing jurisdictions this list of issues and the underpinning evidence will evolve.

The level of knowledge concerning these systemic issues will vary across and within law schools and we suggest there are benefits to having regular dialogue in staff workshops and seminars to promote analysis of the problems and discussion of potential solutions. For example, among contributors to the Guidelines the notions of perfectionism and imposter syndrome were referred to as a significant

⁶⁷ **Adversarial norms** L S Krieger, 'Institutional denial about the dark side of law school, and fresh empirical guidance for constructively breaking the silence' (2002) 52 *Journal of Legal Education* 112; T D Peterson and E W Peterson, 'Stemming the tide of law student depression: What law schools need to learn from the science of positive psychology' (2009) 9 *Yale Journal of Health Policy Law & Ethics* 357; L S Krieger and K M Sheldon, 'What makes lawyers happy: A data-driven prescription to redefine professional success' (2014) 83(2) *George Washington Law Review* 554. **Thinking like a Lawyer** C James, 'Lawyers' wellbeing and professional legal education' (2008) 42(1) *The Law Teacher* 85-97; N K Skead, S L Rogers and W R Johnson, 'The role of place, people and perception in law student well-being' (2020) 73 *International Journal of Law and Psychiatry* 101631. **Competitiveness** Y Skipper and M Fay, 'The relationship between the sense of belonging, mental wellbeing and stress in students of law and psychology in an English University' (2023) 4(1) *European Journal of Legal Education* 5-26. **Lack of focus on social and emotional literacy** E Jones, *Emotions in the law school: Transforming legal education through the passions* (Routledge, 2019); M Kmak and K Minashvili, 'Students' emotions in clinical legal education: A study of the Helsinki Law Clinic' (2021) 55(2) *The Law Teacher* 143-154. **Stigma** S Wray and G Kinman, 'Supporting staff wellbeing in higher education' (2021); A Laidlaw, J McLellan and G Ozakinci, 'Understanding undergraduate student perceptions of mental health, mental well-being and help-seeking behaviour' (2016) 41(12) *Studies in Higher Education* 2156-2168; R Field, 'Teaching resilience and self-management skills: Fostering student psychological wellbeing for future employability' (2019) 2 *Education for Employability* 237-246. **Increasing workload and time pressures on both staff and students** R Field, C Strevens and C James, 'Investigating whether law schools in the UK and Australia are workplaces that support the wellbeing of law teachers' in A P Francis and M A Carter (eds), *Mental Health and Higher Education in Australia* (Springer, 2022), 67-86; K Pryal, 'Front-line faculty and systemic burnout: Why more faculty should attend to law students' mental health and the inequities caused by faculty who opt out' (2023) 27 *The Journal of the Legal Writing Institute* 199-221.

issue for law students. A fear of failure was also highlighted, suggesting a need to encourage students to approach errors and mistakes as learning opportunities. It was also suggested that students studying law at postgraduate level may face specific challenges, such as advisor-student dynamics and research pressures.

Overall, there is a need to embed the means to counter these issues within the curriculum so that encouraging positive wellbeing is mainstreamed and viewed as synonymous with good pedagogy.⁶⁸

Questions for further reflection on Guideline 8

1. To what extent are systemic issues related to the wellbeing of students and staff discussed or addressed in the law school's curriculum, policies and practices?
2. How are adversarial norms and excessive competitiveness addressed or perpetuated in the law school environment?
3. What opportunities for social connectedness and collective support are available for students and staff in the law school community?
4. How are social and emotional literacy, personal values and wellbeing promoted in the law school curriculum and its delivery?
5. Are there any specific jurisdiction, sector or institutional issues that may affect the wellbeing of students and staff? If so, how are these being acknowledged and addressed?

Explanatory note for Guideline 9

Guideline 9 acknowledges and emphasises the important intersections between wellbeing and equality, diversity and inclusion. These were highlighted in the IBA's Wellbeing Report and have also been identified in research on legal education.⁶⁹ The term 'equality, diversity and inclusion' should be interpreted widely. For example, one contributor referred particularly to anti-racism as a path of action disrupting systems of oppression in a way which may go beyond narrower definitions of the phrase. Recognising such intersections is vital so that law schools can strive to ensure no individual or group is disadvantaged either academically or personally through their experience of legal education. It is also crucial to fostering the type of social cohesion, community and belonging envisaged by Guideline 7.⁷⁰

Underpinning Guideline 9 is the importance of acknowledging and addressing assumptions, biases and the existence of discrimination and disadvantage in both legal and educational settings, including questioning potentially problematic norms.⁷¹ This also requires recognising intersectionalities between

⁶⁸ W Larcombe, C Baik and A Brooker, 'Teaching with student wellbeing in mind: A new initiative to support the mental health of university students' in *Handbook and Proceedings of the Students, Transitions, Achievement, Retention & Success (STARS) Conference* (2015) 1–4.).

