

Lawyer, heal thyself.

Rehabilitation responses to breaches of professional norms and standards.

Professor Kate Diesfeld

Australia New Zealand Psychiatry Psychology and Law
Hobart, Tasmania. 6 December 2025



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Unfolding research





Marsden study: Theory of professional rehabilitation

- Identify principles, values and assumptions regarding role of rehabilitation in disciplinary context.
- Increase practitioners' engagement and restoration to safe practice.
- Aid tribunals, monitors and deliverers of conditions.
- Increase transparency and consistency in decision-making

Outline of presentation

**Types of rehabilitation
condition**

**Insights from
interviews/focus groups**

**Relevance of existing
theories/models**

How does health/healing feature in discipline of professional misconduct?

Substantial research on lawyers':

Well-being/unwellness

Professional culture

Impact of professional discipline:

Self-esteem

Professional reputation

Financial security

Isolation





Lawyer Wellbeing, Workplace Experiences and Ethics: A Research Report

Vivien Holmes, Julian Webb, Stephen Tang,
Susan Ainsworth, Tony Foley

Holmes, V., Webb, J., Tang, S., Ainsworth, S., & Foley, T. (2025).
*Lawyer Wellbeing, Workplace Experiences and Ethics.
A Research Report.* Victorian Legal Services Board +
Commissioner, the Law Society of New South Wales and
the Legal Practice Board of Western Australia (LPBWA).

lsbc.vic.gov.au/resources/lawyer-wellbeing-workplace-experiences-and-ethics-research-report-0

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Tribunals' balancing

- **Public protection**
- **Rehabilitation**
- ?
- ?
- ?

Our definition of rehabilitation conditions

- Mentorship
- Supervision
- Monitoring
- Education/training
- Health
assessment/intervention

How rehabilitative conditions were applied in 3 NZ tribunals

Lawyers & Conveyancers
Disciplinary Tribunal (LCDT)

Teachers Disciplinary Tribunal (TDT)
(Secondary & Early Childhood Teachers)

Health Practitioners Disciplinary
Tribunal (HPDT)
(21 regulated health professions at the time)

Each Tribunal has corresponding legislation

The legislation applies nationally

The 3 tribunals' structures and functions are broadly similar

- not Victorian Civil and Administrative Tribunal model

Decisions analysed between 2018-2022 (N = 538)

**Q: LCDT use
of conditions?
Perhaps...**

**50% of LCDT cases have been
disciplined before**

Lack of legislative guidance

**Supervision/mentoring is
unpaid**

**Culture of the legal profession
is not “pro-rehabilitation”**



Stakeholder insights from interviews and focus groups

Interviews: disciplined lawyers and health practitioners who received conditions

Focus Groups: across health, law and education

- Tribunal members who order conditions
- Regulatory authorities who monitor/manage conditions
- Deliverers (e.g. supervisors, psychologists).

Lawyers, heal thyself

- One interviewee reported “Lawyers do not look after their own well”.
- Case analysis indicates LCDT does have lower use of conditions.
- Lawyers and Conveyancers Act 2006 does not have a lower, internal “health pathway”.
- Factors relevant to rehabilitation and reintegration?



1. PRO-REHABILITATION PROFESSIONAL CULTURE

LAWYER 2:

“The Tribunal did not have the mindset of...how can we help them come back into the fold? That mindset is not with the Tribunal.”



cont

TRIBUNAL LCDT:

“I can’t think of a misconduct case that was proven when rehabilitation has come into the discussion. I mean it’s more about how do we protect the public...two months suspension or six months or three years”.

2. PRO-REHABILITATION LEGISLATION AND PROCESSES

- “Yeah but I think (establishing a health pathway) is a more difficult question.... And I think that lawyers have a different model from the teaching and medical professionals. So yes, it would be lovely and helpful but I’m not sure that the way we practice lends itself to (rehabilitation pathways) the way it does for other professional groups”.

3. PRINCIPLES, GUIDELINES, TOOLS

TRIBUNAL 4:

“Yes, I mean, it’d be very useful to have a toolbox of really effective conditions and really effective courses that are going to work...”

MONITOR 4:

“It would be helpful to know what (conditions) actually work and have an empirical basis for that”.

4. RECOGNISING ILL HEALTH

LAWYER 2:

“...I was nearly ready to give up. I nearly did. I decided that it was not all worth it. ...(I)t was a very dark time...Um, I went into counselling and it was through the help of a very, very good counsellor that it was not the end of the world... See, being a lawyer was really, (it seems) stupid now, but I judged my self-worth, by my job...The fact that I couldn't do my job meant that I probably wasn't worth a hell of a lot as a person...So (discipline) had quite an, um, quite an effect on me”.



cont

LAWYER 3:

“I had been in this dark hole. I’d essentially dug myself out by the time the disciplinary hearing had happened...There was nothing in terms of my rehabilitation at that stage.”

A decorative green vertical bar on the left side of the slide, featuring a network of white dots connected by thin white lines, creating a geometric, crystalline pattern.

5. CUSTOMISED CONDITIONS

LAWYER 4:

“If I’m really honest, I’d probably had a nervous breakdown. But that is my point. The reason why I think the supervision was completely ineffective because it was the wrong supervision... This would have been really great if the supervision had been what it should have been ...If you want to change behaviour, you need to engage a psychologist.”



cont

TRIBUNAL 4:

“You can see (culturally relevant responses) in the criminal jurisdiction, involving people, support systems and families. Their rehabilitation can be really effective and is reasonably common in tikanga Māori. Cultural responsiveness will mean understanding enough so that the tailoring of the conditions is appropriate for the person that is in front of you, in the context they sit in”.



cont

LAWYER 2:

“The Tribunal is not given the resources or the capacity to look at why members offend. Lawyers that have a gambling problem, are...just fined and disbarred...Well, that is absolute bullocks. The problem is psychological. Get them some counselling, get them fixed. Don't just cast them on the heap. They may be brilliant solicitors. And the profession has lost someone who is very, very capable because of this short sighted attitude”.

