



‘Busy, busy, busy’

Toxic productivity in law; how does it happen
and how can we find a way beyond it?’

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May 2025



'Psychologically informed' law...



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Therapy &
coaching

Therapeutic
supervision/reflective
practice

In-house support &
coaching for law firms

Training (hard not soft
skills!!)



The background of the slide features a serene sunset scene with two hot air balloons floating in the sky. A circular logo with the letters 'GIC' is positioned in the lower-left corner of the image area.

Today...

1. What is toxic productivity?

2. What causes it?

3. How to create a better model?

4. Different models worldwide

5. Remedies!

A poll...

What is the chief cause of 'toxic productivity'?

- 1.The chargeable time system
- 2.Excessive & unrealistic targets
- 3.Our own internal drivers to excel



What is
toxic
productivity?

1



‘...a drive to be productive at all times—not just at work, but in all areas of life.

*It happens when you push yourself to **unhealthy** extremes in order to accomplish more, often at the expense of your physical and mental health’*



Or, as I like to think
of it...

Becoming a *human
doing*, not a *human
being*...



Quiz!

How often do you experience the following on a scale of 1 to 5...?

...feeling guilty for 'not doing enough' (at work & at home)

...never getting to the end of your to do list for the day/week

...take up hobbies and find it difficult not to turn them into a competition



Quiz!

How often do you experience the following on a scale of 1 to 5...?

...feel pressure to be 'productive' at the weekends

...have a list of things to read/do on your morning/evening commute but instead find yourself zoning out/scrolling Instagram/reading showbiz gossip

...find it difficult to relax in your 'down-time'



What are
the scores?
A poll...



1 - 7 – Crikey, you're going easy on yourself. Are you sure you're a lawyer?

8 – 14 – Not bad, pretty balanced

15 – 22 – you might want to ease off a bit

23 – 30 – Yikes, slow down!

Physical

manifestations/time

off sick e.g. migraines,
digestive issues, skin,
vision issues, insomnia

Decision fatigue

'Socialising fatigue'

Warning signs

'Split' existence

Perpetually wired,
difficulty
concentrating &
focusing

Hyper-reactive

Loss of
perspective

Life becomes
grey, loss of
meaning



What
causes it?





When diligence becomes dangerous...

The 6-minute mentality – every second counts!

Self-worth entirely linked to hours & volume of work produced

Quantity not quality

Creativity sapping

Occupational hazards

Professional diligence...

...Disaster movie mind

Perfectionism...

...Difficulty turning it off
outside of work

Alpha, go-getting
personalities...

...Inability to let things go

Meticulousness...

...negative bias & 'chicken
licken' syndrome

Tenacity and drive...

...addictive tendencies

Rational & logical...

...Frustrated and angry with
self for feelings





‘Insecure overachievers’

‘exceptionally capable and fiercely ambitious, yet driven by a profound sense of their own inadequacy’

‘If you’re so successful why are you still working 70 hours a week?’ - Professor Laura Empson

*‘A professional’s insecurity is rooted in the inherent **intangibility** of knowledge work. How do you convince your client that you know something worthwhile and justify the high fees you charge?’*

Also, nature of work – law as a distress purchase



**What are your
leaders doing?**

External locus of evaluation

External world chimes with internal
'critical parent' voice

Absence of feedback

Positive reinforcement rare

Feelings of isolation

**Law: a team
sport?**





What is a 'spiky profile'?

'a pattern of abilities and challenges where an individual excels in some areas while struggling in others'

Neurodiversity?

Early specialisation

Leaning in

Outsourcing of 'life'



Who am I???

A one-dimensional existence

Fallacious forecasting...



