

**Health and Education Chamber**  
First-tier Tribunal for Scotland

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# The Bulletin



The Bulletin

**Edition 11**

**May 2024**

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## Foreword

**May Dunsmuir**

*Chamber President*

*Dear members,*

I hope you are all well and thriving – and as I often say at this time of the year – I hope you are enjoying the brighter nights and warmer weather. For those of our members who are not in good health, I hope this edition of the Bulletin will be an encouragement to you, and I hope better health is to come.

### **A fond farewell**

I write this foreword tinged with some sadness as it was edited by one of our now former Legal Members, Collette Gallagher. Collette was guest editor for this edition and for our October edition in 2023 – I extend my thanks to her for this work. Collette recently resigned from her judicial post with the HEC to take up a new judicial appointment as Summary Sheriff at Glasgow Sheriff Court. She joins Lesley Dowdalls, our former Lead Member Reviewer, who now also sits as a Sheriff at Glasgow Sheriff Court. I was very proud to witness their installation as Sheriffs recently. Both are a great loss to us, in terms of their commitment, expertise and judicial experience - but a great gain to the busiest Sheriff Court in Europe. I thank both of them for all of their hard work and support in their years with us. A copy of this Bulletin will be sent to both.

Our last edition focused on The Promise and we were steered through many components of care experience with Collette's expert hands. In this edition, we follow the theme of trauma from our All Members' Conference. We hear from other experts in this field and we reflect on the impact of trauma across a range of different experiences and perspectives.

### **Safety, Relationship, Choice, Control, Collaboration and Kindness**

We are often cited as an expert jurisdiction in the field of ~~vulnerable~~ cherished children and young people, access to justice, the UNCRC and sensory hearings but we are also considered to be expert in the field of trauma.

I mentioned to you at the Conference that we deliberately do not label our literature (President's Guidance, Information Notes, guidance brochures etc.) with the words 'trauma informed' as all that we do is underpinned by trauma informed principles.

Consider a recent child party hearing where the child party was able to simply and effectively stop the hearing of evidence which was upsetting to them, by a turn of a

card (our stop/go card). They had Choice and Control over the hearing process. And the use of an agreed list of questions for a child witness, which prevents the need for multiple questioners. The child here was given sight of these before the questions were asked and these were printed for them. The child was then guided through the questions by a skilled Specialist Member, who used silence very effectively. Only the questions printed on the sheet were asked, with an explanation of the areas to be covered, e.g. “Now I will ask some questions about your school.” Collaboration and Kindness were present here as was trust, which was built by being predictable and doing what was promised (read the Article on *Redress Scotland: developing and delivering a trauma informed response to justice*).

Safety and Relationship are equally important. Consider a child party who was met by the Legal Member and clerk before the hearing and invited into the hearing room to decide where they would like to sit. The break out space was explained and the child was given access to our range of sensory toys, including our sensory dog, whose heart beats while being held. The child was engaged in the process using Relationship and Safety to encourage Choice, Control and Collaboration (the sensory dog was cuddled close throughout the day). For cat lovers, we also have a sensory cat!

I offer these as examples of simple solutions. They highlight ways in which we can use our developing understanding of trauma to make the hearing process as comfortable, empowering and enabling as possible, which helps us to secure the best evidence and reduce the potential for re-traumatisation (*read the article on Trauma and the Justice System*).

Our sensory hearings were built on the experiences of real children and young people. They represent their lived experiences. I cannot over-emphasise the importance of listening and understanding to the lived experiences of others as we design our judicial processes. The Promise advocates ‘co-design’ and ‘voice’ – two valuable principles which underpin our work in the HEC. As we prepare for the commencement of the UNCRC, I will continue to explore the lived experiences of children and young people.

*‘...it cannot be trauma informed unless it is informed by people with lived experience of trauma’*

We also considered the *Barnahus* model when looking at the physical environment and it is great to read of Scotland’s very own version of this - the Bairns Hoose - in Mary Glasgow’s article.

*I commend to you the many articles on trauma written in this Edition. I am confident you will find them professionally and personally informative, including our very own Sally Anderson’s article and the article by Rachel Francis on Vicarious Trauma – a matter I take seriously. We have added to this edition the list of*

*supports and contacts members may access. I remind you that any members who would like to de-brief after a hearing may do so, either as one panel of members or individually, with support. We are also introducing a parallel process of regular reflection/conversation with our case officers and clerks – similar to the idea of ‘peer support spaces’.*

## **Volume**

You will read from Elaine Forbes, our Operations Manager, that the last reporting year was the highest volume on record – which includes the number of hearings. Early patterns suggest this is likely to continue in the current reporting year. Thank you to all of you for your hard work in meeting the demands of our busier Chamber.

It is unlikely that I can continue to efficiently discharge the business of the Chamber without a recruitment of three member types – legal, education and health. It is likely that a Judicial Appointments Boards for Scotland (JABS) competition will be necessary. Once I have more details on this I will provide an update to you. I will also look for members from the three types to engage in the JABS round (conducting shortlisting and interviews). I must be open in advising you that this would be likely to need a number of day’s commitment from members over a concentrated period of time.

*If anyone is interested in this work, please let me know.*

## **Venues**

A Scoping Study has now been completed to look at the availability of other venues across Scotland that could be adapted for use as sensory hearings. Of the 20 or so identified I have instructed that 6 be the first focus of our work. I hope that this will increase the number of more local venues for in-person and hybrid hearings.

I will keep you up to date on this once venues ‘go live’.

## **Future Editor**

The Bulletin has proven to be a very valuable resource in the HEC. Despite the loss of our most recent Guest Editor, it will continue to be issued at least annually. I will shortly be approaching other members to see if we have a future Guest Editor!

*If anyone is interested in being a Guest Editor, please let me know.*

Best wishes,

May



## Health and Education Chamber Update

**Elaine Forbes, Operations Manager**

***Scottish Courts and Tribunals Service (SCTS)***

*Elaine Forbes, Operations Manager for Glasgow with the Scottish Courts and Tribunal Service, highlights developments and staffing changes within HEC.*

I Since the last bulletin it has continued to be a very busy but exciting time for the team. The receipt of applications has continued to grow.

### **Team and performance**

The Chamber continued to see a rapid increase in receipt of applications during the second half of the year. Between 1 April 2023 to 31 March 2024 we received 244 applications. This can be broken down into 229 references and 15 claims. This is 42 more than our highest rate received last year in 2022/2023 (202).

The hearings structure is now fully embedded. During the above period we held 26 hearings remotely and 10 hybrid hearings within the sensory hearings suite of the GTC. Our hearings were held over a total of 91 days, the highest to date during a business year. We continue to seek feedback from our hearings clerks and stakeholders to ensure we continue to make the necessary improvements to the service we provide to our tribunal members and stakeholders.

Our team structure remains the same. Sarah-Anne Tracey (Team Leader), Megan Wilkinson (Case Officer), Margaret Scally (Case Officer) and Carley Netherway (Temp. Case Officer). The team continue to work in a hybrid way, splitting their time between the office and working remotely.

### **HEC Venue Expansion**

A short life working group was created to identify suitable venues across Scotland for the HEC. The priority of the group was to identify venues that may be used for our hearings where children and young people can attend. The work of the group was a success with venues sourced from the very north of Scotland to the south borders. Further information will be provided in the near future.

