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From psychotherapy to legal practice: the use of clinical supervision by lawyers in England and Wales

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An emerging practice amongst lawyers in England and Wales is the use of clinical supervision, as used by counsellors and psychotherapists. This is a very different type of supervision to that traditionally used by lawyers. It is reflective and relational in nature. It aims to support safe, competent and ethical practice, and to contribute to sustainability, support and resilience including in relation to vicarious trauma and burnout. This study uses interviews with lawyers who are using clinical supervision to understanding why it is being sought, how it might be working and what its impacts are. The interviews provide an opportunity to examine interpersonal dynamics of lawyering. The study explores how supervision allows lawyers to develop their understanding of themselves in relation to others, their boundaries and legal professional skills, and how supervision can contribute to the best interests of the client, and to a lawyer's career sustainability and wellbeing.

Keywords: clinical supervision; emotional labour; lawyers; legal practice; mental health; psychotherapy; reflective practice; transference; wellbeing; vicarious trauma.

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Introduction

Clinical supervision is a core practice for psychotherapists and counsellors. In the UK it is a requirement of practice for both trainees and established practitioners at all levels, including supervisors. Despite its ubiquity it is a fairly poorly defined and under-researched process (Watkins, 2020). Clinical supervision has been described as a formal working alliance between a helping professional and a supervisor (often psychotherapeutically trained) where space and encouragement is provided for the supervisee to reflect on their work and role. The objectives of supervision relate to safe, competent and ethical practice (British Association for Counselling and Psychotherapy, 2021; Henderson, 2009; Milne

et al., 2008; UK Council for Psychotherapy, 2018), with some definitions adding qualities such as compassion and creativity (Milne et al., 2008) or sustainability, support and resilience (British Association for Counselling and Psychotherapy, 2021). The confidential relationship between supervisor and supervisee is considered central to the process (McNamara, 2020). These characteristics and aims differ considerably from the form of supervision traditionally used in the legal professions, which has a more managerial nature and is more concerned with oversight of work (for example by file review), accountability and compliance (McNamara, 2020; Solicitors Regulation Authority, 2022a).

Given the aims of clinical supervision a prima facie case can be made for its relevance

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to lawyers. The British Association for Counselling and Psychotherapy in fact suggest that supervision is appropriate for ‘anyone working in roles that require regularly giving or receiving emotionally challenging communications, or engaging in relationally complex and challenging roles’ (British Association for Counselling and Psychotherapy, 2018, para. 73). There are also recommendations as to its suitability for lawyers in the literature on vicarious trauma (Fischman, 2008; Fleck & Francis, 2021; Salston & Figley, 2003), and McNamara (2020) makes a persuasive case for incorporating elements of clinical supervision into the supervision of novice lawyers.

Clinical supervision has begun to become available for lawyers in England and Wales with, for example, an association of supervisors offering this service to lawyers specialising in family law becoming established in 2020 (Association of Family Law Supervisors, 2020). In light of the above, this paper aims to develop an understanding of why lawyers are seeking clinical supervision, what is happening in the process and what, if anything, can be identified as to the impact of the practice.

Given the different ways the term supervision is used across different contexts I want to clarify some concepts at the outset. Generally, in the literature on the legal profession ‘supervision’ appears to relate to the managerial, risk management and compliance approach that is traditional in the legal profession; in this paper I refer to this as ‘traditional supervision’. What I am referring to as ‘clinical supervision’ is the approach that has its roots in the psychotherapy and counselling professions, which includes elements of deep reflection and will usually include a strong focus on personal and relational elements. A third form that may also be confused with the former two is ‘clinical legal education supervision’ (McNamara, 2020, p. 11), the form of supervision found in clinical legal education with a focus on student learning, and usually with the involvement of academics. It is the

second of these, clinical supervision, that this article is concerned with.

Method

Participants were family solicitors who use clinical supervision. Given that this is (presumed to be) a small population, members of which are hard to identify, sampling was by necessity opportunistic. Participants were recruited through social media, personal networks, word of mouth and snowball sampling. Semi-structured interviews, lasting around 45 minutes, were carried out by video conferencing in part during the COVID pandemic. Interviews were transcribed and transcripts sent to interviewees to allow them to highlight any concerns they had about maintaining anonymity. Ethical approval was obtained from the University of Westminster Research Ethics Committee.

Given the aim of this research is to explore the particular experiences of some lawyers in using supervision, a small sample size was used. This was not a situation where there was a need to look for disconfirming evidence (I am not making claims that all lawyers would experience supervision in this way) so I expected to reach data saturation after 6–12 participants following guidance in Guest et al. (2006). Whilst a total of nine interviews were carried out, data saturation seemed to be reached following six interviews. This is not surprising since those interviewed might be considered experts, within a particular cultural context, and with cultural competence in that field (in these circumstances samples as small as 4 are sometime seen as sufficient; Romney et al., 1986). That the research seeks higher level themes rather than particularly granular findings also supports saturation at a smaller sample size (Guest et al., 2006).

Transcripts were then analysed using reflexive thematic analysis. This is explicitly an active, generative process of making meaning from, and telling stories about, the

data. It recognises that these stories are ‘always context-bound, positioned, and situated’ (Braun & Clarke, 2019, p. 591). As such it makes no claims that themes ‘emerge’ from the data, rather they are generated by the researcher. An important aspect of this method is for the researcher to identify and interrogate their own assumptions (Braun & Clarke, 2019). Reflexive thematic analysis also views the process as ‘creative, reflexive and subjective, with researcher subjectivity understood as a resource’ (Braun & Clarke, 2019, p. 591).

Finally, the methodology is flexible. Whilst at its core it holds a view that subjectivity is part of all ways of knowing, as I have explored in more depth elsewhere (Mason, 2020), it allows for this to be a theorised subjectivity (Letherby, 2011). In other words, whilst it recognises that the subjectivity of the researcher is always present, it also recognises that this subjectivity incorporates knowledge gained in academic scholarship and study. In this present work then this allows me to recognise the subjectivity of the approach I take from my individual standpoint, whilst also recognising the influence of certain concepts and theories upon that subjective interpretation. This relates to the method’s ability to incorporate inductive and deductive elements (Braun & Clarke, 2006, 2019). The deductive is useful here as the subject matter is unexplored, so this research in part looks to see what can be said by looking at the data without trying to fit it into existing theories. At the same time, the inductive is useful as there is useful knowledge to draw upon from research that touches on related areas. So the research described throughout influences heavily my own understanding of the data.