Planning Fallacy – *‘tendency to underestimate the time, costs, and risks associated with future actions while simultaneously overestimating their benefits’- Kahneman and Tversky*

Reference Class Forecasting – *when predicting how long something will take, take an outside view i.e. looking at previous experience with similar situations & considering common risks*

Legal Project Managers & analysis of cost overruns

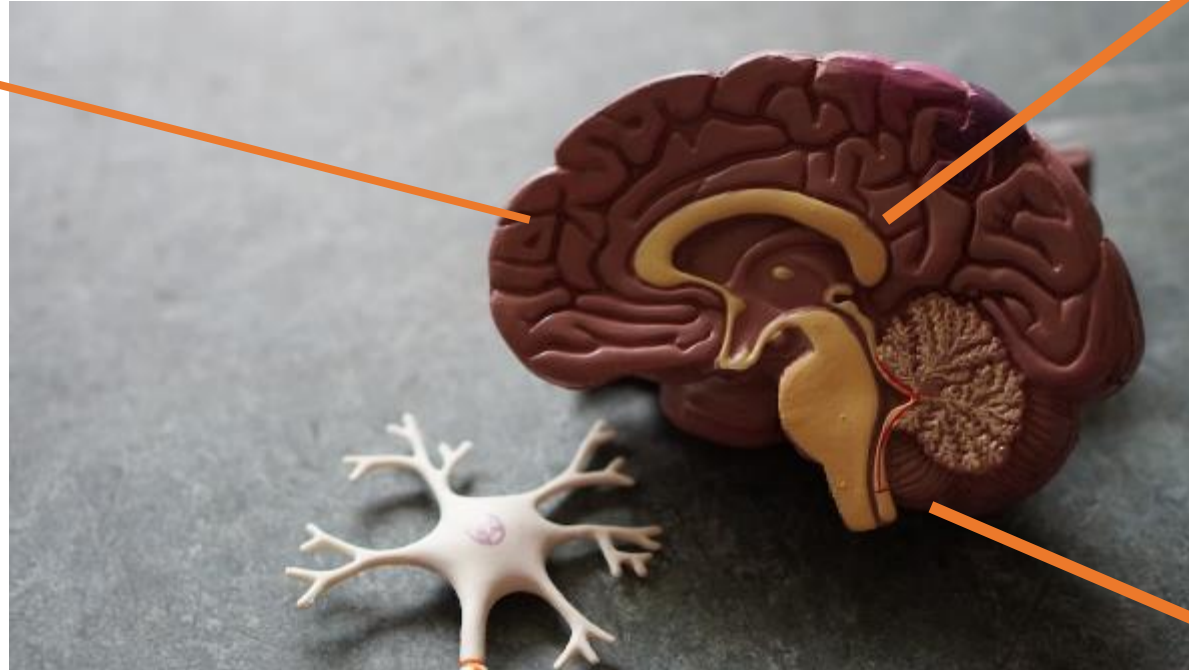
A taster of neuroscience

...



Brian the brain...

'Thinking
brain'
(pre-frontal
cortex etc)



'Emotional
brain' (limbic
system)

'Body brain'
(hind brain)

Older parts of brain have no sense of linear time
And react more quickly than 'thinking brain'



**Have you ever heard of
transference?**

Do you know what it is?





Competitive, much?

“Comparison is the thief of joy...”

Are you **competitive** or are you **categorising**?

Our brains are built to compartmentalise

‘Corridors’ in our minds (or neural pathways)

We are metric seeking beings

A definition of addiction:

‘a neuropsychological disorder characterized by a persistent and intense urge to use a drug or engage in a behaviour that produces natural reward, despite substantial harm and other negative consequences’

Is law
addictive?



What does the behaviour give?