### **HEC Video Animations**

I shared the exciting news on the last bulletin regarding the creation of our four videos, including BSL and subtitles editions. You can find them on our website [here](#). These animations will assist children and young people with additional support needs to learn about the Tribunal process and bring the concept of a tribunal to life using *needs to learn* imagery.

**In this reporting year another language version will be added, using *Makaton*.**

# **DATES FOR YOUR DIARY**

## **UNCRC Training**

**Legal Members: 02 & 03 October 2024**

**Specialist Members: 04 October 2024 (GTC)**

## **All Members' Conference**

**20 March 2025**

Hilton Hotel, William Street Glasgow

## **2025 Tribunal (ASN) Forum**

**23 April 2025 (GTC)**



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## MENTAL HEALTH AND WELLBEING SUPPORT

The logo for LawCare, featuring the word "LawCare" in a blue sans-serif font with a red underline under "Care".

LawCare is the mental health charity for the legal sector

[www.lawcare.org](http://www.lawcare.org) 0800 279 6888

The logo for Rivers Centre, with the text "Rivers Centre" in white on a green background.

NHS Lothian | Our Services

The Rivers Centre is NHS Lothian's specialist service for people of all ages affected by psychological trauma.

<https://services.nhslothian.scot/riverscentre> 0131 451 7400



The Judicial Office for Scotland has contracted HELP | Employee Assistance as the Employee Assistance Programme (EAP) for the Scottish judiciary. 0800 374 942

<https://sgframeworkeap.workplacewellbeing.com>

The logo for Samaritans, with the word "SAMARITANS" in white on a green background.

Call: 116 123 - Whatever you're going through, a Samaritan will face it with you.



[www.mind.org.uk](http://www.mind.org.uk)



Stress Management Society  
from distress to de-stress

[www.stress.org](http://www.stress.org)

# Trauma and the Justice System: an overview

**Dr Caroline Bruce, Dr Sonia Petersen & Dr Sandra Ferguson**

## Background

Recent reports have highlighted the range of ways in which victims and witnesses can experience the criminal justice system in particular as worsening the impact of their prior experiences of trauma, and the barriers this creates to their ability to give evidence effectively, and to their recovery.<sup>1,2,3</sup> To address the issue, the *Victims Witnesses and Justice Reform (Scotland) Bill*<sup>4</sup> currently before parliament will embed trauma informed practice and training in criminal and civil courts. Although the focus of the Bill is on the criminal and civil courts, experiences of trauma are not limited to witnesses within the criminal justice system. A greater proportion of the population have been affected by traumatic events than has been historically recognised. Fair access to justice needs to be underpinned by a system in which all witnesses are willing to enter and able to fully participate and give evidence, without this process contributing further trauma or harm. Therefore the principles of trauma informed practice are ones which should be applied to all judicial proceedings in order to allow witnesses to give their best evidence.

## What is Psychological trauma?

Language in this area is complex and overlapping. But the effective and transparent use of language is crucial to the process of making sense of what can be experienced as 'unspeakable'. Traumatic events have been defined as:

“an event, a series of events or a set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has long lasting effects on the individual’s functioning and mental, physical, social, emotional or spiritual wellbeing” (SAMHSA, 2014, p. 7)<sup>5</sup>

*“Trauma isn’t just the event, the trauma is the whole process of the event, what comes after, whether that’s police interview or court case or whatever. So people shouldn’t dismiss their part in that”- Witness*

1 [“Evidence and Procedure Review Report” \(2015\) SCTS](#)

2 [Review of Victim Care in the Justice Sector in Scotland \( 2017\) Lesley Thomson QC](#)

3 [Justice Journeys Informing policy and practice through lived experience of victim-survivors of rape and serious sexual assault](#) ( 2019) Oona Brooks-Hay, Michele Burman & Lisa Bradley August

4 [Victims, Witnesses, and Justice Reform \(Scotland\) Bill – Bills \(proposed laws\) – Scottish Parliament | Scottish Parliament Website](#)

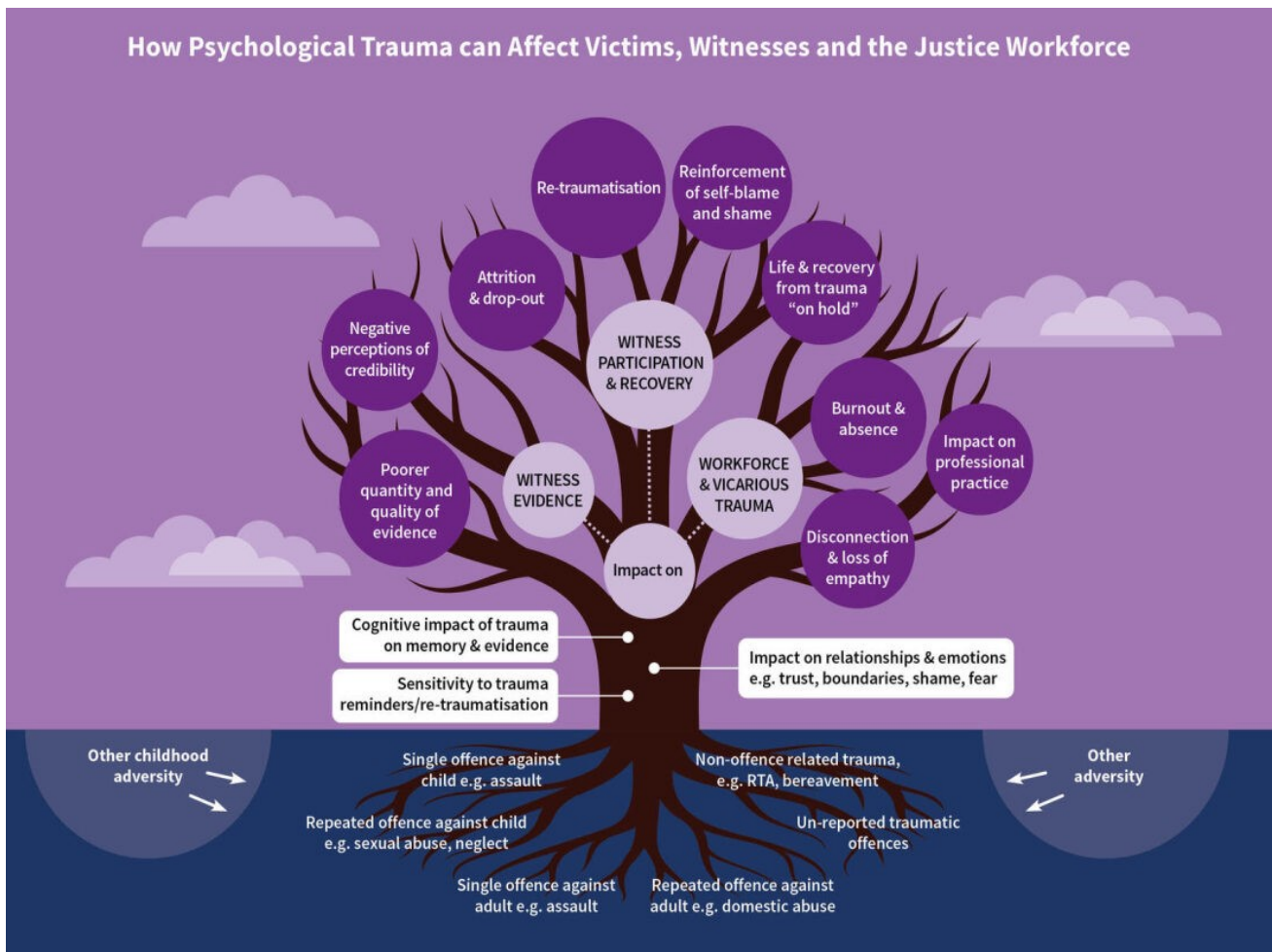
5 Substance Abuse and Mental Health Administration (SAMSHA) (2014) Concept of Trauma and Guidance for a Trauma Informed Approach SAMSHA Trauma and Justice Strategic Initiative July 2014. U.S. Department of Health and Human Services, office of policy, Planning and Innovation.