⁶⁹ See eg, B Capers, 'The Law School as a White Space' (2021) 106(1) *Minnesota Law Review* 7–57; A Pearson, 'Building Access Routes into Blackstone's Tower: Including Disability Perspectives in the Liberal Law School' (2021) 2(3) *Amicus Curiae* <https://journals.sas.ac.uk/amicus/issue/view/589>, accessed 20 October 2023; S S Ballakrishnen, 'Law School as Straight Space' (2022) 91(4) *Fordham Law Review* 1113–1138; J Guth & D Morrison, 'Who are law schools for? A story of class and gender' in R Dunn, P Maharg and V Roper (eds) *What is Legal Education for? Reassessing the Purposes of Early Twenty-First Century Learning and Law Schools* (Routledge, 2022), 111–137.

⁷⁰ E Bodamer, 'Do I belong here? Examining perceived experiences of bias, stereotype concerns, and sense of belonging in US law schools' (2020) 69(2) *Journal of Legal Education* 455–490.

⁷¹ League of European Research Universities, 'Equality, diversity and inclusion at universities: The power of a systematic approach' (2019), www.leru.org/files/LERU-EDI-paper_final.pdf, accessed 20 October 2023.

social categorisations such as gender, race, class and disability which mean individuals experience multiple disadvantages.⁷² It also involves ensuring that marginalised voices are acknowledged and amplified appropriately within the law school.⁷³

There has already been important work done within legal education which can be drawn on to assist in implementing this Guideline. For example, outsider pedagogy has developed as a means to recognise the work of those staff who are members of groups with less power in society who use pedagogy to advocate for reform.⁷⁴ Initiatives such as various Feminist Judgments projects⁷⁵ and work on decolonising the law school also provide valuable insights and resources.⁷⁶ In addition, there is wider research on inclusive pedagogy within higher education.⁷⁷

An area which law schools in some jurisdictions may seek to address to implement this Guideline is the learning and delivery of teaching through the use of the Socratic method of teaching. The traditional Socratic method is considered to have a negative impact on the wellbeing of some groups (such as women and minorities) causing excessive anxiety and competitiveness.⁷⁸ Such a method could be modified or reconfigured to ensure that all students have opportunity to participate, mistakes are not magnified, diverse perspectives are heard and student collaboration is promoted.⁷⁹

Across jurisdictions, it is important to recognise that students and staff bring a wide range of experience with them to law school and that not all of this is positive. Therefore, we should seek to understand and plan for the impact of trauma on learning and teaching environments by engaging in trauma-informed approaches to legal education.⁸⁰ This includes learning from others, as discussed in Guideline 10.

Questions for further reflection on Guideline 9

1. How diverse is our student body and staff, and how well do we understand the experiences and perspectives of those from minorities or marginalised backgrounds?
2. How do our curriculum and teaching methods address issues of diversity, equity, and inclusion?
3. What resources do we currently provide for students and staff who may be experiencing trauma or other mental health challenges related to issues of inequality or discrimination?

72 S Cho, K W Crenshaw and L McCall, 'Toward a field of intersectionality studies: Theory, applications, and praxis' (2013) 38(4) *Signs: Journal of Woman in Culture and Society* 785–810.

73 A Nourani-Dargiri, 'Words We Manifest: How to Amplify Diverse Voices Through Course Materials in Lawyering Skills Courses' (2023) 27 *Legal Writing Journal*, www.legalwritingjournal.org/article/56073-words-we-manifest-how-to-amplify-diverse-voices-through-course-materials-in-lawyering-skills-courses, accessed 20 October 2023.

74 M J Matsuda, 'Public Response to Racist Speech: Considering the Victim's Story' (1989) 87(4) *Michigan Law Review* 2320; N Bakht, K Brooks, G Calder and J Koshan, 'Counting Outsiders: A Critical Exploration of Outsider Course Enrollment in Canadian Legal Education' (2007) 45 *Osgoode Hall Law Journal* 667.

75 See eg, University College London, Feminist Judgments in Central and Eastern Europe (2023), www.ucl.ac.uk/laws/research/research-projects/feminist-judgments-central-and-eastern-europe, accessed 20 October 2023.

76 F Adebisi, 'Decolonising the law school: Presences, absences, silences... and hope' (2020) 54(4) *The Law Teacher* 471–474.

77 M N Sánchez Díaz & B Morgado 'With arms wide open'. Inclusive pedagogy in higher education in Spain' (2022) *Disability & Society* 1–21.

78 C A L Christie, 'What critiques have been made of the Socratic method in legal education: The Socratic method in legal education: Uses, abuses and beyond' (2010) 12 *European Journal of Law Reform* 340–355.

79 J S Gersen, 'The Socratic method in the age of trauma' (2016) 130(9) *Harvard Law Review* 2320; J R Abrams, 'Legal Education's Curricular Tipping Point toward Inclusive Socratic Teaching' 49(4) *Hofstra Law Review* 897–943; B Pozzo, 'Innovative teaching methods to mainstream gender equality in legal education' (2023) 4(1) *European Journal of Legal Education*, 191–219.