Themes that are created are stories about particular patterns across the data that coalesce around a central organising concept (Braun & Clarke, 2019). As a result of the above they are ‘creative and interpretive stories about the data, produced at the intersection of the researcher’s theoretical assumptions, their

analytic resources and skill, and the data themselves’ (Braun & Clarke, 2019, p. 594).

The theoretical background that most strongly influences my interpretations is interspersed with the descriptions of the themes read through the transcripts. This was written up as a separate document prior to working on the transcripts to ensure I remained aware of what this was bringing to the analysis. A subjectivity statement was also written up to allow me time to consider what I was bringing to the analysis. This now follows.

Subjectivity statement

I have spent a period of time practising as a barrister¹ specialising in family law, and in particular on cases where it was proposed that the child be removed from their family due to abuse or neglect. Prior to this I had undertaken a psychology degree, and had also volunteered as a voluntary telephone counsellor for the charity Childline. I can recall, during pupillage, noticing that my colleagues and I were exposed to far more graphic accounts of traumatic events than I had been exposed to at Childline, yet no space was given to process this material. This struck me as strange, but I also accepted unchallenged what the hierarchy of the Bar implied: that I knew very little about what might be beneficial. I left the Bar for academia after 3 years, for several reasons too complex to do justice to here. Of those perhaps relevant, one reason relates to seeing the way that the law was instrumentalised in

¹In the jurisdiction of England and Wales 8 bodies are authorised to regulate lawyers. Of these the two largest groupings are solicitors and barristers. Traditionally barristers (who are said to ‘practise at the Bar’) primarily specialised in advocacy, whilst solicitors engaged in non-contentious work and litigation. This distinction is diminishing since the introduction of rights of audience in the higher courts for some solicitors, and rights of direct access to clients by some barristers. Barristers are required to complete a 12-month pupillage, similar to an apprenticeship model following qualification but before authorisation for independent practice.

a system of profound oppression, that did result in a significant shift in the way I see the world, and as such is not unrelated to vicarious trauma. In hindsight I also recognise a degree of desensitisation and compassion fatigue arising towards the end of my time at the Bar. I do not think (although who can tell?) that engaging in supervision would have kept me in practice, and in retrospect the decision was right for my development. I retain the status of barrister, but do not currently maintain an authorisation to practise. Whilst working in academia I have undertaken training as a counsellor, training in humanistic models of counselling (gestalt, person centred and transactional analysis). I am registered with the British Association of Counselling and Psychotherapy and have been counselling clients for over four years at the time of writing whilst also maintaining an academic role. For the same duration I have been seeing a clinical supervisor on a regular basis. I have experience as a client of both therapists and lawyers: I have undertaken my own personal therapy. I have been a client of lawyers three times, all three for conveyancing, one as a result of relationship breakdown, which as a result was emotionally fraught. In addition, someone I am close to was, during the currency of this research (whilst writing, not whilst interviewing), instructing a lawyer in criminal proceedings. I was emotionally invested in those proceedings, and the interaction between them and their lawyer, whilst unextraordinary, is coming to mind whilst writing. I am a white, cis-gendered, gay man from a Welsh middle-class background.

The participants in the interviews were aware of my history as a lawyer, as well as my current roles as counsellor and academic.

Results: themes and stories

I have found it useful to cluster the stories from the data into three sections. The first is what the participants are saying about the nature of

the work and the working environment. The second relates to the processes that are taking place during supervision. The third relates to the outcomes or benefits of supervision.

The nature of legal practice

Participants in talking about supervision inevitably talk about relevant features of the context in which it takes place. Here I interpret what the participants told me as being stories broadly in three areas: characteristics of the work itself that make supervision relevant; inter-relational aspects of the working relationship including those that have characteristics of transference, and the impact of the work on practitioners.

Characteristics of the work

Participants naturally raised features of the work that made it amenable to supervision. They highlighted the combative, emotional and relational nature of the work. One participant gave a vivid description of the emotional labour involved in the work (Hochschild, 1983). Here we see the lawyer recognising the degree to which part of their job involves management of emotion (both feeling and displaying) of a kind seen elsewhere in the literature (Westaby, 2010; Harris, 2002):

[Solicitor]: . . . your job is not to cry. Your job is to do something about it or to advise and listen and all of those elements. . . . you have this slight conflict or ill fit between something which is incredibly personal and emotional. But something which is also functional. . . . you're not there to try to engage in the underlying emotional issues. . . .

[Interviewer]: In all of that, what do you do with your emotional response, you know, with your sadness, with what you're seeing or any of that?

[Solicitor]: By and large, internalise and ignore it. . . . [8]

Another participant points out that whilst interpersonal skills form the majority of the

work, lawyers are seldom offered training in these:

You get some training about law, but you get literally no training at all about most of what the job is, which is relationships and client management. [2]

Several participants made comparisons with other domains of work where supervision is more commonly offered, namely the voluntary sector, mediation, social work and psychotherapy:

It's very odd that lawyers don't have it. Because counsellors have it, social workers have it, CAFcass officers have it. It's bizarre that we don't . . . we're working with people who . . . even in a nice transaction like conveyancing people aren't really at their best. We are a distress purchase most of the time . . . we're dealing with people who are vulnerable. [5]

It's something that we need to support ourselves to support our clients. . . . The therapeutic professionals are mandated to have supervision, and it seems to me to be all the more absurd that family lawyers don't when we are dealing with the self-same clients. And if there are issues affecting the therapist, they'll be affecting us. [4]

Stigma around the discussion of mental health issues in the legal profession is well documented (e.g. Collier, 2019; International Bar Association, 2021; Jones et al., 2020; Lawcare, 2021; The Law Society of England and Wales Junior Lawyers Division, 2019). This may have implications for the uptake of supervision within the professions, whilst also indicating an important role for supervision as a confidential² and exceptional space where this stigma does not apply. Whilst there is some

²The confidentiality referred to here is between lawyer and supervisor. An interesting question arises as to lawyer-client confidentiality – that is, how lawyers protect the confidentiality of their clients during this supervision. Whilst this wasn't raised during the interviews the impression was that lawyers discussed the dynamics of their relationships with anonymised clients whilst avoiding discussing affairs of their clients.