## Impact of Trauma on Victims and Witnesses

Trauma can affect people in a range of different ways. Some people manage well despite their experience of trauma, and recovery is optimised when we have safe and supportive relationships. There is no ‘one size fits all’ in terms of human responses to traumatic events, but they can have long terms effects on our mental health, physical health, relationships and life chances across a range of spheres.

*‘Educating yourself on how trauma affects somebody. Like how that person will present, how that person maybe will react in the first instance but maybe react differently a couple of weeks down the line. It’s not a cut and dry, this is how trauma is, because it affects everybody different.’ Witness*

Often traumatic events happen within interactions or relationships that are characterised by a lack of safety and predictability, a threat of harm, disempowerment, lack of choice, coercion, and betrayal of trust. This leaves victims and witnesses with a drive to avoid any systems or processes that can be experienced as unpredictable, threatening, coercive, or disempowering, as these can bring back the same distressing feelings of fear, shame, anger, horror and dissociation that were present during the offences. This is called re-traumatisation. Reports and evidence cited at the start of this article indicate that justice systems and processes can create a perfect storm of re-traumatisation for witnesses, and indeed on occasion introduce fresh trauma.



## What is Trauma Informed Practice?

Trauma informed practices and systems seek to avoid re-traumatisation by minimising similarities or reminders of past trauma, and instead consistently offer the opposite - predictability and safety, and engendering trust through empowerment and collaboration wherever possible. It also includes ensuring that our justice system does not introduce additional trauma into people's lives. And that we build into its fabric *opportunities* rather than *impediments* for recovery.

Perhaps most important for a fair and equitable society, it includes approaching the collection, presentation and examination of evidence in ways that enable witnesses to fully participate and give the best evidence that they can.

## What is Trauma Informed Practice not?

It is important not to make the mistaken assumption that trauma informed practices will in some way constrain or breach the existing legal frameworks and rights enshrined in the Scottish legal system. The trauma informed principles are not rigid, rather they are used as guiding principles to make adaptations within the limits of those fundamental legal rights. And the practices and principles apply to any witness, whether for the appellant or respondent, claimant or responsible body.

In addition, responding in trauma informed ways is necessary **but not sufficient** for a fair and effective justice system. Indeed its range of application may be seen as relatively specific in comparison to the wider general principles of person centred and procedural justice. Trauma informed approaches build upon these and a range of other principles, each of which will require an overlapping but distinct set of knowledge and skills that are not covered here.

## Becoming Trauma Informed

The recently published *Trauma Informed Justice Knowledge and Skills Framework for Working with Victims and Witnesses* provides a clear definition of what we mean by being trauma informed. It brings together the science from reviews of international evidence with expertise of victims and of justice leaders to create clearly defined aims.

For each of these aims, the framework sets out systematically the detailed knowledge and skills different members of the workforce will need in order to achieve them. In doing so we have the ambition of providing an agreed and enduring vision across all organisations and staff that work with witnesses, and a road map to achieve it. The breadth, depth and scope of that ambition is unique, and sets Scotland apart in its aspiration for trauma informed justice.

You can find the framework here:

[Victims and Witnesses - National Trauma Transformation Programme](#)

**Table 1: Aims and outcomes of a trauma informed justice system for witnesses**

<p>Aim 1: Recognises <b>Impact</b></p>	<ul style="list-style-type: none"> <li>• The likelihood that witnesses and members of the workforce have been exposed to trauma is understood.</li> <li>• The different ways in which trauma can affect witnesses are recognised and understood.</li> </ul>
<p>Aim 2: <b>Minimises Harm</b></p>	<ul style="list-style-type: none"> <li>• Potential for risk of re-traumatisation is understood and identified.</li> <li>• Re-traumatisation is avoided where at all possible.</li> </ul>
<p>Aim 3: Supports <b>Recovery</b> where Possible</p>	<ul style="list-style-type: none"> <li>• Witnesses experience relationships that support their recovery, ability to give best evidence and engagement.</li> <li>• Witnesses and their families are protected from further harm.</li> <li>• Processes, procedures or interactions (including questioning) that can inhibit recovery are adapted where possible.</li> <li>• Witnesses and families access appropriate services and interventions to meet their recovery needs.</li> </ul>
<p>Aim 4: Enables Effective <b>Participation</b></p>	<ul style="list-style-type: none"> <li>• Practices are adapted to the impact of trauma so that witnesses can participate fully.</li> <li>• Witnesses are enabled to give the best quality evidence they can.</li> <li>• Practices avoid misinterpreting or misrepresenting the impact of trauma on a witness or their evidence.</li> </ul>
<p>Aim 5: Supports <b>Workforce Resilience</b></p>	<ul style="list-style-type: none"> <li>• The impact of working with traumatic material and witnesses affected by trauma is recognised.</li> <li>• The resilience of the workforce is proactively supported, reducing the impact of vicarious trauma.</li> <li>• Signs of vicarious traumatisation in the workforce are recognised and responded to.</li> </ul>
<p>Aim 6: Trauma informed <b>Leadership &amp; Systems</b></p>	<ul style="list-style-type: none"> <li>• Leadership and management of organisations and systems support aims 1-5.</li> </ul>



Dr Caroline Bruce is Head of Programme for Trauma and Justice within the National Trauma Transformation Programme at NHS Education for Scotland, and an Honorary Senior Lecturer in Clinical Psychology at the Institute of Mental Health and Wellbeing, University of Glasgow.

Dr Bruce holds a PhD in Forensic Psychology and a Doctorate in Clinical

Psychology—the first decade of her clinical career was spent in the National Health Service working with survivors of complex trauma, before completing an LLB and spending the next decade researching and delivering training in trauma informed approaches to the prosecution of traumatic offences and working with victims and witnesses.

In her current role at NHS Education for Scotland Dr Bruce now leads on developing education, leadership and training resources to support national

systemic change in trauma informed approaches with victims and witnesses. She is lead author of [Trauma Informed Justice: A Knowledge and Skills Framework for Working with Victims and Witnesses](#). She has developed and delivered trauma informed training for a wide range of justice organisations and professions, including programmes of training for the Police Scotland Scottish Child Interview Model and, in partnership with the Judicial Institute of Scotland, for the professional court judiciary in Scotland. Dr Bruce is also a member of the Advisory Council of the Judicial Institute of Scotland.



Dr Sonia A Petersen is a Clinical Psychologist and Principal Educator for NHS Education for Scotland as part of the National Trauma Transformation Programme, and is co-author of the Trauma Informed Justice Framework. Her role currently includes co-producing learning resources, training delivery, and supporting the implementation of training across the justice sector in line with the framework.

Dr Petersen qualified as a Clinical Psychologist in 2014 and subsequently worked within specialist forensic mental health services and then a specialist national psychological trauma service as a Clinical Psychologist for several years. Across these services she has worked intensively with victims, witnesses and offenders affected by complex psychological trauma at an individual and systems level. She holds a Doctorate in Clinical Psychology, MSc in Forensic Psychology and a BSc Hons Psychology.



