

LLI DROP

The Silent Epidemic | Well-Being and Personal Health of Legal Professionals in Times of Digital Transformation and Social Change

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LAWYER WELL-BEING PSYCHOLOGICAL SAFETY
TEAMWORK APPRECIATION HUMAN-CENTRIC
MENTAL HEALTH TABOO **THE SILENT EPIDEMIC**
LEGAL PROFESSION WEAKNESS STRUGGLE PERSONAL LIFE
EMPLOYEES SELF-IMAGE WORK-LIFE-BALANCE
COMPETENT LEADERSHIP TRANSFORMATION UNDERSTANDING JOY SOCIAL CHANGE
RESPECT SEARCH INSIDE YOURSELF FLEXIBLE LAWYERING COMMUNICATION ENVIRONMENT
RETHINKING HAPPINESS
LAW FIRMS

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LLI Research Phase 3:

'The Silent Epidemic'

Well-Being and Personal Health of
Legal Professionals in Times of Digital
Transformation and Social Change

Edited by

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Survey conducted by the Liquid Legal Institute e.V. in partnership with
BUJ e.V. and EuPD GmbH

Lawyer Well-Being Study
Full Survey Findings



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MANAGEMENT SUMMARY

After the LLI-internal survey regarding the declining mental health of legal professionals (sample N = 17) and the distribution of our *Call for Action "The Silent Epidemic: Well-Being and Personal Health of Legal Professionals in Times of Digital Transformation and Social Change"*¹ we now present the results from phase 3 of the project. We started phase 3 of our project with a larger survey of 135 LLI members and associated stakeholders in the legal field to validate and expand the findings of the preliminary survey, and to assess whether findings of studies in the UK, the US, and several other countries² can be transferred to the German legal profession. The full survey contained a group of 22 *flexible lawyers* (lawyers who work on a freelance basis in fixed-term projects for law firms or companies), and therefore, the respondents were split into two groups for the evaluation: *flexible lawyers*, and legal professional working as *employees* in law firms and inhouse legal departments.

The findings of the full survey underline the tendency identified in the preliminary survey: **the struggle with mental health problems is still a highly unrecognized topic within the legal profession in general, and especially in Germany.**

Any supposed "weakness" does not fit the self-image of lawyers as strong and hard-working professionals. Yet the study also shows that mental health issues are not something 'strong' lawyers do not struggle with – it is something strong lawyers *just do not show*. It is still a taboo which needs to be brought to light to provide understanding, appreciation, and support to those who suffer; as well as to their co-workers and leaders in order to create a healthy environment. This tendency is strong both in the flexible lawyers and in the employed lawyers, although it is more distinctive in the latter group. Flexible lawyers might not be as affected from obstructive influences in their working environment, since the working environment for flexible lawyers changes more often and they depend less on their employers. Therefore, they do not place the same emphasis on its relevance and ramifications. Furthermore, it seems that flexible lawyers tend to take better care of their mental health, as a higher percentage reports dedicated activities to prevent such issues.

¹ The position paper can be found at <https://www.liquid-legal-institute.com/workinggroups/lawyer-well-being/>

² National Task Force on Lawyer Well-Being (2017), 'Creating a Movement to Improve Well-Being in the Legal Profession'; American Bar Association (2016), 'The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys'; Johns Hopkins University (1990) Occupations and the Prevalence of Major Depressive Disorder'; International Bar Association (2021), 'Mental Well-Being in the Legal Profession'

Most of the answers regarding possible reasons for an increased vulnerability of lawyers for mental health issues, such as perfectionism, long working hours or old-fashioned structures, go in line with the results of the initial preliminary study, and with the results of the English and American studies on mental health in the legal profession. The same applies to possible ramifications of mental health issues on the business, such as lower performance and negative effects on attracting talents. These results validate the assumption that the well-being of lawyers is a serious professional and social issue that needs to be addressed empathically.