evidence that this stigma is shifting, as described by the third quote below (and also in Jones et al., 2020, p. 30) this is a recent change:

I was so depressed about the outcome. Genuinely depressed for a while, it was like, can I do this job? How can I do this job, this put me into a real spiral. And I really needed someone to talk to you about that. Because there is a real worry, I think, particularly if you're junior, if you say to someone that I'm struggling with, I'm upset with it, you're just labelled as someone who's not competent. [7]

I think there's just like a misconception that what we do is law, which I think is like a really small part of what family lawyers actually do. I think there's just quite a sort of stiff upper lip culture that people don't open up about the emotional impact clients have. . . . The kind of people that go into law are not that used to making themselves feel emotionally vulnerable . . . people might see it as a sign of weakness. [2]

There's a stigma around anything that . . . I think perhaps this changed a bit since COVID . . . but anything relating to your mental health. I certainly wouldn't have described anything that I was grappling with under the umbrella of mental health, and I still sort of can now just about because it's okay, I think because of COVID. [6]

As they continue to talk about the change it becomes apparent, in their experience at least, that this might be a limited change. After speaking about mental 'fitness' and comparing this to physical fitness they state:

I still think even now, people would struggle as lawyers to describe that in relation to mental health . . . we're very good at using words like resilience . . . but we're not very good at using words like coping and surviving . . . acknowledging that we experience threat and . . . fearfulness. [6]

This participant leaves me wondering if the developing interest in supervision is part of

this gradual change, and is one that can be framed in terms of resilience, but with the scope to go further into coping and surviving once the consulting room door is shut, and confidentiality and trust are established.

The lawyer–client relationship and transference

Looking more closely at the interpersonal elements of the work we can see that the lawyer–client relationship is one where boundaries are difficult to manage, and there is a degree of distortion in the way the relationship is seen. Both of the quotes below include descriptions of lawyers stepping into the client’s world in a way that is beyond that strictly required by the role. Implicit in the qualifier ‘feeling as if’ is a recognition that the level of felt responsibility is inappropriate to their role or situation. That the distortion leads to an impaired ability to stay in the present moment is acknowledged in the reference to no longer being the objective professional. A presumption of the ubiquity of these experiences is also found in the second participant’s certainty that I will also have encountered this (which indeed I have).

It’s really easy to do that, to absorb, you know, make someone else’s problems your own personal problem and feel as if, you know, you’re responsible for it. [1]

It’s so important in what we do to not become aligned with your clients. And I’m sure you encountered this when you were a barrister. But, like, we act for people, but we aren’t them. And it can get really blurry in our jobs. And I think solicitors, you know, we’re all guilty of it, but so much in family law, lawyers just take on their clients’ stuff, and like, have no appreciation for the fact there’s another narrative . . . you’re not being the objective professional for them. [2]

Transference is a well-studied and theorised phenomenon in psychotherapy, whereas very little has been written about its application to the lawyer–client relationship (exceptions being: Feinberg & Greene, 1995; Hamel

& Davis, 2008; Levine, 1992; Silver, 1999). Given that transference might be at its strongest in intense relationships, and where there is a power imbalance, it seems likely that it is a feature of the lawyer–client relationship, and what is described here can be interpreted as fitting in that framework.

Transference can be seen as part of the relationship that belongs to a previous relationship (either actual, or wished for) and that is being imprinted on this one: ‘Transference is the repetition of past conflicts with significant others, such that feelings, attitudes, and behaviors belonging rightfully in those earlier relationships are displaced onto the therapist’ (Gelso & Carter, 1994, p. 297). As such it represents a distortion of what is actually happening in the moment. At its most tangible this is felt as the seemingly inexplicable wishes, fears, excitements and aversions we experience when we meet someone new and unknown to us (Clarkson, 1991; Gelso & Carter, 1994; Gelso & Hayes, 1998). This is experienced by both people relating. The transference experienced by the helping professional is referred to as counter-transference and can either be based on the professional’s own material or be a response to experiencing the transference of the client. In this way the professional can get pulled into a relational dynamic where they experience something complementary to the client’s transference experience – for example, someone who experiences feelings of helplessness in the presence of authority figures may behave in a way that encourages responses of helping or rescuing.

The phenomenon of transference then can help make sense of the above participant’s sense of feeling as if they are responsible, and of the sense of blurriness of identity and boundaries. The second quote above also directs us to one of the reasons that it is important to recognise transference, when they refer to the ‘objective professional’. Whilst lawyers seem unlikely to need to use transference, as a therapist might, to explore their client’s inner world, it seems likely that they would benefit

from becoming aware of when they are being drawn into one of these transference patterns. Without an awareness of the transference relationship the professional does not understand their own experience fully. They cannot fully understand why the client is reacting to them in a particular way, and furthermore may not notice the ways in which their own behaviour and emotional responses are becoming affected. Transference can bring with it alignment or an uncritical acceptance of the client's views that prevent a thoroughly reasoned and realistic advocating of the client's case (Feinberg & Greene, 1995). As Silver (1999, p. 275) points out 'One cannot know whether a decision is rational or otherwise appropriate unless one looks within to examine the irrational forces bearing on that decision.'

Other lawyers talked of the expectations that clients bring to the meeting, of clever bulldog lawyers, in a way reminiscent of discussions of 'pre-transference' in psychotherapy:

Everyone has this kind of picture of the bulldog lawyer who's going to take the other side for everything they're worth, and you know, we're just not like that. [1]

We love 'Oh you're a lawyer, you must be clever.' No. No cleverer than anyone else. I mean, I hear that a lot . . . or 'I've heard you're the best.' 'Ohhh, thank you,' and up we go on our pedestal with our carapace. And down we come faster than you can say 'can you pay my bill please?' [4]

When the client brings into the lawyer's office their projections of the lawyer as a superhero (Sherr, 1995) the lawyer would be much better served by recognising this as something the client brings, rather than finding themselves worrying about the case at 2am and struggling to meet unrealistic goals. Similarly, when the client brings in elements of their neglectful parent, and projects this onto the lawyer, the lawyer would be better served by recognising the sudden pang of inadequacy as an element of transference,

rather than a sudden and inexplicable loss of lawyerly prowess. We see later how supervision seems to support the lawyers to do this.