Dr Sandra Ferguson is a Consultant Clinical Psychologist. Her current role is Associate Director for Psychology at NHS Education for Scotland (NES), which supports the training and education of applied psychologist in NHS Scotland alongside the national training programmes for psychological skills, interventions and therapies for the wider workforce. She also has an overall leadership role for the education and training component of the National Trauma Transformation Programme (NTTP). This is the national approach to support the Scottish ambition of a trauma informed and responsive workforce.

She has had a career long focus on the impact of trauma and how we can effectively and safely support recovery and enhance prevention of future harm. For instance, she is the author of 'Survive and Thrive,' an evidence-based psycho-educational programme to support self-management and understanding of the impact of all complex trauma. For 15 years previously, she provided psychological therapies to people who have significant, complex needs arising from their experiences of trauma. She is co-author of NES (2017) *Transforming Psychological Trauma: A Knowledge and Skills Framework for the Scottish Workforce* and NES (2019) *National Trauma Training Plan*.



## Trauma Informed practice and the HEC: Some initial thoughts

**Professor Derek P Auchie, In-house Legal Member**

Trauma is a strong word. It suggests a terrible event, physical or sexual violence, abuse or possibly neglect. It is used mainly in relation to the criminal justice system.

However, in the HEC, we have seen an increase in references to trauma in our decisions. But how does trauma apply in our cases? There are said to be two categories of trauma.

### ***Trauma with a big ‘T’ or little ‘t’***

There is much written about the distinction between these two types of trauma, not all of it positive. However, this distinction is useful for present purposes.

Big ‘T’ trauma refers to extreme events that are deeply disturbing or life threatening, for example war, natural disaster, serious injury, violent crime or sexual abuse. These events can cause Post Traumatic Stress Disorder (PTSD), but they may not. Small ‘t’ trauma refers to events that lead to discomfort, unhappiness or a lack of control, such as bullying, bereavement, anxiety, isolation or emotional abuse.<sup>1</sup>

Of course, in categorising trauma as being of one of two types, there is a danger of mis-labelling: the impact of any trauma will vary from person to person. An event that happens to one person may have a much more profound impact on that person than a similar event has on another.

The purpose of the categories for now is that both types are relevant in HEC cases. Trauma sometimes stems from events outwith the educational environment, but affect the child or young person in that context. Other examples involve events purely within an educational setting.

### **The general trend**

In considering all published HEC cases (starting in 2006), we can see an increase in references to trauma.<sup>2</sup> The first published case that mentions it was decided in 2014. The reference to trauma in that case was around a general description of some of the experiences of other children in one of the relevant schools, namely sexual abuse.<sup>3</sup>

<sup>1</sup> According to US author Lee-Anne Gray, this distinction was coined in Shapiro, F. (2001). *Eye movement desensitization and reprocessing (EMDR): basic principles, protocols, and procedures* (2nd ed.). New York, NY: Guilford Press: Lee-Anne Gray, *Educational Trauma: Examples From Testing to the School-to-Prison Pipeline*, 2019, Palgrave MacMillan.

<sup>2</sup> I have left out cases where the word ‘trauma’ or a similar word appears in passing.

<sup>3</sup> [ASNTS\\_D\\_01\\_2015\\_04.08.14.](#)

There were 2 relevant cases decided in 2020, 3 cases in 2021, 2 in 2022 and 4 in 2023.

## Examples

Some examples of both types of trauma appear across these cases. Anxiety in relation to unpredictable events and the behaviour of others is one example.<sup>4</sup> Bereavement features in another.<sup>5</sup> Trauma relating to restraint is discussed in another case.<sup>6</sup> The tribunal considers neglect trauma in another one.<sup>7</sup> Developmental childhood trauma also features.<sup>8</sup> Traumatic school experience, including exclusion, was considered in a more recent case.<sup>9</sup>

Marginalisation, anxiety and isolation are relevant in another recent decision, in which a skilled witness referred to the 'big T' 'little t' distinction.<sup>10</sup> Physical and emotional abuse as trauma is discussed in another case.<sup>11</sup> Trauma in the context of training on de-escalation techniques was examined in a further recent case.<sup>12</sup> Finally, sensory stimulation sensitivity around physical interventions with other pupils features in another decision.<sup>13</sup>

This all indicates that the Tribunal is already (and regularly) engaging with a wide variety of examples of trauma in its cases.

## Educational trauma

In her book *Educational Trauma: Examples From Testing to the School-to-Prison Pipeline*,<sup>14</sup> US psychologist and educator Lee-Anne Gray discusses educational trauma which she defines, at one point, as

[trauma that] perpetuates abuse, discrimination, oppression, and marginalization, while inadvertently involving good people in acts of harm that violate the rights of children.<sup>15</sup>

The author goes on to develop her discussion partly through a number of case studies and examples, also examining the relevant literature.

This definition captures what most would consider a reality, but which is not always remembered: the adverse impact of trauma in education, whatever its source, usually happens inadvertently. This makes an understanding of the concept more important than ever since actions and failures to act that can perpetuate trauma are not as obvious as the causes of deliberate acts. There is an argument, in other

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4 [ASN D 24 09 2020](#), paragraph 71.

5 [ASN D 30 11 2020](#), paragraph 12.

6 [ASN D 14 01 2021](#), paragraphs 65 and 89 and [ASN D 06 05 2021](#), paragraphs 16, 17, 41 and 112.

7 [FTS/HEC/AR/21/0096](#), paragraphs 18, 21, 71, 72, 73 and 87.

8 [FTS/HEC/AR/22/0034](#), paragraphs 16, 18, 34, 37, 47, 69, 73, 81 and 87.

9 [FTS/HEC/AR/22/0173](#), paragraphs 15, 58, 73, 74, 96, 104 and 107.

10 [FTS/HEC/AR/22/0192](#), paragraphs 30 and 89.

11 [FTS/HEC/AR/22/0152](#), paragraphs 18 and 69.

12 [FTS/HEC/AR/23/0008](#).

13 [ASN D 14 08 2020](#), paragraphs 1, 13, 14, 79, 80, 106 and 107.

14 2019, Palgrave Macmillan.

15 Chapter 1, page 1.



words, that its impact is invisible, as something attributed, perhaps, to some other cause.

## **Conclusion**

Trauma is a concept that is being referred to in HEC tribunal cases more and more often. It ushers in principles that are relevant in the education of children and young people in Scottish schools. HEC tribunals are specialist bodies and must use their expertise (education, health, social work and legal) effectively: rule 2(2)(e) of the Tribunal rules.

As HEC tribunals explore the principles and practices of trauma with parties and witnesses, it is likely that a collective understanding with the Chamber (and those who appear regularly in hearings) will develop. This will, I assume, bring the effects of trauma into the open so that they can be examined in full within the context of the education of children and young people in Scotland who have additional support needs or disabilities.

*Whatever the outcome in individual cases, this application of principles and practices usually associated with the criminal justice system and in civil cases where they apply is an essential judicial development.*

## **Professor Derek P Auchie**

Derek is a tribunal judge in four jurisdictions. He is the HEC's In-House Legal Member and Lead Trainer. Derek holds a Chair in Dispute Process Law at the University of Aberdeen. He has taught and published in process law and practice for nearly 20 years. He is a former practising solicitor with civil and criminal litigation experience. He is an accredited mediator and arbitrator.