Nevertheless, some implications of the UK and US studies have proven to be inapplicable to the German legal profession. The German lawyers' external perception does not seem to be as bad as in the UK or the US, and the respondents do not see a link between mental health and suicide in the legal profession. Furthermore, there does not seem to be a high concern of losing one's job due to digitization, though this might be an effect of the COVID-19 pandemic which probably shifted risk perception in general and towards the risk of unemployment.

Another remarkable result is that law firms and companies do not appear to prioritize the mental health of their lawyers. There is an extremely small number of people who report that their employer really cares either about preventing mental health issues or about dealing with affected people and/or supports their comeback from mental health-related absences. Only a few firms train their people managers to deal with these issues adequately. Only a few firms have a professional approach towards preventing mental health issues. Most of the employees find themselves left alone with stress and mental health problems.

It is evident from the results that the "silent epidemic" of mental health issues in lawyers requires rethinking fundamental concepts, e.g., working time models, the skill set and training of employees and leaders, and maybe even business models and organizational setups. Such transformations of course need time and further thoughts and research. What can be changed much faster – albeit not overnight – is how law firms and companies shape their culture to shed light on mental health and stress issues. This means enabling their staff to do as much as they can to prevent serious damage, and to create a culture of psychological safety and respect without stigmatization. There are diverse possibilities although there are two crucial points: open communication and competent leadership. Both aspects enable leaders and colleagues to recognize early warning signs of mental health problems and to provide acute assistance. They enable people to come back from a mental health-related absence without the fear of negative consequences. Open communication and competent leadership create a safe environment for affected people and contribute, step by step, to dissolving the stigmatization.

METHODOLOGY

The survey was conducted in the form of an online survey between November 2020 and March 2021. Like the preliminary survey with 17 participants conducted in early 2020, the full study consisted of a total of 41 statements organized in 6 categories ('The 6 Rs'):

1. Reference
2. Relevance
3. Reasons
4. Ramifications
5. Resolutions
6. Reality

With the exception of Reference (which referred to the individual respondent), all Rs referred to and are based on empirical findings regarding mental health of lawyers.

For each statement, the respondent could choose between 5 answer options:

- Don't agree (1)
- Partly agree (2)
- Neutral/No opinion (3)
- Mostly agree (4)
- Fully agree (5)

Several questions also provided the possibility to add comments in a separate field.

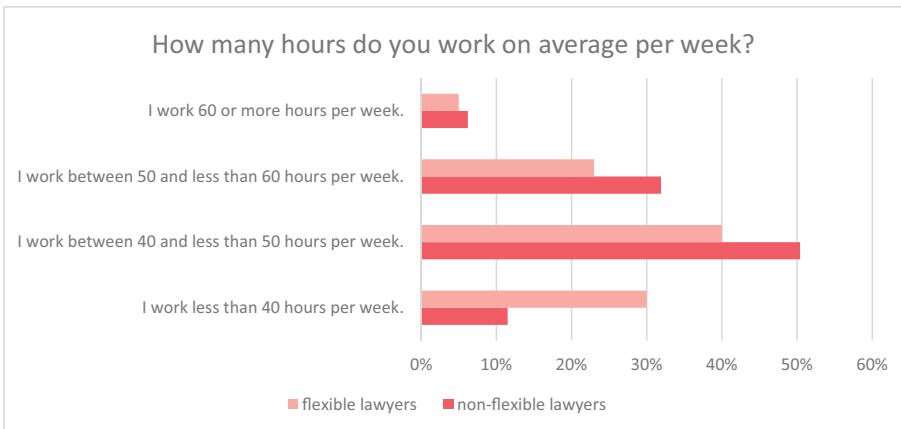
113 non-flexible lawyers responded to the survey. The flexible lawyer sample contained 22 people. Although the total number of respondents does not allow for statistical conclusions regarding all lawyers, some results are remarkably evident, and the low number of people who did not answer all the questions implicates a generally high quality of the available data.

The individual responses were categorized. The survey was conducted anonymized.