Impact of the work on practitioners and vicarious trauma

Lawyers have higher than average incidence of mental health problems that reduce their wellbeing, and their effectiveness; these include high levels of stress and anxiety, depression, substance abuse and suicidality and more generally lower levels of wellbeing (Collier, 2014; International Bar Association, 2021; James, 2020, p. 278; Jones et al., 2020; The Bar Council, 2021; The Law Society of England and Wales Junior Lawyers Division, 2019). Fischman talks of his experience of dealing with lawyers as psychotherapy clients and frequently encountering 'feelings of anger, rage, fear, guilt, identification with the client, and internalization of their clients' pain' (Fischman, 2008, p. 110). The culture of the workplace and wider environment are also seen to contribute, with the culture being described as hyper-masculinised, bullying, racialised, (hetero-)sexualised and classed (Collier, 2014; Mason et al., 2023; Sommerlad, 2016; Webley et al., 2016; Zimdars, 2010). There is evidence that lawyers also experience harm from working against their own moral compass – for example, working within a deliberately inhumane and damaging immigration system in the UK, or in a system where work (and therefore working relationships) may be ended not because it has been completed but due to underfunding (Canning, 2021; Rønning et al., 2020).

Some attention has also been paid to the impact on lawyers of engaging with clients' accounts of traumatic events, referred to as vicarious trauma. Vicarious trauma has been described as 'the cumulative, negative psychological effects on workers as a result of hearing the harrowing stories of trauma survivors' (Rønning et al., 2020, p. 665). In other professions vicarious trauma has long been recognised as a risk for professionals working with

clients who have experienced trauma (McCann & Pearlman, 1990) with symptoms including intrusive thoughts, emotional reactions (James, 2020) and a change in the way the practitioner views the world (Fleck & Francis, 2021; McNeillie & Rose, 2020). Studies are now consistently finding higher incidence of post-traumatic symptoms amongst lawyers (Fleck & Francis, 2021; Iversen & Robertson, 2021; James, 2020; Rønning et al., 2020; Vrkleviski & Franklin, 2008), and there is some indication that lawyers suffer these at higher levels than mental health professionals (Canning, 2021; Maguire & Byrne, 2017). It is worth noting that these factors compound each other, so, for example, the sense of helplessness experienced by those who Canning (2021) spoke to (above) puts those lawyers at higher risk of the impact of trauma (Herman, 1991).

In support of the above account from the broader literature participants were giving descriptions of the stressfulness of the work in general terms like this:

Lawyers, you know, we're quite a stressy lot really, we've all got heavy caseloads. We've all got a lot going on. And I don't think people particularly like us . . . we've got horrible stressy caseloads, lots of work, dealing with people in crisis, thankless task, that you're not even held up to be a hero in the same way that GPs and other people who have the same caseload are. So as I'm talking about it, I am thinking, I don't know why I do this job. [1]

[there is] anxiety about whether you're doing the right job . . . or doing a good enough job. . . . We are a profession where rightly, there's a lot demanded of us. If we make a mistake we conclude it's negligence. Not many industries term their mistakes negligence . . . we work in an industry in which perfection and client service are at the pinnacle. And at the same time, we're meant to go out and generate lots of work, and they expect so on a business front, there's a lot expected of us . . . then if you're a family law, you do that in the context of relationship change and breakdown. So all of that is coming at you . . . and you don't really

tend to do anything with it, you just tend to absorb it like a bit of a sponge, and it doesn't . . . who knows how it comes out? Some people burnout some people leave, some people. . . . And that's hence why supervision because they're just a little bit of a little bit of a release a little bit of putting it somewhere. [8]

They were also pointing to an increasing dialogue around burnout, and, in the second and third quote below, the link between vicarious trauma and burnout:

I think everybody is becoming aware of things like burnout, as a shorthand for something that it's now okay for a lawyer to sort of try and avoid, if you like, or prevent . . . you can only do this work for so long without talking regularly about it. [2]

[explaining the purpose of supervision] We do really emotionally draining work and take on a lot of . . . well, are affected to some degree by our client's distress. So having a space to reflect on your practice, and avoid you feeling kind of burnt out. [3]

So I think it really does kind of up the resilience. I don't know how I would have coped without it over the last few years. . . . I don't know if I'd still be doing law to be honest. . . . And it happens sort of annually that I go, you know, this is a bizarre job. I find it really interesting, which is why I do it. But some of it was you're dealing with people's grief all the time. And you take that on, because it's impossible not to take it on. So of course, you need to have someone you can speak to about that. [7]

References more generally to vicarious trauma, sometimes explicitly, or re-traumatisation were also common. Fischman (2008) points out that listening to traumatic accounts carries a risk of re-traumatisation particularly for unprocessed trauma, which seems to be what the final quote below is referring to:

You're dealing with people in crisis constantly. And it's really, really, hard.

You're dealing with really raw emotions. People who are completely irrational because their emotions have taken over. [1]

It's hard, because there is like vicarious trauma, which we don't talk about much, but, and I don't do much of that work, but yeah, at a very low level, I'm experiencing their grief, anger, hurt, blah blah blah. [5]

[on the book by Fleck and Francis (2021)] I just recognised every single family lawyer I'd ever met . . . there were these huge checklists of sort of symptoms . . . I probably could tick off every single one of them. Not necessarily all now and all at once, but certainly at different stages of my career. And that was a real eye opener. [6]

If, for example, that we do cases with like, horrific domestic abuse, sexual abuse, if the lawyer has got some experience of that, that case is going to really hit them hard. But they may not feel comfortable talking to a colleague about it. [7]

And finally, we see some indication of the kind of change in world view sometimes seen in vicarious trauma and described above. In the following quotes practitioners have different levels of awareness of this. The first seems to show us this shift in their world view, and to accept it without further processing. There does not really seem to be a recognition of the risk of seeing a skewed sample of human activity; on the contrary there is a sense that this gives an understanding of what people are really like. The second and third, however, do seem to recognise that this particular selection leads to a distorted view, and the third practitioner seems to be working on finding ways to rebalance this.