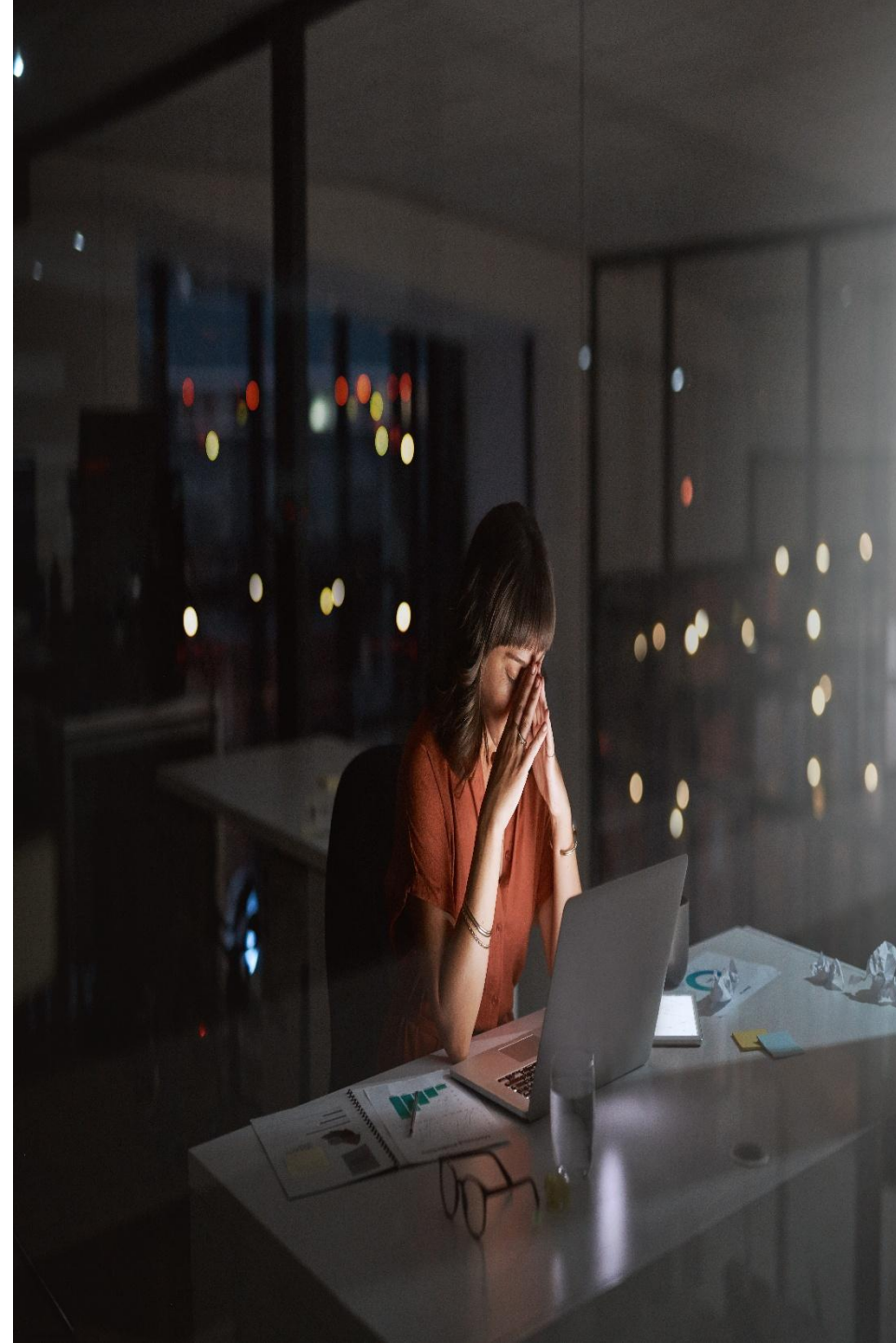
In short term, sense of control, self esteem, importance....


'It's not about the substance/behaviour, it's about the acquisition...'

Triggers dopamine hit

Over time, the dopamine hit loses potency

Dopamine imbalances common for those with ADHD





How to
create a
more
productive
model?



4

'Wellbeing' is a stick of rock

Policies & practices should be **psychologically informed**

Lawyers habitually:

- Seek out metrics
- Compare and despair
- Have a strong internal 'critical parent' voice
- How does your wellbeing policy intersect with your policies on...working hours, supervision, client services etc?