## ***Importance of Lived Experience in Creating Trauma Informed and Responsive Environments***

**Shumela Ahmed**

**Who Cares? Scotland**

***“...it cannot be trauma informed unless it is informed by people with lived experience of trauma” ... (Cissy White 1966-2023)***

Since 2017, Scotland has committed to an ambition to see all public services adopt a Trauma Informed Approach. This ambition has been driven by various organisations including **NES** (NHS Education for Scotland), Scottish Government, Improvement Service, and COSLA. As of 2023 Resilience Learning Partnership (**RLP**) has become an official national partner in the continued development and delivery of the Scotland's National Trauma Transformation Programme (**NTTP**).

RLP is a lived experienced led organisation and around 82% of our staff have lived experience of complex trauma. Our staff also have a wealth of other educational, professional and learned experiences and bring all of these together to deliver the work that we do.

There is a great saying that goes with the term ‘Trauma Informed Practice’ which is *‘...it cannot be trauma informed unless it is informed by people with lived experience of trauma’* and this is exactly what our organisation aims to do. At RLP we do not think that lived experience has all of the answers, but we know it has some and until quite recently, lived experience has often been only listened to/consulted with in tokenistic and in-authentic ways. RLP want to ensure that people with lived experience have not only a seat at the table in decision making and service design, but when they do get to that table, they are supported, protected, developed and connected during the work, so that they can contribute in meaningful and impact ways - we do this by taking a learning and development approach to all that we do.

***We call this power sharing: “Routine, meaningful sharing of power with people with lived experience of trauma so that services and systems are collaboratively designed and delivered around people’s needs, rather than around the needs of organisations and systems”. ([NTTP Road Map 2023](#))***

Trauma informed practice recognises the lived experience of all involved in the system and understands we all must work together and alongside each other if we are to realise a trauma informed and responsive Scotland, as well as justice systems. Huge work has been done already by NES for example on the *Victims and Witnesses Knowledge and Skills Framework*.

When considering the design and delivery of services within the public and third sectors, power sharing with people with lived experience is essential. That’s why trauma informed practice asks us to work alongside three specific groups of people:

experts by experience, experts by profession and our leadership. Some people may span more than one, or all three. At RLP many of us span all three.



[From NTTP \(2023\)](#)

As a lived experience led organisation, our expertise does not sit in the design, or delivery of justice services, however, we do know that there are many more meaningful ways in which the sector can engage with and work alongside communities of lived experience to better understand the impact of trauma and the impact the justice system can have on individuals when they come into contact with it- particularly children and young people and individuals who go on to have lifelong contact with the justice system.

If we want trauma informed justice services, we need to work with more people with lived experience of the justice system to better understand some of the challenges and barriers that still exist.

*Scotland's ambition of a trauma informed and responsive public sector will only be realised if lived experience is valued and recognised for what it can contribute to the design and delivery of public services- this is a journey, and we all need to get on it - and the NTTP provides us with a Roadmap to doing so (quite literally!).*

Shumela Ahmed is the Co-Founder and Managing Director of Resilience Learning Partnership, a lived experience led organisation. As an adult returner to education, she pursued a career in community education and co-founded RLP in 2018. Shumela understands the role Trauma Informed Practice has for those who have experienced complex trauma in overcoming many of the barriers that exist in finding meaningful ways to learn and experience education. To be Trauma Informed, it must be informed by those with lived experience of trauma, therefore as the leader of a lived experienced led organisation, it is her ambition to see lived experience as the dominating force within public policy and service design across Scotland.

Resilience Learning Partnership is a training and education provider with a dual purpose. They work across the health, social care, education, housing and criminal justice sectors. They specialise in Trauma Informed Practice and lived experience. They inform policy and strategy through their work, ensuring that lived experience is at the heart of all public policy making decision areas. Resilience Learning Partnership activities focus on ensuring the voices of lived experience is authentically and meaningfully embedded in service and organisational policy design.



## **Redress Scotland: developing and delivering a trauma informed response to justice**

**Joanna McCreadie, Redress Scotland**

Redress Scotland is an executive non departmental public body and was set up in 2021. The *Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021* is the primary legislation for Scotland's Redress Scheme and sets out the functions and responsibilities of Redress Scotland and the Scottish Government. These two organisations have distinct and separate responsibilities, with Redress Scotland established as the independent decision maker for the scheme.

Survivors of historical child abuse in care can prepare their application completely independently, or with legal advice funded by the scheme, or with support from a range of different agencies. The Scottish Government works with survivors to help complete their application, then sends this to Redress Scotland. Each individual application is allocated to independent panel members who review and assess the application then meet on a panel sitting day to make a decision. The panel members write an individual letter to the survivor which sets out their decision, summarises the abuse the survivor told them about and gives the reasons for their decision.

The work of Redress Scotland is part of a larger national effort to recognise what happened to survivors as children. On the 23 October 2018, John Swinney, as the then Deputy First Minister of Scotland, made an apology to survivors and announced Scotland's Redress Scheme:

*"Today, on behalf of the Scottish Government, I offer an unreserved and heartfelt apology to everyone who suffered abuse in care in Scotland. We are deeply ashamed of what happened.*

*I know that nothing can ever make up for the suffering which survivors have endured. Nonetheless, they have told us that redress is an important element of justice and that it would provide some degree of recognition and acknowledgement. That is why we will have a redress scheme in Scotland, one which treats survivors with sensitivity and respect."*

*John Swinney, Deputy First Minister*

The *Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021* has a number of unique features, one of these being the inclusion of a principle for working with survivors.

### **13 Principle of dignity, respect and compassion**

*(1) The Scottish Ministers, Redress Scotland, scheme contributors and other relevant persons must, in exercising functions conferred on them under or by*

*virtue of this Act, have regard to the principle that the following persons should be treated with dignity respect and compassion...*

Redress Scotland has adopted the principle of **dignity, respect and compassion** as our three values, which we strive to include in all of our work. These values underpin and inform our approach to being aware of, and sensitive to the experience and impact of trauma in people's lives. Of particular importance is a commitment to living our values, and using them as a touchstone for reflecting on what we are doing, why we are doing it and how we can improve.

Through our work at Redress Scotland, we have identified three key elements that we believe support us in working towards being trauma informed. These are:

**Relationships matter:** support should be based on sustaining and developing relationships between survivors and people who are trying to help.

**Trustworthiness counts:** trust is built by being predictable, consistent and doing what was promised.

**What we say and how we say it has meaning beyond the words:** being straightforward and open in our language and communications makes it easier to understand what we do and why and ensures we are living our values.

Our main work with survivors is in making decisions on their applications for redress. This is a largely paper based system as individuals complete a written application form, including a statement about their abuse, and provide supporting information in relation to their care and abuse experiences. We also have contact with survivors through our engagement work, in person meetings that take place between survivors and panel members in relation to applications and through enquiries and complaints. Our approach, therefore, has to be capable of being applied in a range of different ways by a diverse multi-disciplinary group of people.

Starting with the values, then working with three key elements, gives everyone in Redress Scotland the flexibility to work in a trauma informed way. In practice this means giving careful consideration to what, why and how of our work – with survivors, and also in our work with each other. Working out trauma informed ways of being and interacting also means being willing to change and develop in response to feedback from survivors and where we recognise we can do better. **This demands a more agile response from everyone on the organisation and an investment of time and resource in continuous improvement.**

The work of panel members follows directly on from the purpose of the scheme the *Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021* sets out how decisions will be made.