I think I understand what makes people tick, because I see them at their worst. [3]

I do tend to see people at their worst, and I hear some really awful stories. So it has made me really quite cynical about a lot

of things. I think it has influenced my view on life. A lot. So, yeah, a lot. [1]

It makes me think that the world can be . . . I feel quite cynical . . . quite an unjust and prejudiced place. But then I also think there are lots of well-meaning people in it. . . . I still find it amazing that people can love people and then just hate them so much. I just still find that really hard to understand, actually. [2]

Finally, one participant suggests existing mechanisms by which lawyers deal with these pressures in the absence of supervision:

Solicitor: as family lawyers, we don't really have anywhere. Structured. Formal. Where we take that stuff.

Interviewer: And unstructured and informal, if you didn't have supervision, where would you take it?

Solicitor: The cliched answer which you'll hear people saying is down the pub. And there's truth in that. It is a profession which drinks . . . we rely heavily upon each other . . . we end up with slightly perverse sense of humour because sometimes that's the only way to cope. . . . [8]

There are ethical implications of allowing this to go unresolved. Lawyers have a duty to act in their client's best interest (Solicitors Regulation Authority, 2018). It is hard to see how lawyers experiencing burnout, emotional distancing, anger, rage, guilt and over-identification can be fulfilling this duty. The ways that practitioners, understandably, defend themselves against, and are changed by, burnout and vicarious trauma include mechanisms that might impinge on their ability to work effectively, and at worst might harm the client. It has been suggested these changes and mechanisms include increased cynicism, apathy, numbing, avoidance, trivialisation of the traumatic events and loss of trust (Rønning et al., 2020). Fischman (2008) goes further, suggesting that lawyers have a duty to address

their own unrelated traumas to avoid distorting the client interview and to become aware of counterproductive responses from excessive distancing and inhibited listening to over-identification and decreased ability to maintain boundaries. More broadly in some areas of work burnout compounds the mechanisms by which clients are harmed and is imbricated in systems of oppression – for example, turning again to Canning (2021, p. 78) it ‘creates a cyclical environment: socio-political hostilities against migrant groups . . . compound already difficult working conditions. . . . In turn, impacts on practitioners have potential for negatively affecting the people they support’. Arguably this creates a further ethical imperative for lawyers to resist this dynamic.

Processes of supervision

There appear to be a number of processes taking place during and around supervision that we can see through the data. A large cluster relates simply to topics that lawyers are bringing to supervision, or supervision as a place to simply work through issues that are relevant to them at the moment. These can be broken down into those relating to the workplace, those relating to the client and those where the lawyer is recognising something relating to themselves. I also read the data as disclosing a number of other things going on during supervision that can be more usefully thought of as process³ rather than simply topics of discussion.

The extracts already given above give an indication that lawyers are using supervision to develop an awareness of their practices and processes. This in itself could be considered to be incredibly valuable. With awareness comes the possibility of increasing the range of ways

³‘Process’ in psychotherapy has additional connotations to the dictionary definition. It is often used to refer to a particular view of personality, character or personhood as being a ‘process rather than a product’ (Rogers, 1967, p. 122). It can also refer to the work of therapy that results in this change from ‘fixity to flowingness’ (Rogers, 1967, p. 132). It is the latter usage that is intended here.

of being that the lawyer can use in their practice (and more broadly), and an increase in what Gestalt therapy would call response-ability, the ability to respond to situations with awareness (Sills et al., 2012). In addition to these the quotes below show the lawyers using supervision to cope with everyday practice and to engage in broad reflection. A range of processes are apparent: internalisation or introjection, taking permission, and relying on supervisor expertise. There is also potential for relational ways of working in the supervision – that is, using the supervisory relationship itself as a way of learning, including dealing with ruptures in the relationship.

At its simplest, supervision provides practitioners with a place to explore and understand events that are happening in the day-to-day working life of the practitioner. These events may be current (as in the first example below) with supervision helping the lawyer cope with situations as they unfold, or they may be in the recent past, allowing the lawyer to reflect and learn (as in the second):

It’s a safe reflective space. Because it’s entirely confidential. Nothing I say goes back to the people paying for it . . . you get to talk about you, and the effect the work is having on you. . . . That hour is a really precious time to offload, if the things are difficult, there’s been a difficult encounter, if it’s all just a bit too much. But also a chance to reflect on the good things that have happened.[4]

. . . some nasty things happen, or I’m feeling nasty things. It diffuses them very, very quickly. Sometimes I go in, there’s nothing particularly going on in my life and not quite sure when to talk about something always comes up. I can talk about something that happened that has finished, Do a kind of post-mortem. Did I handle it right? So what I think happens is that the impact of bad events is minimised, or . . . you’re not walking around with it. [3]

It’s enabled me to actually kind of turn upside down situations where I think I’ve

got a perspective on it, and actually get a bit more of a grip on it. [8]

Whilst in some cases the issues that are reflected upon seem fairly narrow, quite frequently this leads to insights that can be extrapolated across a wider area of the lawyer's practice:

I might take to supervision a situation about not feeling confidence to charge a client the full value of the work I've done and recorded . . . that turns into a full hour talking about why that might be generally, rather than about this particular client . . . more of a discussion about my own kind of confidence, my value for myself, the sort of dynamics you might have with clients . . . there's a whole sort of wider discussion that goes across your whole kind of practice as opposed to just being about this one particular tricky situation. [6]

In other places there is evidence that supervision is allowing lawyers to develop insight into some of the patterns described above in the section on transference. Here, importantly for the client, we see the lawyer being guided to recognise where the frustration they feel towards the client relates more to their own past relationships than to anything that is happening in the office:

I think what I have discovered is, and this is somebody who's done 40 years of family law, but some of my reactions, my perfectly understandable reactions to other people, and particularly to clients, may be defensive, or there's a feeling of inadequacy or something because of the way that the client is presenting. . . . [the supervisor will say] 'well you know, it could be what you think is going on, but what about this scenario?' I know when that's said that I'm going to sit there and go, you're right, yours is much more likely than mine because my scenario is all about me. What my hang ups are. And the real scenario is not about me at all. [3]

The practitioner above identifies, with a tone of self-compassion, that they react to

clients in a way that they label as defensive. After working this through in supervision they recognise the distortion of interpreting the client's behaviour in terms of their 'hang ups'. The lawyer below links this recognition to psychotherapeutic models of transference (through the reference to their mother) and how taking a distance allows some resolution or at least recognition:

I'm sure we sort of sway further into the kind of personal sometimes rather than the professional. However, I think if you're honest, that stuff will make some really big impact on how you work. I mean, I think you can end up with a slightly over therap'd: Yes, this case bothers me because, you know, she acts like my mother. But there is an element of that being true. These are the cases which bother you are often cases, which you find that you identify with, too, you know, and it's uncomfortable. So it's good to talk about why things are uncomfortable in order to, you know, even gain the distance from it, or resolve that. [7]

There is also clear talk of the supervisor being internalised in the sense given by the following extracts. This is a process recognised amongst therapists whereby the practitioner transitionally relies on the internalised judgement of the supervisor whilst developing their own autonomous capacities (Casement, 1991), and I would suggest that its presence here indicates that there a deeper level of development taking place. Something is in the process of being integrated.