Should we do away with targets?

Bring in fixed fee work but...

- help lawyers with boundaries
- some clients still want time narratives...

But what metrics to use in appraisals?

Recording non-chargeable time but make it meaningful & link it to progress





Values-based metrics

Extricate self esteem from external 'achievements'...

Tie feedback to principles and/or process rather than outcomes/time



Tenacity/
perseverance

Emotional
attunement

Independence
of thought

Restraint/
discernment

Integrity

Intuition

Think of a recent difficult situation at work.

Efficiency

What **values/principles/character traits** did you demonstrate?

Calm

Resource
fulness

How might things have been had you not demonstrated such skills?

Patience

Commitment &
responsibility

Dynamism

Resilience



Building an internal locus of evaluation ...

Persevered in trying to move the case on despite complications of the system
- **tenacious**

Persisted with tasks despite external distractions - **focused**

Obtained 'good result' for client

Gave client my time after we heard the result – **compassion and patience**

Explained the situation to them but didn't sugar-coat it – **empathic**



An approach to appraisals

...



Set the scene – aim is to give balanced picture, keep an open mind, let's discuss feedback and let it sit with you

What has your experience been like?

Challenges and high points?

Feedback – focus on skills development

How does that sit with you? What do you make of it?

Not seriously enough



Ask them to reflect on
feedback & tell you how
they will adjust

Too seriously



Don't tell them to be resilient!
Normalise, praise for caring
Discuss need to right-size it



What can seniors do?



Do not cultivate 'compare and despair'


Comment on learning skills not outcomes

Encourage focus on potential adverse outcomes had they not worked in the way they did

Role modelling – acknowledge tensions, talk about mistakes, mental health difficulties

Be attuned to individuals

Stand still once in a while!

A large hot air balloon with orange and yellow stripes is on the left, partially cut off. In the distance, another smaller hot air balloon is visible against a sunset sky with soft clouds. The overall tone is warm and serene.

Alternative metrics...



Client interviewing scoring

Profit margins, adherence to budgets, success rates

Percentage of new work given to lawyer from existing clients

New business generated

Peer reviews

Cross-selling opportunities for different depts

Involvement in mentoring/committees

Pro bono work

Watch out for 'whackamole'!



Robust 'no checking emails on holiday' policy so lead up and return is dreadful?

Prioritising juniors' wellbeing so seniors take the strain?

Make your policies live and breathe!

Regular reviews & dissecting as a team

To what extent does this reflect reality?

Traffic light system

Create a **safe** environment

Ongoing relationships, regular 'check ins'

Surveys to spot issues over time

Engage employee in decisions re culture

Create clear boundaries and deadlines

Reward & recognise all achievements

Contract clearly re expectations

Don't avoid difficult conversations – bear fair witness




Autonomy

Belonging

Competence





What's your
preference?
a poll...



1. Chargeable time model

2. Contingency fees – fee based on outcome

3. Capped fees

4. Blended rates – all fee earners charged out at same rate. Simpler for clients?

5. Fixed fees/values-based pricing – fee determined by value provided to client not by time spent



Change
your
circuitry!





Who are you?

1. What three words would a friend or family member use to describe you?
2. What did you do to 'while the time away' when you were a kid?
3. When was the last time you did something just for fun, not to achieve something? What was it? How did you feel while you were doing it?