FINDINGS

Most of the respondents in the non-flexible lawyer sample were between 30 and 60 years old, only 4.5% (no one in the flex lawyer sample) were under 30 and 4.5% (9% in the flex lawyer sample) were over 60 years old. The female-male ratio was 40 to 60% in the non-flexible lawyer group, in the flex sample the ratio was 30 to 70%

Only 12% of the non-flexible lawyer sample work less than 40 hours per week. Nearly 40% work more than 50 hours per week, 6% even report an average of more than 60 hours per week. The quantitative workload in the flex lawyer sample is not as high.



58% of the respondents of the non-flexible lawyer sample started their job in a law firm (flex lawyers 32%), 38% started their work in a company (flex lawyers 45%). 23% of the flex lawyers started their professional career as a freelancer. Only 9% never changed their job since then (flex lawyers 18%), nearly 60% moved on to another employer between their first and fifth year of employment (no such extreme in the flex lawyer sample). Half of the respondents changed sides from law firm to in-house or vice versa at least once (flex lawyers 45%). The main reasons for the changes were progression of career development, unsatisfying work-life balance, the desire for a different work organization or a change of perspective, an outdated and non-inclusive culture, and the need for less stress.

Only 25% of the non-flexible lawyers said their intrinsic motivation to study law was to acquire a professional status (flex lawyers 40%), 39% hoped to repair or create social or business relationships (flex lawyers 40%), 25% wanted to help people to enforce their rights (flex lawyers 36%), and only 12% hoped for a better social status (flex lawyers 13%).

Profit and loss responsibilities were reported as reasons by no more than 10% of the non-flexible lawyer sample. The percentage of flexible lawyers who reported profit and loss responsibilities was much higher at 70%. This question might have been misleading and the answers probably refer to their own freelance business. The same might apply to the 18% who reported headcount and budget responsibility. 50% of the respondents in the non-flexible lawyer group and 59% of the flex lawyer sample do have headcount and budget responsibility and/or client and project responsibilities. Around 40% report they have work and task responsibilities (55% of the flex lawyers).

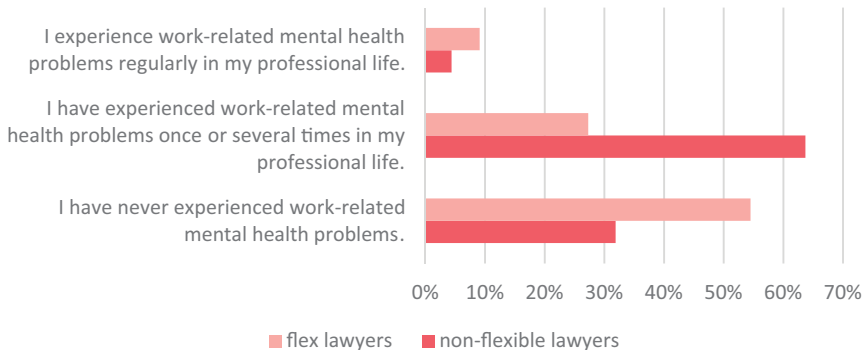
Only 10% of the non-flexible lawyers answered their annual gross salary was below 75,000 EUR (9% of the flex lawyers), nearly 60% reported an annual gross salary of between 75,000 and 150,000 EUR (64% of the flex lawyers). Around 30% of the respondents do have an annual gross salary of more than 150,000 EUR (27% of the flex lawyers).

All in all, the overall sample reflects a representative mix of people working in law.

Several findings from the initial preliminary study could be confirmed by the full survey.