Often I'll find myself thinking, you know, not just in a work context, but when it comes to dealing with my own kids too. You know? 'I wonder what [Supervisor name] would say about this? Or what would be his take on it' [1]

He's incredibly experienced, and I just hear his voice in my head when I work, and it's just I've learned so much from him and just trying to do this job in like a boundaried way. Sometimes when clients do something, I just hear his voice in my

head, and I'm like, no, I'm just you know, I can deal with you. [2]

Supervision appears to allow lawyers to engage in new practices or behaviours. This happens either by the supervisor explicitly reassuring the lawyer that the practice is okay, or by the lawyer themselves reflecting and developing an awareness of the range of options actually open to them. For example, in talking about feeling the need for time to deal with a personal event one lawyer described how they were aware that they didn't feel like doing much work, they talked about this in supervision and explained how they were justifying it as:

a way of giving myself permission to do less work to spend a bit more time [dealing with this personal issue] . . . but you know I'd really like to get rid of this case . . . we agreed that I would get the client to go somewhere else, that's not something I would probably have done on my own. . . . It's almost as if I needed permission [5]

I think I have more power now than I thought I had. If that makes any sense. Power is a big word. Yeah, it makes me feel more: Yeah you can do that. You want to apply for it? Just do it. What you mean like . . . ? Yeah, just do it. Whereas I don't think I would have allowed myself before. [5]

In addition to the facilitation of reflection, the expertise of the supervisor appears to come into play. This might be in terms of a deeper knowledge of issues a client may be facing or client experiences, or it may be about psychological expertise relating to interpersonal dynamics.

It's about, I think, wisdom as well. You know, our supervisor is about my age, so he's got plenty of years under his belt. But also a therapeutic supervisor will have a lot more exposure to all those problems: people with addictions, people with sexual abuse problems, people with PTSD, all sorts of things that, you know, I personally

haven't suffered. But they will discuss it with me bringing all that knowledge and experience. [3]

I get useful information that assists me in handling clients generally, you know, people who present like this, they may well have this problem. And that's going to apply to lots of my clients. It makes me a better solicitor. [3]

In these examples the supervisor was a psychotherapist, although others described the usefulness of having a supervisor who was a lawyer and therefore had background knowledge of the culture and working practices. There was, however, one case where a supervisor who was a lawyer by training seems to have dealt with the relational dynamics in a way that a psychotherapist-supervisor would not have done. One participant described how a rupture arose in their work with their supervisor. The lawyer raised the issue with the supervisor who:

couldn't really see what the problem was . . . so I didn't really know what to do with that . . . there wasn't really a safe way for me to deal with that as the person on the other end of that. I will speak to him, It's just I've had to go through a process of sorting out myself. [5]

When asked if it felt like part of the work of supervision the solicitor responded that it did not:

I think he would have probably liked to have made it part of the supervision, but he didn't manage it. [5]

Generally, psychotherapists tend to be aware that not only can unrepaired ruptures damage a supervisory relationship (Watkins, 2021), but also that the act of repairing ruptures, particularly (but not only) in dialogic relationships, can itself provide space for both healing and developments of new understandings of who we are in a relationship (Mann, 2021, pp. 251–253). Rupture and repair can in

this framework become part of the work of supervision. It seems possible that the supervisor in this exchange had not integrated this understanding of the relational dynamics sufficiently to make the most of this rupture.

The impact of supervision

Finally, there are some very clear statements from the lawyers as to what the benefits of supervision are. We see below that supervision appears to allow for changes in the ways lawyers manage boundaries and their place in the client–lawyer relationship and how they use some psychological insight to improve professional skills. These changed behaviours then appear to contribute to more sustainable, enjoyable careers, which benefit the lawyer, the client, the employer and colleagues.

Boundaries and spontaneity

Linked to the discussion around permission, above, one of the clearest ways lawyers seemed to change their behaviour through supervision is through work on boundaries. Here there is a recognition of the importance of boundaries, for the benefit of both the lawyer and the client. For the lawyer there is the benefit of being able to manage their workload more effectively, in terms of both their caseload and the extent of the emotional labour they engage with. For the client, there is the provision of information that helps them keep realistic expectations, and in addition there is less risk of the lawyer overstepping their role and impinging on the client's autonomy.

I find that that is really good for putting, for me putting boundaries in place . . . you do want to help people, and you do want to make things better for people, but it's really easy to do that, to absorb, you know, make someone else's problems your own personal problem and feel you're responsible for it. So for me, it's really helpful in supervision for the boundaries to be kind of reaffirmed. [1]

I think I've become more resilient. I think I've got better distance. There are

boundaries for sure, between myself and my clients. In terms of realising that, you know, my job here is as an advisor, an advocate, but I can't . . . I can't take on someone else's responsibilities, my clients. We're there to advise them and do what we can, but they're responsible, ultimately for their decisions. Well, I find that's been particularly helpful. [7]

Sometimes when clients do something, I just hear my voice in his head, and I'm like, No, no, I'm just . . . I can deal with you. Not always being a yes man basically . . . you get literally no training at all about like most of what the job is, which is like relationships and client management. I just thought I had to basically say yes to everything. I don't know why. And then it was basically only when I started doing supervision, I realised that you don't have to do that . . . when I feel people are trying to take too much, then you can just say, actually no, I can do that then, but I can't do that now or yesterday, when it's most often requested. [2]

[the clients] benefit from my clear boundaries. We both know where we stand, they're under no illusions as to what to expect from me. [1]

The last two quotes in particular give the impression that the issue at hand is particularly clear cut and is a matter of knowing when to say no and knowing when to reject certain responsibilities. The following quotes suggest something more nuanced is happening. Here there is an indication that this is not just about pushing away, but is about maintaining an appropriate place between the polarities of confluence and isolation (Houston, 2003; Mann, 2021).