### **36 Determination of applications**

- (1) *On receipt of an application...the panel appointed...must determine –*
  - (a) *whether, on the balance of probabilities, the applicant is eligible for the type of redress payments sought...*
  
- (3) *...the panel is to start with the presumption that any information provided*

*by the applicant....is true and accurate...*

These directly impact on the process of making decisions. They help provide a different route to the delivery of justice, and a real alternative to civil or criminal action. [Panel members work actively with the balance of probabilities and the presumption of truth when assessing applications and making decisions.](#) This is reflected in the decisions themselves and their letters to survivors about their applications.

An example of this way of delivering justice in practice, and bringing together values, our trauma informed approach and the requirements of the legislation is our work on oral testimony from survivors. We have developed a highly individualised way of managing this, which has the potential to be very distressing for survivors. We describe oral testimony as an 'in person meeting' and are clear about the reasons for the meeting and the survivor can choose whether they want to participate in this. If a survivor chooses to come to an in person meeting, then the arrangements are made with care and attention. The Engagement Lead from Redress Scotland works closely with the survivor, developing a relationship that is supportive, honest and useful. This has meant that in person meetings, while consistent in approach, have varied considerably in how they happen.

Redress Scotland has now been making decisions on applications from survivors for redress for just over two years. We have now made a total of almost 1,500 decisions. Almost all of these have been to award redress, with around 40% of survivors applying receiving a level 5 award of £100,000. We are continuing to develop our practice, and engagement and feedback from survivors, as well as our work on quality, challenges us to continue to make changes and improvements. Scotland's Redress Scheme is working to fulfil the purpose of acknowledging and providing recognition of the harm that children and young people experienced in care and to deliver this form of justice.

## **Joanna McCreadie**

Joanna is the Chief Executive of Redress Scotland.

She is a social worker with extensive experience working with looked-after children and young people, and with survivors of abuse. She has a wide range of experience in child protection, residential care and education, having worked with national inspectorates and leading charities.

Joanna has led and contributed to national reviews and guidance, most recently co-leading work on the **Love group** as part of the Independent Care Review.



## Scotland's first Bairns Hoose: trauma-free justice for children

**Mary Glasgow**

**Chief Executive, Children 1st**

Nine months ago, Children 1st opened Scotland's first Bairns Hoose alongside local, and national partners from the justice, police, health, social work, children's rights and research sectors. Together, we are testing and learning how the internationally renowned Barnahus model, which protects child victims and witnesses from experiencing further trauma in justice and protection systems, can work here.

### *Trauma in the justice system*

As Scotland's national child protection charity, Children 1st has long campaigned for changes to our current systems. Children who have been harmed have repeatedly told us that their experiences of justice, care and protection have caused them further trauma. Often, they have said that this trauma has had a greater impact on them than the harm they originally experienced. Repeatedly telling their story to lots of different people, navigating between disjointed systems of justice and protection, long delays to court processes impacting on important milestones like exams, and failures to implement special measures have all been common experiences for young people, like Mia. Mia told us:

*"I had random police just coming to the door. It was interrupting my mental health, my education, I was having to take weeks off school to get back to normal. I would lash out at people. I was drinking, trying to get away from it all."*

*When Mia went to court she asked for special measures but the first person she saw was the man who had attacked her. He was standing outside smoking. She explained:*

*"Then I went through all these rooms thinking I could bump into him in any room. We sat there for two and a half hours and then they said the case is not going ahead today, you will have to come back."*

### *A compelling case for Barnahus*

The idea of Barnahus as a response to prevent child victims and witnesses in Scotland experiencing further trauma is not new. In 2015, the Scottish Courts and Tribunal Service's [Evidence and Procedure Review](#), led by Lord Carloway, recognised that: "there is a compelling case that the...[Barnahus]... approach taken



in Norway provides the most appropriate environment and procedures for taking the evidence of a young or vulnerable witness.”

At the same time, the review acknowledged that there was a ‘considerable’ gap between Norway and Scotland in terms of legal procedures and culture, particularly in relation to the lack of direct questioning by the witness by either Counsel in the Norwegian system. The Barnehus had however been adapted from the Icelandic model of different professionals working under one roof to gather best evidence, protect children from further harm and support them to recover from their experiences, known as Barnahus. Since the Barnahus was introduced over 20 years ago, it has been adopted and adapted by countries across Europe with a range of different legal system systems both inquisitorial and adversarial.

The Barnahus has the support of the *UN Special Representative on Violence Against Children* and has been noted by the UN Committee on the Rights of the Child. It is considered a best practice approach to realising a number of articles on the UN Convention on the Rights of the Child (UNCRC), including [Article 3 - best interests of the child](#), [Article 12 – the right to be heard](#) and [Article 39 – the right to recovery and reintegration, following experiences of hurt and harm](#).

Given the levels of harm being experienced by children in Scotland’s justice and protection system, the ability to adapt the Barnahus model to different legal systems and the incorporation of the UNCRC into Scots law, the case for a Scottish Bairns Hoose is indisputable.

### *[Bringing Bairns Hoose to Scotland](#)*

Transforming complex and siloed systems, built over years to be more compassionate, co-ordinated, child centred, and trauma informed is, of course, incredibly challenging. But, with the voices of children calling for urgent change ringing in our ears, Children 1st were determined to test the approach in Scotland. Building on the introduction of the high-quality evidence based Scottish Child Interview model, we worked with local partners in North Strathclyde and national partners who all shared our ambition and determination to test a co-ordinated, less traumatic and recovery focused journey to justice for children and young people in Scotland.

[Today children in North Strathclyde who experience abuse and violence are able to get more of the protection, care, justice and recovery support they need under one roof at the Bairns Hoose. We have put the voices and views of children and their families at the heart of the design and development of this first Bairns Hoose to ensure that it meets their needs and upholds their rights.](#)

Children and young people have been involved in every aspect of the Bairns Hoose design - from the calming colours of the walls and the soft and comfortable furnishings to the safe and secure garden which offers breathing space for those who need it. The Bairns Hoose includes high quality technical facilities, including space to record evidence and to deliver live links to court. Children have told us how different the space feels compared to the police stations or Headteacher's offices where they had to give interviews in the past: "It looks safe, not just physically, it has a safe feel." After a visit to the Bairns Hoose last year, Lady Dorrian, the Lord Justice Clerk, called it: "a fantastic facility...a model of what a Bairns Hoose should be."

Our ambition is that every child in Scotland that needs the support of the justice and child protection system can easily access a consistent model of Bairns Hoose to the highest standard possible, and we are pleased that the Lord Advocate has supported this call. With six pathfinders sites identified by the Scottish Government to further test the Bairns Hoose approach, including our North Strathclyde Bairns Hoose, Children 1st and our partners will continue to collaborate with the justice system and to share our learning so that children and young people get trauma-free justice and all the protection and support they need to recover from harm.

View a video tour of Scotland's first Bairns Hoose at: [www.children1st.org.uk/bairnshoose](http://www.children1st.org.uk/bairnshoose)

Sign up to receive the latest news from Scotland's first Bairns Hoose: [Children 1st \(list-manage.com\)](http://Children1st(list-manage.com))

Mary Glasgow started her career as a social worker specialising in child protection and her experience to date includes 15 years as a social worker, leader and trainer in a number of Scottish local authorities, and a further 16 years in leadership roles in the children's charity sector. She joined Children 1st in 2014 as a Director of Children and Family Services and External Affairs before becoming Chief Executive in 2017.