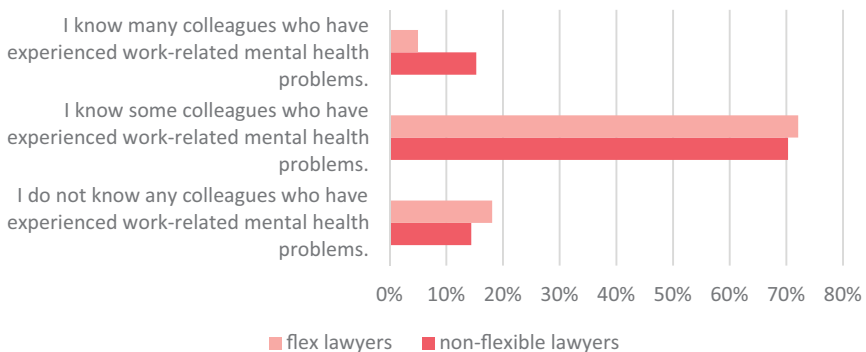
One of the most important points that truly marks the **relevance** of the topic is that nearly 70% of the respondents in the non-flexible lawyer sample did experience work-related mental health problems at least once in their professional lives. In the flex lawyer sample, it was only 36%.

How often have you personally experienced work-related mental health problems?



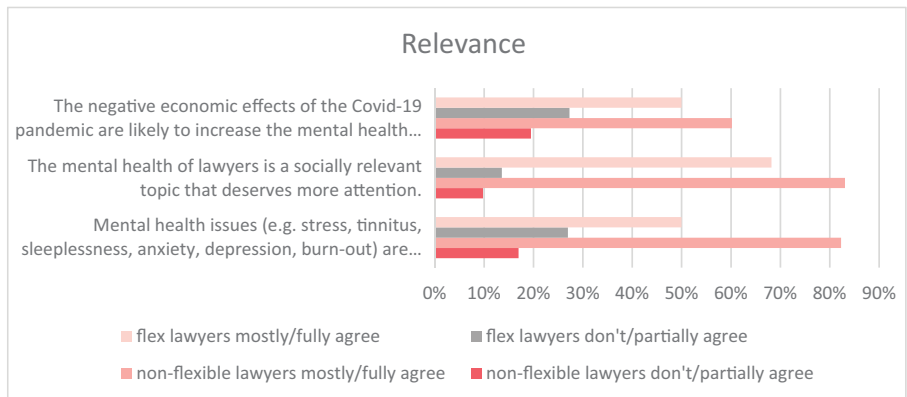
Nevertheless, over 70% of both samples know at least some colleagues who experienced work-related mental health problems.

Do you know of colleagues who have experienced work-related mental health problems ?



Furthermore, over 80% of the respondents in the non-flexible lawyer sample agree to the statement that mental health issues are stigmatized in the legal industry, and no one wants to admit they are affected. The statement 'The mental health of lawyers is a socially relevant topic that deserves more attention' obtains the

same percentage of agreement. Around 60% of the respondents do worry that the COVID-19 situation will even strengthen the mental health issues of lawyers. The tendency is the same in the flex lawyer sample but not as pronounced.



In terms of possible **reasons** for a high vulnerability of lawyers for mental health issues, the following results deliver strong indicators:

More than 80% of all respondents agree that lawyers are perfectionists and tend to be afraid that things go wrong. Over 80% agree that long work weeks and billing by the hour generate stress for lawyers in law firms. Nearly the same applies in the non-flexible lawyer sample (83%). When it comes to long work weeks and uncontrollably high workloads generating stress for lawyers in inhouse legal departments, less of the flex lawyers share this perception (63% vs. 81%). Over 60% of the sample agree that traditional hierarchical structures aggravate the pressure and stress level.

Three statements were not assessed by the respondents in a way we would have predicted based on current literature. More than 60% did not agree to the statement that the negative social image of the legal profession lowers the self-esteem of lawyers. The same percentage of people disagree with the statement that the digital transformation induces a fear of job loss in lawyers. And only less than a third of the respondents agree that occasionally having to act against their personal moral compass to deliver good legal services leads to depression.