I can care about them. But I don't have to sort of beg and plead that they follow my advice. [4]

I think the cases that I struggle the most with are clients who come to you, and they want to put all personal, or their personal responsibility, take it away from them and give it to you. And I think it's really easy to

say, yes, give it all here, I'll fix it. But we can't do that. That's not our job. And we're not able to do that . . . it's much easier now to say to people, this is what I can do, this is what you have to do. You know, we're not there to be their parent, nurse, I'm there to be the lawyer. I'm also aware though that you can't say I'm the lawyer and not do any of the therapeutic stuff. [7]

Here we see lawyers struggling with the issue of just how closely to be in contact with the client on an interpersonal basis, how much care and responsibility for the clients' issues to take and how much to refuse.

Inclusion, relational depth and awareness of enduring relational themes

It appears that as lawyers take a more aware approach to how much impact to let the client have on them, in some cases they are also able to explore a more sophisticated approach to including themselves in the relationship, and to relate to the client at more depth:

You've been able to learn and be open and human to the client and say things like: I really don't want you to do that because I think that will have a very negative impact on your life. Me as me, [own name], as a person, as much as as a lawyer, really don't want you to follow that path. . . . Rather than saying, my advice is . . . or you can't do that. But the, I understand why you want to do that, but I don't want you to do that because I can see down the track all these problems arising. . . . And in doing so the client is given that space to say, okay, maybe I'll have a think. And even if they . . . decided to nevertheless follow that path, they will say something like, I know you said you didn't want me to do this, and I really appreciate that you said that, but for these reasons, I want to do it. [4]

. . . indication that trust has been built up that the client cares about you as a person, and not just their lawyer who's sort of at their beck and call . . . see below the surface of lawyer to the person below. And supervision has actually helped me have that relationship with more clients. It's not like I've never had that before, but

I think I've had it more because I've learned to be more me in the interactions I've had with clients. [4]

The quotes above relate to how the lawyer is consciously, with some awareness, recognising where they are choosing to bring themselves to the work, and are as a result doing so more transparently than might otherwise be the case. There are other ways in which supervision allows the lawyer to be more aware of other aspects they would otherwise bring into the client relationship *without* awareness. In the extracts above relating to the working through of transference, lawyers talk of a new awareness of their own enduring relational themes (Mann, 2021) or counter-transference that they seem to be bringing to the relationship and which might be getting in the way of them experiencing the client in the present moment. Below we see how one lawyer describes how this new awareness has an impact on their practice:

This time it's not about the psychology of the client and their family and other lawyers, it's about me. . . . I'm much more able to step back and say, well, what is it about me in that situation that's making that difficult, because you've seen the situation 50 times before, and it's always difficult so it's not necessarily about them . . . instead of just trying to approach the same problem in the same way and wonder what it is about that client that's making them so annoying, or I'm so over involved or whatever the issue is that I'm kind of up against it . . . sometimes the answer will be I'm not the right solicitor for them, and I'm much more able to say that than I ever would have been before. [6]

Thus supervision seems to enable a quite nuanced and aware approach to what personal elements to bring into the relationship and what to be mindful of bracketing away.

Thinking like a lawyer

Implicit in the above quotes is the idea that being aware of, and perhaps limiting,

defensive behaviours or behaviours based on projection is desirable for lawyers. In the next quote there is a developing of that line of thought that makes reference to the objectivity often thought of as being part of ‘thinking-like-a-lawyer’.

It's so important in what we do to not become aligned with your clients . . . that ultimately does the client a disservice because if you completely take on their life, you're not being the objective professional for them. . . . I think you can be a more level-headed, objective professional for clients, which they feel more kind of protected by I suppose. [2]

This is not the only place this concept shows up. Whilst above, supervision is seen as a way of meeting this aspirational characteristic, the quote below suggests that supervision also allows lawyers to free themselves from this concept:

Somewhere between law school and starting a training contract . . . the thought is that you morph from being a human being into being a lawyer and that never the twain shall meet. [4]

Again, as with the challenge of whether to care for clients, the answer perhaps lies somewhere between the two polarities.

Finally, we see how supervision gives psychological insight and can assist in the essential lawyerly skills of negotiation and advocacy:

I do try not to overstep the mark because I'm not a psychotherapist and I'm not a psychologist . . . but I can see lots of attributes that I know are of certain types. Where I can see just a bit of it, but it's quite helpful. Because then I'm able to say to a wife, well, does your husband do this? And does he do that? How would he react if I said this? And that helps me. Because then I'm going to put things in a different way. You know, if the answer is: yes he will explode, and then I'm not going to say it that way, even to his solicitor. . . . [3]

The concept of ‘thinking-like-a-lawyer’ might be clarified by reference to the regulating body. The Solicitors Regulation Authority for England and Wales publish a ‘statement of solicitor competence’. In this they refer to ‘reflecting on and learning from practice and learning from other people’ (Solicitors Regulation Authority, 2022c, para. A2.b). They also refer to the importance of reflection both during practice and in evaluation of learning and development activities (Solicitors Regulation Authority, 2022a) and include these aspects on their Learning and Development record (Solicitors Regulation Authority, 2022b). One lawyer recognised this as follows:

And what you're supposed to do now in your training and personal development record is reflect on any training that you have. That's an SRA requirement. . . . And I think that's what supervision is, it's the reflecting on anything, obviously, you might take to supervision that you did some really interesting training about vicarious trauma . . . it's the reflecting on something that I think lawyers don't do out loud, or don't do it. And I think the SRA is opening up a window for that, and showing people that that's important. [6]

Professional enjoyment, sustainability and wellbeing

The majority of the participants referred to impact on the sustainability or enjoyment of their careers:

I'd be much more stressed, and to be honest, I don't know if I would still be practising as a solicitor. [1]

I think I probably wouldn't still be doing the job I got. It's just been so important . . . there is no other outlet. [2]

. . . Actually give yourself permission to understand a bit more about your own psychology. And the way that that will enhance people's enjoyment of their practice is enormous. It might change it and transform it out of all recognition.