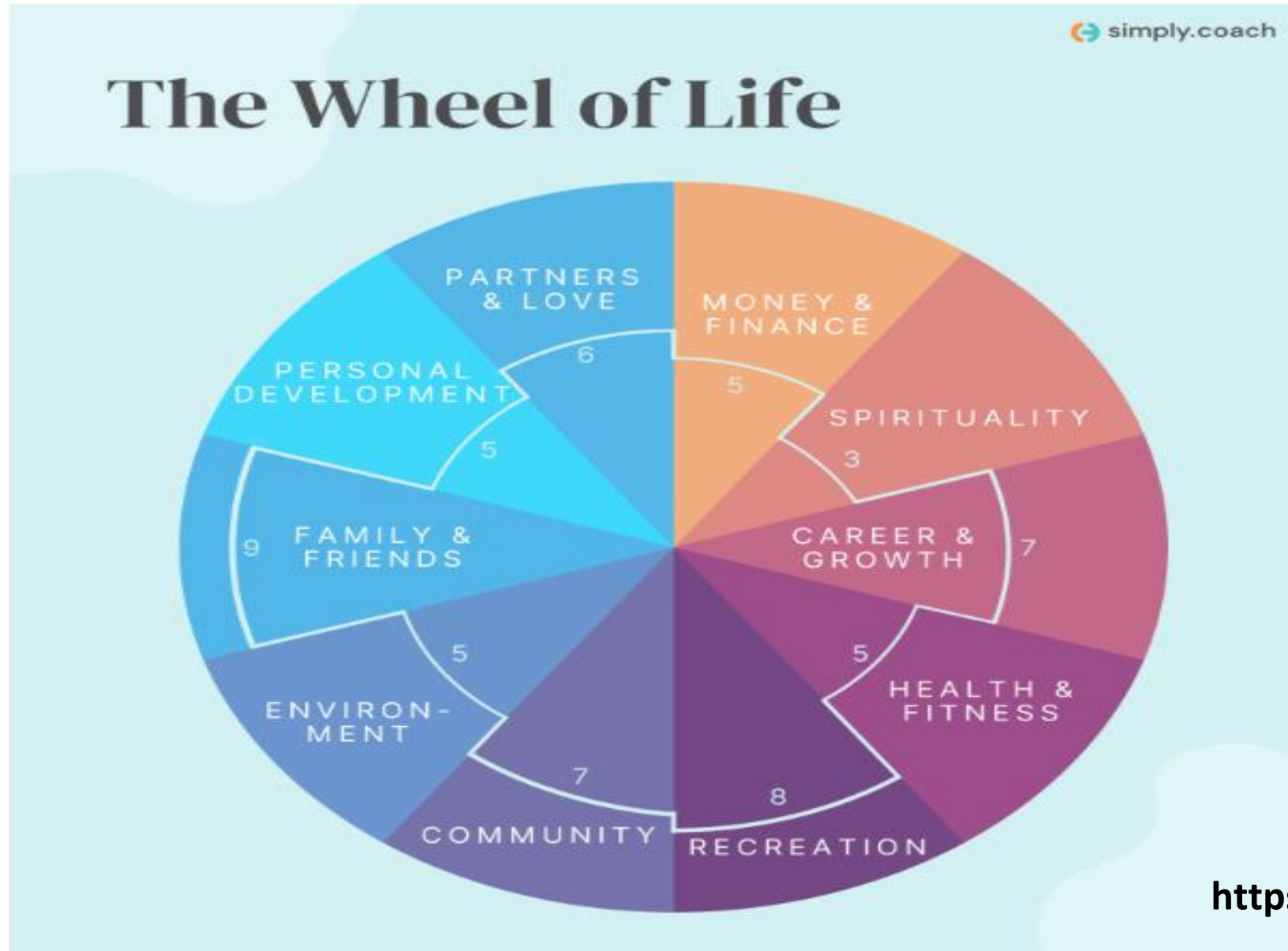


Who are you?



4. When was the last time you had a proper belly laugh? What was it about?
5. What's the bit of a newspaper/magazine that you turn to first?
6. If you could go anywhere and do anything for your last day on earth, where would you go and what would you do?

You are a whole person!



<https://simply.coach/>





Good reads!



Leading Professionals: Power, Politics and Prima Donnas –
Prof. Laura Empson

<https://hbr.org/2018/02/if-youre-so-successful-why-are-you-still-working-70-hours-a-week> - Prof. Laura Empson

The Creative Lawyer –
Michael Melcher



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