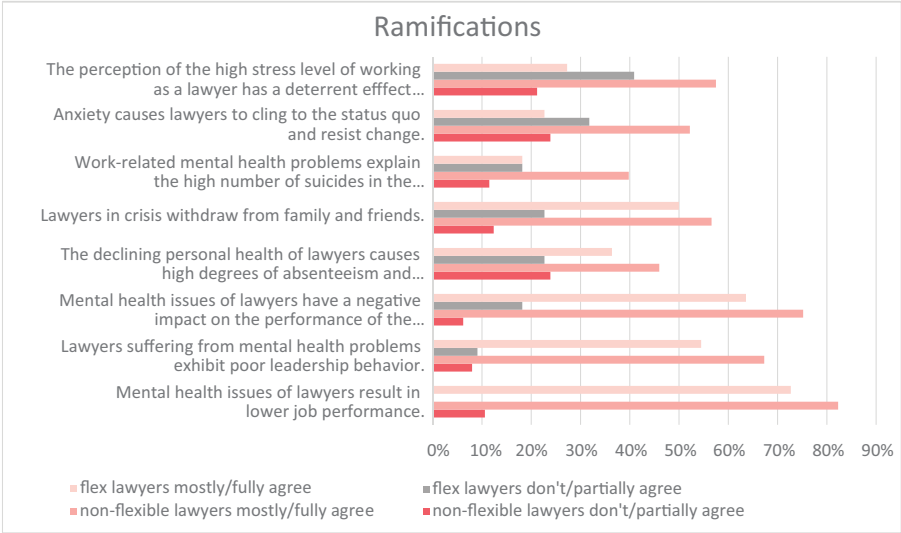
In both samples, 40 to 45% do perceive their current working hours model as stressful. Given that the number of affected people in the overall group is considerably higher, this implies that the stress perception does not necessarily correlate with the respective symptoms.



It seems that the **ramifications** in most areas point into the same direction as English and American studies over the last years.

It comes as no surprise that 82% of the respondents in the non-flexible lawyer sample agree that mental health issues lead to lower job performance, and all of them agree that mental health issues of lawyers have a negative impact on business performance. Over 60% agree that lawyers suffering from mental health problems exhibit poor leadership behavior. Nearly 60% agree that the perception of the high stress level associated with working as a lawyer deters talent.

Assumptions the study could not confirm were that the declining personal health of lawyers causes high degrees of absenteeism and turnover at work. Only 24% of the respondents agreed with this statement, and an unusually high number of people (30%) had no opinion on that. Similarly, only 11% agreed to the statement that work-related mental health problems explain the high number of suicides in the legal profession, where nearly 50% had no opinion.