You might end up doing something very different. But if you carry on being a family lawyer it will be much more enjoyable as a career. [6]

Doing it like this makes it much more fun for me . . . I suppose if I'm happier and more fulfilled, and not just kind of doggedly turning out the work, then I suppose it's better for them as well because they're getting the best [own name] they can get. [5]

This is compared by one lawyer to other initiatives that are increasingly offered that pay lip service to the concept of wellbeing, without actually improving it:

Wellbeing isn't attended to by giving people two extra days holiday and calling them wellbeing days . . . nor does sending them hampers of sweets, goodies, and cakes and God knows what every 5 minutes. It's not attending to my actual wellbeing . . . which means providing what is provided in the other professions: what is it doing to me? How can I be better equipped to help my clients. . . . [4]

All of these, it is suggested, lead to knock-on effects for other colleagues, and there is an argument to be made for firm-wide supervision, or the development of a supervision culture:

Ultimately, having colleagues who are reflective and feel secure in their jobs just makes the job easier generally. So I think it just creates a more reflective environment. So that's been really good too. . . . It creates an atmosphere where everybody's got somewhere to go and talk about stuff they're finding really difficult, then collectively stress should be a bit lower. So it's just a more pleasant place to work generally, if everybody's having that emotional outlet and that side being tended to. [2]

[talking about the impact of a supervision around billing] . . . transformed my attitude to all my clients, and also the people that I'm supervising in the more traditional sense of supervision, as a

partner . . . that went right across my experience as a supervisor, an employer of staff, and having similar conversations with them to improve their confidence. [6]

Or indeed across the profession:

I think everyone should do it. I think that . . . I wonder if, you know that I was saying those lawyers I find difficult on the other side, if I'd find less difficult if they had room for reflective practice. [7]

Finally, this lawyer makes clear the business implications of these benefits (although the human benefits should be allowed to stand alone without a need to focus on profit).

Firms, in my view, should be paying for supervision because the cost-benefit analysis of it in my mind is a no-brainer . . . if you factor in that if . . . people don't have supervision, and they are ill, and take time off, or they are signed off with stress for three months, or they could make a claim for unfair dismissal through stress and seek compensation. Those bills more than outweigh the cost [of supervision] . . . you're much less likely to have clients who complain . . . much less likely to have clients who won't pay their bills because you have been different in the way you are with them. [4]

Conclusions

The lawyers who I spoke to gave an account of practice in line with much of what has been written elsewhere. In addition to the difficult, stressful environment and culture in which lawyers operate, the work they do is emotionally complex and deeply interpersonal. This element is under-acknowledged and under-supported, and discussion of the broader psychological impacts of the working environment is suppressed by the culture itself. Once the lawyer gains access to the space of supervision, the privacy and separateness of the process allows an escape from the stigma against

speaking about mental health. It provides a space not just to discuss resilience, but also to use words (as one of the participants did) such as coping, surviving, threat and fear. In this context, if all supervision offered was a space in which these discussions could take place, then it would be offering something incredibly valuable to the individual practitioner and potentially to the culture of legal practice. However, in addition to this, other processes are taking place.

The dynamic of vicarious trauma, and potentially re-traumatisation, is one way that the complex interpersonal and emotional aspects emerge. We see in the accounts given recognition of the difficulty of engaging with the traumatic accounts of clients, in an already stressful environment. There was some awareness of this changing the ways the lawyers saw the world, and awareness that it also brings with it the potential for burnout. Here supervision seems to allow some room to explore this and develop an understanding of these impacts.

The emotional and interpersonal aspect of the work is also complicated by relational dynamics that include distortions away from what is happening in the present moment and have the appearance of transference. This imprinting of the past onto current relationships is often outside of, or on the edge of, awareness. There it exerts an influence that undermines lawyers' claims to objectivity and gets in the way of a productive working relationship between lawyer and client. It has unhelpful impacts on both client and lawyer, including on lawyer wellbeing. Supervision can offer the chance to bring these into awareness and therefore allow the effects to be seen for what they are. Seemingly paradoxically, more emotionally aware lawyers are able to come closer to the profession's claim of objectivity, not by desensitising or numbing emotions, but by recognising their place in how they relate.

A clearer and deepening understanding of these dynamics and of their own ways of

relating supports the development of a more nuanced ways of relating to clients and colleagues. Some of the lawyers I spoke to felt safe to start to explore questions around how much they could really be in contact with the client. They were able to moderate the extent to which they included themselves in the relationship according to what was needed. Most also found an ability to set firmer boundaries. Here, as is often the case, awareness led to an opening up of options.

Everyday issues are also explored, from billing, to workplace politics, to career aspirations. Sometimes this is a matter of reflection and problem solving; other times it leads to broader insights that extrapolate across practice. There is some suggestion too that psychological understandings, either through reflection or through direct reliance on the expertise of the supervisor, lead to enhancement of more traditionally conceived professional skills such as negotiation and advocacy.

In conclusion, supervision appears to offer a range of possibilities, and it seems likely that different lawyers will use it in different ways. It provides a space to explore the stresses and everyday problems of practice that is otherwise hampered by stigmas around talking about mental health. This gives an outlet for that stress, but importantly also has potential for the lawyer to explore different ways of reconstructing their understanding of the environment they work in and positioning themselves differently in relation to that environment. In this and in the opportunity to process more complex issues such as vicarious trauma it could also contribute to alleviation of the mental health issues that are increasingly being recognised in legal practice (although of course it is important not to underplay the need for cultural change here). In turn it has important protective potential for clients, who are poorly served by lawyers operating from a place of burnout or harmed mental health, but also in protecting them from the impact of unexamined relational dynamics. Finally, it offers lawyers the opportunity to broaden their

repertoire and to engage in new behaviours or practices that in turn have the potential to make for more skilful, rewarding and enjoyable careers.

Ethical standards

Declaration of conflicts of interest

Marc Mason has declared no conflicts of interest.

Ethical approval

All procedures performed in studies involving human participants were in accordance with the ethical standards of the institutional research committee at the University of Westminster (LAS College Research and Knowledge Exchange Ethics Committee) and with the 1964 Declaration of Helsinki and its later amendments or comparable ethical standards.

Informed consent

Informed consent was obtained from all individual participants included in the study.

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