## **Expert Witness Assessment of Trauma in Children: An HEC Specialist Members Experience**

**Dr Sally Anderson**

**Consultant Clinical Psychologist (retired)**

**MA, MPhil, DPhil, AFBPsS, C.Psychol**

Working as a clinical psychologist in a NHS clinical psychology department, I developed an interest and expertise in trauma experienced by children and young people. I became an accredited EMDR (Eye Movement Desensitisation and Reprocessing) therapist. EMDR, as well as CBT (Cognitive Behaviour Therapy), is recognised as an effective treatment for trauma.

Alongside this work, I was regularly asked by legal firms to carry out assessments and prepare expert witness reports in compensation claims for children and young people who had experienced a traumatic event. These claims never got as far as court proceedings – in my experience they were always settled. Most often the event was a road traffic accident; other experiences included being hurled to the floor on a bus, a wall falling down, an injury during PE at school, malfunction of a ride at an amusement park, a burn sustained in a restaurant when a waiter spilled food, being thrown from a buggy when a car mounted the kerb. It is important to note that unexpected events – not necessarily just those that are obviously serious or cause injury – can be experienced as traumatic. Whether a person experiences a traumatic reaction depends on a number of factors such as a previous history of other trauma, feelings of helplessness, witnessing or sustaining an injury, and the kind of support given after the event. It is a highly personal response to an event that seems physically or emotionally threatening.

[Not everyone who experiences a stressful event will be traumatised. Some people experience a reaction for a short time after an event, while others may develop worsening symptoms over a period of time.](#)

My task was to assess the psychological impact of an event on a child or young person. To answer this question, there are a number of issues to address:

- what changes in the child's behaviour or presentation, if any, were there after the event
- were there other explanations for these changes apart from the event
- were the changes consistent with those typical of a traumatic reaction
- were the changes consistent with a diagnosis of PTSD (post- traumatic stress disorder)
- what was the likely prognosis.

### **Changes attributable to a specific event**

There can be both behavioural and emotional changes. The first difficulty is how to assess these if the child is very young, when a report from a parent or parents

needs to be relied on. There are reliable screening questionnaires which both parents and older children can complete which capture the range of possible changes. However, these are only additional to the primary source of information from interviewing the child, young person and parents in order to make a psychological formulation.

Essentially, this means to understand the story: it is a clinical formulation based on an understanding of child development and the impact of adverse experiences, not a diagnostic process.

I always spoke to the child without parents present, mindful of the possibility of their presence influencing what the child might say. Interviews with both children and parents covered developmental and family history, school progress and details about the event. There are a multitude of other important influences on a child's life: parenting, peers, developmental history, wider family relationships etc. that can affect a child's behaviour and emotions. Some of the time, there was little evidence of changes that could be attributed to a specific event. Most of the time it was possible to form an opinion about the most likely causal factor(s) contributing to any changes. Sometimes it was more tricky, because the impact of other adverse experiences can be amplified by another specific event. The easy case was a child who was otherwise developing normally whose behaviour changed after a traumatic event. However, in many instances it was necessary to try to tease out which changes, if any, could be directly attributed to a specific event. Sometimes not very easy!

## PTSD

The psychological formulation described above is no different to how I would assess a child referred for any other reason. It can be difficult to address the latter bullet points above in a way that is helpful to the legal process. A diagnosis of PTSD is a similar process to a diagnosis of ASD (Autistic Spectrum Disorder). There is no 'test' for it. It involves assessing behavioural evidence that must meet a set of criteria. It means that there is a 'cut off'. This is why you might hear 'autistic traits' or 'traumatic reactions' referred to: behaviours are deemed not to have reached the cut off but are sufficiently part of a person's presentation to be worth noting, understanding or supporting.

There are parallels with our own decision-making in interpreting the law. Such behavioural diagnoses involve making a clinical judgement. The criteria are updated as further research and knowledge about presentations develops; not only that, but there are two different recognised diagnostic systems with different criteria: DSM-5 (Diagnostic and Statistical Manual of Mental Disorders - in its 5<sup>th</sup> version) and ICD-11 (International Classification of Diseases - in its 11<sup>th</sup> version).

Children in our jurisdiction often have a multitude of diagnoses; the resistance in some parts of the country to recognising PDA (Pathological Demand Avoidance - what a name!), for example, reflects the futility (in my view) of trying to pigeonhole children with complex needs.

It might be helpful to list one set of criteria for PTSD. DSM-5, for example, lists 20 symptoms grouped in four clusters:

- 1) intrusive symptoms associated with the traumatic event(s) (e.g. unwanted memories, nightmares, and dissociative flashbacks)
- 2) avoidance of internal and external reminders of the trauma(s)
- 3) negative alterations in cognitions and mood (e.g. persistent negative beliefs and emotions)
- 4) increased arousal and reactivity (e.g. hypervigilance, exaggerated startle).

These symptoms must relate to exposure to an adverse event (or series of events), have been experienced for at least a month and cause clinically significant distress and/or functional impairment. They largely reflect symptoms experienced by adults – the way in which a very young child reacts to trauma can be very different.

As a psychologist, I am not particularly interested in diagnoses; they can be helpful as a shorthand to understanding a person (or accessing services) but they do not necessarily represent each person's unique presentation. This is the difficulty of applying a medical or disease model to psychological phenomena to categorise them. Similarly, we often hear teachers tell us during evidence that a child does not need an ASD diagnosis in order for school staff to support their needs.

As we heard in our recent 'Understanding Trauma' annual conference, the presentation of children who have experienced adverse events can overlap with the criteria for other diagnoses, such as ASD and ADHD.

In a compensation case, the criteria for a diagnosis of PTSD are, however, relevant. I framed my opinion in terms of changes being consistent with a diagnosis of PTSD: I was not making a diagnosis as part of such an assessment. If the criteria are not met, it becomes difficult to explain that a child has, nevertheless, been impacted by an event. I've been asked: 'If it isn't PTSD, then what is it'?

The question about prognosis is equally difficult to answer: it depends. It depends on the support others give, it depends on a person's previous adverse experiences, it depends on a person's general resilience. We know that if a person has experienced multiple traumas as opposed to a single event, the prognosis is generally worse. With the right treatment, trauma as a result of a single event can be relatively quickly resolved (in my own clinical experience it is possible for only one EMDR session to resolve things for a child). If not treated or treated inappropriately, or there are further adverse experiences, the outcome can be much worse.

### **Expert witness reports**

There are a number of things that are important to include (many similar to how we write a Decision):

- brief CV
- a statement evidencing skills and qualifications to form a professional opinion in the matter
- outline instructions given by acting lawyer
- details about how the assessment was carried out
- description of developmental history and family background
- details of the event and reactions to it

- description of changes attributed to the event
- clinical observations of the child
- relevant information from GP, medical or school records
- questionnaire results and explanation
- changes that are likely to be attributed to the event or other causes
- whether PTSD criteria are met
- recommendations for therapy if appropriate
- likely prognosis

Although being instructed (usually) by the family's lawyer, it is of course imperative that this does not influence an opinion. Occasionally, both parties agree to support such an assessment, however this was more common when I was involved in contact and residence cases following parental separation.

It is always helpful when instructed in these cases to have clear instructions. For example, 'Has the child been affected by [a particular adverse experience] and, if so, how and to what degree?' is a better question rather than whether a child suffers from PTSD.