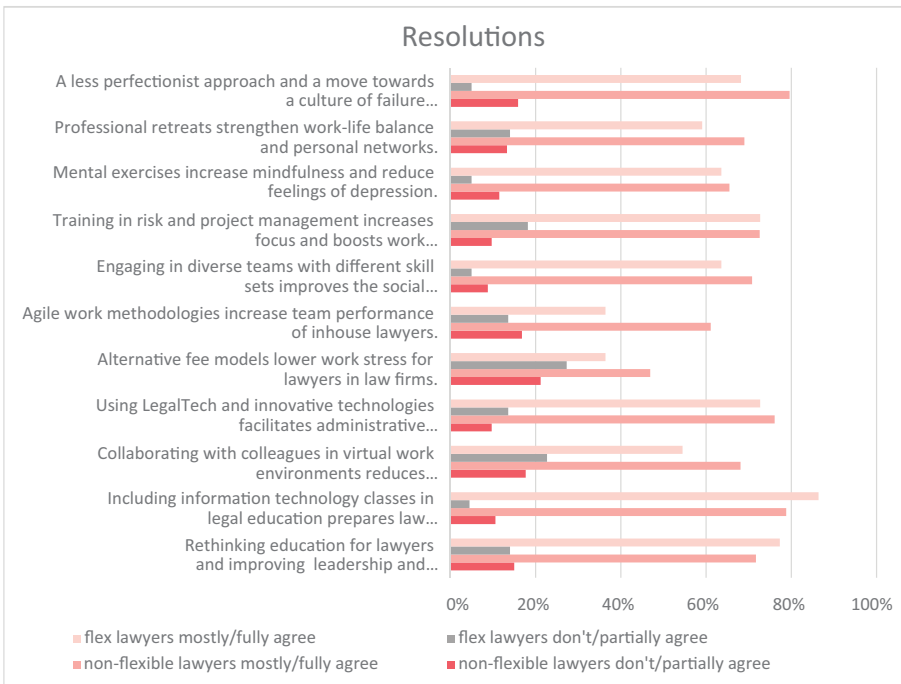


No obvious dependance was detected between the question 'How often have you personally experienced work-related mental health problems?', and variables like age, weekly working hours, first job, annual salary, bonus triggers, or responsibilities.

When it comes to **reality**, questions mainly related to the way how law firms and companies currently handle the topic of mental health, over 70% of the affected people in the non-flexible lawyer sample report no specific support was provided by their employer and no early warning system was implemented that helps employees detect health risks. Only 14% said respective trainings for people managers are available. And only 20% feel their employer would support them if they needed help and, upon returning to work from a mental health-related absence, only 7% of the affected people report a professional integration management was available that supported them. In the free text, one person reported a Working Environment Committee in the company exists that is dedicated to physical and mental health. Others note regular check-ins with the manager or coaching as support from their employer. Only 14% think their manager/partner is sensitized and takes an active role in preventive healthcare. Furthermore, only 14% report their employer is taking active steps to sensitize the new generation, like trainees/trainee lawyers.

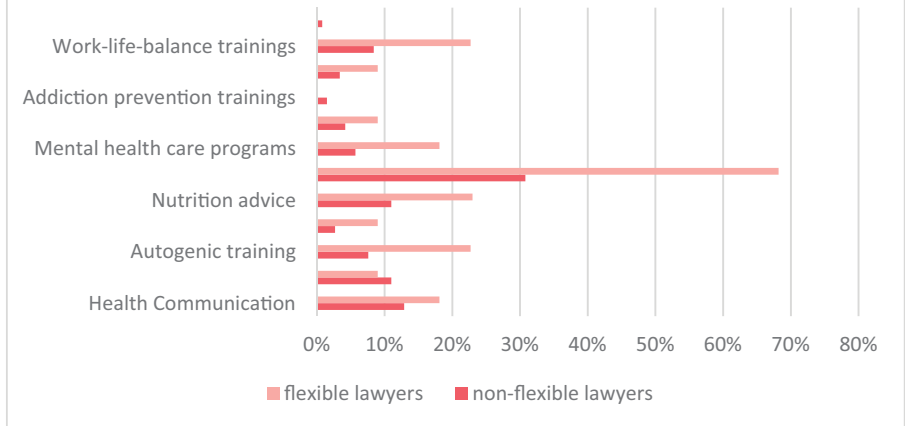
Regarding possible **resolutions**, nearly all presented statements met with high approval. In the overall sample, 80% of the respondents agreed that a less perfec-

tionist approach and a move towards a culture of failure tolerance and learning eases the mental burden on lawyers (68% of the flex lawyer sample). 79% (86% of the flex lawyer sample) think that including information technology classes in legal education prepares law students for the new digital work life, and more than 70% in both samples agree that using LegalTech and innovative technologies facilitates administrative tasks. the statement 'Alternative fee models lower work stress for lawyers in law firms' achieved the lowest score of agreement (47% overall/36% flex lawyer sample). The statement 'Agile work methodologies increase team performance of inhouse lawyers' shows the biggest difference between the groups (61% overall/36% flex lawyer sample).



Comparing both samples shows that apparently, the group of flexible lawyers strives to maintain their mental health more than non-flexible lawyers. 68% report they exercise regularly to prevent mental health issues (31% of the non-flexible lawyers). Around 20% perform autogenic training (8% of the non-flexible lawyers), follow nutrition advice (11% of the non-flexible lawyers), attend mental healthcare programs (6% of the non-flexible lawyers), or work-life-balance trainings (8% of the non-flexible lawyers). Only a few from both samples use counselling services provided by their employer or coaching.