80 C James, 'Trauma-Informed Legal Education: Rejecting the Stigma in Caring for Self, Client and Workplace' in E Jones and C Stevens (eds) *Wellbeing and Transitions in Law: Legal Education and the Legal Profession* (Springer, 2023) 253–278.

4. How do we ensure that minoritised and marginalised voices are amplified and included in all aspects of our law school community?
5. How do we measure and track our progress in promoting intersectionality and addressing issues of wellbeing in relation to diversity and inclusion?

Explanatory note for Guideline 10

Guideline 10 focuses on the need for law schools to work in collaboration, both within and outside the higher education institution to which they belong. Doing this enables law schools to use existing research, evidence and expertise and also to contribute towards developing such understandings further.

The Explanatory note to Guideline 3 explains the need to explicitly acknowledge, discuss and take account of wellbeing across all the activities of the law school. This Guideline extends that principle to emphasise the benefits of entering into dialogue, discussion and collaborations with other disciplines within the wider higher education institution. These other disciplines are likely to provide expertise in matters relevant to legal education, for example, a school of education may have experience of wellbeing-related pedagogical approaches. A school of psychology may have experience of research methodologies to effectively assess the impact of wellbeing initiatives. Many higher education institutions will also have central support services for staff and/or students with which to liaise.

Outside a specific higher education institution there are also likely to be bodies of research and practice, both within law and in other disciplines, which can also be drawn upon. This may involve collaboration with other law schools and/or higher education institutions both locally and across jurisdictions. Ways to do this for staff could include reaching out to internal events and participating in academic conferences or external networks. For students, undertaking work experience and internships may provide a valuable resource by bringing insights from employers and by supporting connections and collaborations with the legal profession.

Work by psychologists indicates the underlying similarities that we all share, whatever our culture or context.⁸¹ The benefits of human flourishing can be experienced by us all. We benefit as a community from sharing our insights and perspectives. Thus the development and use of a variety of ways for law schools to connect, collaborate and disseminate good practice forms this final Guideline.

Questions for further reflection on Guideline 10

1. What connections and collaborations does the law school currently have to and with other parts of its higher education institution? How could these be used in the implementation of the Guidelines?
2. What is the law school's current approach to sharing information and collaborating with other law schools and wider stakeholders on wellbeing issues?
3. Has the law school established any collaborations with other organisations or professionals in the field of wellbeing?

⁸¹ F A Huppert, 'The state of wellbeing science: Concepts, measures, interventions, and policies' in F A Huppert and C Cooper (eds), *Wellbeing: A complete reference guide* (Wiley, 2014), 1–49.

4. Is the law school aware of any existing best practices or research on wellbeing in legal education and practice? If so, how is this information being incorporated into its approach?

6: Additional resources

- All-Party Parliamentary Group for Restorative Justice, 'APPG Investigation: Implementing restorative practices in education, health and social care', (2023), <https://restorativejustice.org.uk/resources/appg-investigation-implementing-restorative-practices-education-health-and-social-care>
- American Bar Association, 'Path to Law Student Well-Being Podcast Series', www.americanbar.org/groups/lawyer_assistance/events_cle/path_to_law_student_well-being_podcast_series
- Anxiety Canada, *How to Overcome Perfectionism* (undated), www.anxietycanada.com/sites/default/files/Perfectionism.pdf
- European University for Well-Being, www.euniwell.eu
- Institute for Well-Being in Law, 'Law Student Well-Being Resources Guide', https://lawyerwellbeing.net/wp-content/uploads/2022/10/October-Resource-Guide_AMB.pdf
- N Kelk, S Medlow and I Hickie, 'Distress and depression among Australian law students: incidence, attitudes and the role of universities' (2010) *Sydney Law Review* 32(1) 113–122, <http://classic.austlii.edu.au/au/journals/LegEdDig/2011/27.html#Heading1>
- R Piper and T Emmanuel, *Co-Producing Mental Health Strategies with Students: A Guide for the Higher Education Sector*, Student Minds, www.studentminds.org.uk/co-productionguide.html

Appendix 1

IBA Wellbeing Principles

1. Mental wellbeing matters
2. Mental wellbeing is not weakness
3. Raising awareness is fundamental
4. A commitment to change, and regular continuing assessment, is needed
5. Policies matter
6. Maintain an open dialogue and communication
7. Address systemic problems
8. Recognise intersectionalities
9. Share good practices
10. Learn from others

Appendix 2

Questions to establish a baseline for evaluating the impact of the Guidelines

1. How does (or should) our law school define wellbeing?
2. To what extent does our law school recognise student and staff wellbeing as a valid and relevant consideration in its policies, strategies, design and delivery of activities and day-to-day functioning?
3. What resources does our law school currently have in place to promote positive wellbeing among students and staff?
4. How does our law school identify and respond to wellbeing issues experienced by students and staff?



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