After submitting my report, all I knew was that the case had settled. I never knew what, if any, compensation was awarded. Sometimes, I was aware prior to the assessment that the other party had admitted liability, and the remaining issue was the compensation to be awarded. I imagine that insurance companies like things to be black and white (diagnosis or no diagnosis) to make such a calculation easier. *Human experiences unfortunately do not easily fit into this way of thinking.*

Sally completed an undergraduate degree in Experimental Psychology and a DPhil on children with absence seizures at Oxford University before training in clinical psychology at Edinburgh University. After six years working in Yorkshire as a clinical child psychologist, she returned to Scotland and worked in Fife for several years. She worked in private practice alongside several days a week at a residential school for boys with emotional and behavioural difficulties for a ten year period. Returning to the NHS and Fife as a Consultant, she managed the child and adolescent primary care service until her retirement. She was an independent prison monitor for a number of years and has developed an alternative career as a professional photographer, with photos regularly appearing in national newspapers and magazines ([www.sallyanderson.co.uk](http://www.sallyanderson.co.uk)). She achieved a LRPS distinction (Licentiate of Royal Photographic Society) in 2023. She has been an HEC Specialist Member for six years.

# The Impact of Vicarious Trauma on the Legal Profession

**Rachel Francis**

**Co-Director, Claiming Space**

## **Content Warning: This article explores the impact of working with trauma**

Working with clients who have experienced individual or systemic trauma can be profoundly impactful. Practitioners can find themselves listening to, reading about or watching footage of injustices by day, only to ruminate or re-live those experiences by night.

It is this practitioner experience that drove me and my co-director, Joanna Fleck, to set up [Claiming Space CIC](#). Our goal in creating Claiming Space was (and remains) to ensure that the most vulnerable in society are helped by legal practitioners who are well-supported to deal with stress, vicarious trauma and burnout. In service of this goal we provide peer support and training for legal practitioners working with vulnerable populations, to learn, share and reflect on their experiences of working with trauma, and have written extensively on the topic.

Six years on the demand for work-based training and support around trauma is ever-increasing as the pressures of legal aid and justice sector cuts, COVID-19 and escalating poverty, come to bear on the vulnerable populations we serve.

### *What is vicarious trauma and why does it matter?*

**Vicarious trauma** – at its simplest – describes a mode of exposure: the process of being indirectly (or vicariously) exposed to trauma or traumatic material. When described in this way it is clear that vicarious trauma captures a huge part of our practitioner experience, everything from taking a witness statement to hearing traumatic evidence to reviewing a subject access request.

Understanding the role that vicarious trauma plays in day-to-day practice is – in my view – a critical part of achieving longevity and wellbeing in practice. Seeking out individual and collective methods to combat the negative impacts of vicarious trauma should not form an optional adjunct to our practice, it should be at its core.

### *What are the effects of vicarious trauma?*

The effect of vicarious trauma varies hugely not only between practitioners – who have differing personalities, skills and working practices – but across the life of our practice. Whilst seemingly trite, we are not legal textbooks advising and adjudicating in autonomic fashion, we are human beings confronted with human suffering through the work that we do. What is going on in our personal lives, our belief systems, the quantity and nature of the traumatic material we are dealing with or the current news cycle, will all impact our capacity to deal with trauma at any given time.

There is a broad spectrum of emotional and behavioural effects that can arise from vicarious trauma:

### Positive effects

- **Vicarious resilience.** The vicarious strength we may feel from seeing our clients survive and thrive, despite great hardship.
- **Compassion satisfaction.** The great satisfaction – on a felt level – of working in aid of vulnerable populations.

### Negative effects

- **Burnout.** The mental and physical effects of chronic stress in the workplace. This is a systemic issue often arising out of persistent conflict between the demands placed upon an individual and the resources available to them.
- **Compassion fatigue / empathetic strain.** The emotional and physical fatigue experienced by practitioners due to their chronic use of empathy when assisting clients in distress. This can manifest as a loss of compassion towards your clients, your friends and family, or in relation to wider social issues.
- **Secondary traumatic stress.** The effects of secondary trauma that mirror the post-traumatic responses or primary or direct trauma experience i.e. experiencing the trauma of others as if it is your own.

More widely, practitioners can experience a shift in world view. This is often more gradual in affect with practitioners realising, over time, that their outlook on the world, their feelings of safety or even their personality, has changed. In our professional lives, this might generate a feeling of hopelessness, for example:

- Feelings disconnection from our values and motivations to do this work;
- Cynicism, lack of sympathy or lack of engagement with our clients;
- Cynicism towards management and / or work system;
- Feelings of failure or imposter-syndrome;
- Guilt.

Looked at in this way, it is plain that the impact of vicarious trauma can be deep and far-reaching, extending to our interactions with loved ones and the world around us.

### *What can I do?*

#### Individual action

Start noticing: how am I impacted by the traumatic material I am dealing with? This might be physical, emotional, psychological or behavioural impact, varying by client, subject matter or work / life pressures. Consider what space(s) you have to reflect on the impact of your work. This might include journeys to/from work, breaks in the working day, personal journaling or reflection sessions. Do you have enough space? Is it effective in allowing you to decompress?



This process of reflection is not a quick fix, but an ongoing process of noticing and integrating new or revised practice approaches; it involves allowing yourself to feel that this work is hard and finding ways to release the sharper feelings e.g. of grief, loss, anger or sadness.

### Collective action

Consider how your workplace approaches the impact of working with trauma: is it recognised, accepted, spoken about? Do you need training on work-based trauma and how to manage it? What spaces exist to reflect on the impact of your work? This might be in supervision, team meetings, access to counselling or work-based advice lines or crisis systems.

A particularly compelling feature of our Claiming Space work over the years has been creating and facilitating peer support sessions. Put simply, peer support is the exchange of support between people who have something in common. The power of peer support cannot be over stated. It involves bringing together a group of people with shared working practices, shared pressure and a shared endeavour to achieve the best for their clients despite the enormity of the challenges presented by the current climate.

Could peer support spaces be created at your work? Perhaps these spaces already exist e.g. via buddying or mentoring systems, open door policies where you know you can always chat to a trusted colleague. Do you need something more formal? A regular peer support group, facilitated by a properly trained third party, can enable open, non-judgmental conversations about the difficulties of doing this work and shared learnings about how to adapt working practices.

### *Why should I care*

An appreciation of how our work impacts us is – I would argue – critical to the survival of individual practitioners and the health of the systems they work within. We matter, our clients matter, this work matters; a working approach that recognises and honours this fact is key.

*[Want to read more: please read our book, \*Vicarious Trauma in the Legal Profession: a practical guide to trauma, burnout and collective care.\*](#)*

Rachel Francis is a barrister practising in immigration and family law at One Pump Court, with a particular expertise in working with vulnerable clients. She is the co-director of Claiming Space, a social enterprise that has grown from peer support groups to offering innovative training for lawyers working with vulnerable populations, based on experience, academic study and research. Together with her co-director, Joanna, Rachel co-authored the best-selling practitioner text, *Vicarious Trauma in the Legal Profession: a practical guide to trauma, burnout and collective care*. Rachel is the former chair of Young Legal Aid Lawyers and a recent recipient of the LAPG Special Award for outstanding commitment to access to justice.

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- PGN 05 2018 Postponements, Suspensions and Procedure
- PGN 06 2018 Case Management Calls (Revised October 2021)
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### [Children's Guide to Making a Claim](#)

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