What concrete preventive measures are you implementing (either privately or through a corporate program)?



When asked about which one thing people would change to improve mental health in their working life, the main categories mentioned by respondents were:

- Culture – e.g., more recognition, less competition, more collaboration, open communication, psychological safety, more facetime, breaking the taboos surrounding mental health
- Leadership – more responsive and appreciative, less toxic
- Reduction of working hours
- Reduction of workload
- Project management/Work organization – more professional planning, long-term concepts

These results provide insights into possible initial measures for companies and law firms to support their employees and to transform their culture. It is important to note that 'culture' and 'leadership' seem to be as important, if not more, than the 'usual suspect' for causing health issues like 'too many hours' or 'too much work'.

IMPLICATIONS

Mental health is a relevant but still unrecognized topic in the German legal market that needs to be addressed and reprioritized. Everyone can contribute to this goal by taking the risk of experiencing mental health issues more seriously, by taking appropriate measures of preventing mental health problems, and by recognizing early warning signs for mental health issues perceived in themselves and in others. These are some of the first steps to break the taboos regarding mental health issues.

On an organizational level, various possible approaches are available to strengthen mental health and to destigmatize the topic. These approaches are only likely to succeed if two crucial elements are streamlined accordingly:

- 1) Open and fearless communication
- 2) Competent appreciative leadership

Therefore, the management should clearly decide on how to handle mental health issues in the future and communicate and exemplify these practices. The first step is to go and just talk about health and wellbeing and to stop pretending that 'good' lawyers are mentally invulnerable. As a next step, people managers should receive professional training in appreciative leadership and in early recognition and handling of mental health issues in their employees. This also includes supporting them in improving/maintaining their own mental health and acting as a role model. Ideally, there would also be a professional process for people returning to work from a mental health-related absence (*"Betriebliches Eingliederungsmanagement"*, *in-company integration management*). Another important point is to hold people strictly accountable for ignoring or compromising such emerging cultural developments.

The establishment of a psychologically safe working environment to care for the own and others' mental health leads to an open and honest dialogue about health care and about issues like working hours, workload, workflows and project management which might already resolve some of the causes for mental health problems mentioned.

Many mental health issues are the result of, or at least are intensified by, a lack of skills for dealing with stress. A professional stress management training is one of the readily available and easily accessible measures how an employer can directly

support their employees. Stress management could be accompanied by offers to foster a healthy and balanced life. Coaching can be helpful for both parties, as it helps leaders grow in their roles and supports individuals of all professional levels in coping with stress.

Although the survey shows the topic is not as relevant for flex lawyers as for non-flexible lawyers, flex lawyers would also benefit from a mental health-friendly culture at their temporary employers.

Finally, it should be noted that the results of the whole survey might have been different if the data had been collected at a later stage of the COVID-19 pandemic. Since the beginning of the pandemic in early 2020, new stress factors were added, including working remote, leadership over distance, concerns about physical integrity (e.g. fear of coming down with COVID-19) and the fear of job loss due to economic conditions. Reported cases of mental health problems have also increased drastically. This leads to the assumption that it is even more important to address the “silent epidemic” today, and that the affected lawyers do need even more support in fearlessly stepping out of the dark.

Massive forces ranging from COVID-19 to digital transformation are changing the world with unprecedented intensity and speed. It feels like our public, private and professional lives will never be the same again. This should make us more aware of other threats lurking in the dark which could be aggravated by the disruption we are facing.

The Liquid Legal Institute is tackling a sensitive issue that far too long has been a taboo in the legal industry and that now, in times fundamental social change, may turn out to become a silent epidemic: the declining well-being and personal health of lawyers and legal professionals. With the results of our survey we aim to achieve three things:

- to break the taboo by putting a spotlight on this hot topic
- to facilitate conversations by creating a reference point for our community
- to spark ideas on how to tackle the underlying issues