6. PRACTITIONER ENGAGEMENT

LAWYER 4:

“The (Tribunal) needs to understand it’s not just about protecting the public, it’s about protecting their profession. (If) they want to rehabilitate someone, they need to understand that rehabilitation does not occur in a vacuum. It needs to happen in a way in which the practitioner feels supported.”



7. FEEDBACK LOOP

MONITOR 4:

“It is helpful to hear about enforceability (and effectiveness) of conditions because people can intend one thing when they make the direction and it can have a different outcome”.

8. CLOSURE AND REINTEGRATION PROCESS

LAWYER 3:

“Having an endpoint would be good. An end point where everybody sort of says, you’re there. You got there. It’s all over. As far as we’re concerned, you are just one of us, just as you’ve always been. But there’s no recognition.”




LAWYER 2:


“Trouble is it doesn’t matter how much you overhaul regulation...until such time as you introduce humanity into the system, we’re not going to get anywhere”.

(And see: Diesfeld, K., Rychert, M., Surgenor, L. J., Kelly, O., & Kersey, K. (2024). Case commentary: a ‘merciful approach’ to discipline. *Psychiatry, Psychology and Law*).

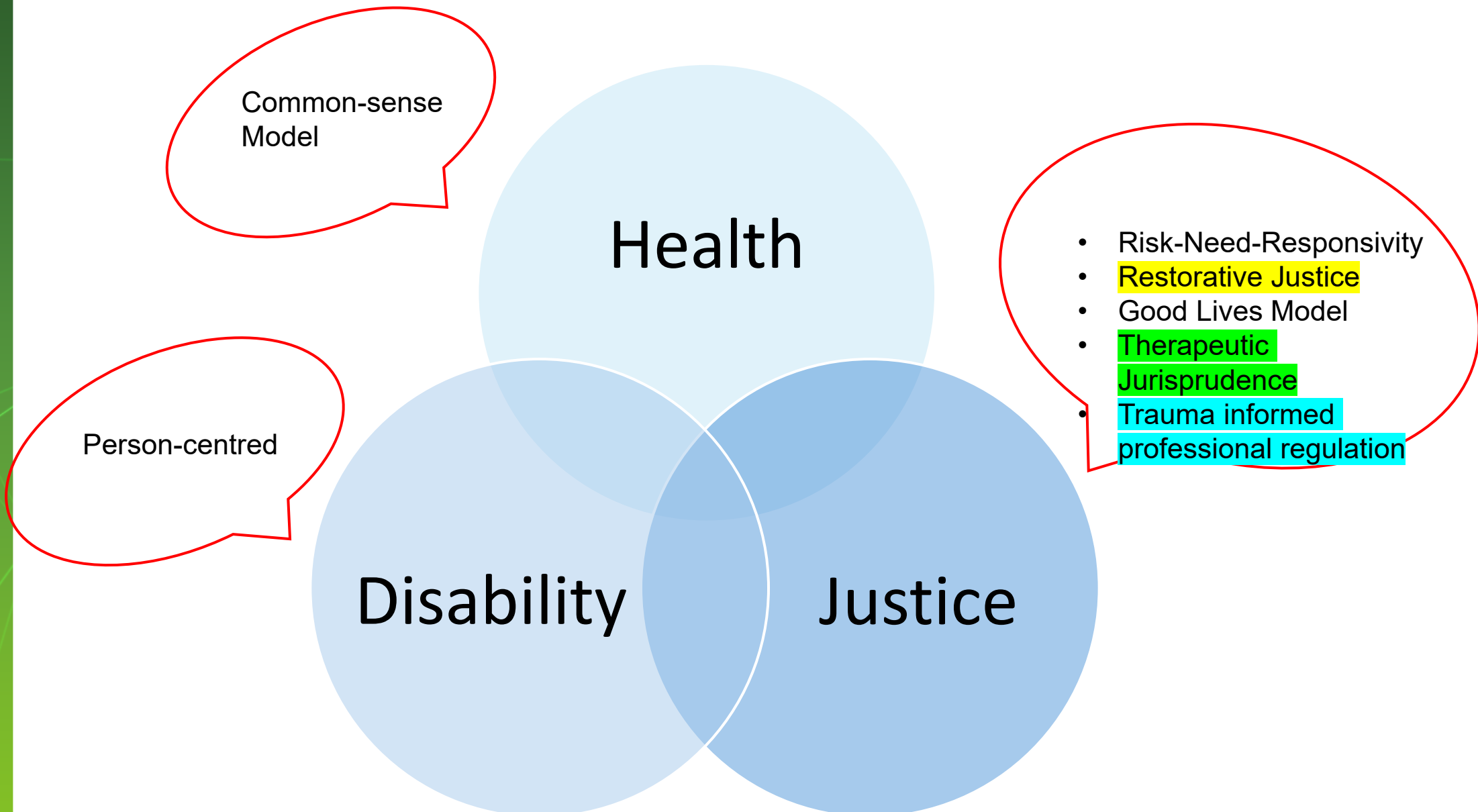
Rehabilitation in other settings is guided by specific rehabilitation theories. They articulate principles, processes and values.



The theories inform policies, stimulate research and later theory development.



Delphi surveys now being analysed to inform our theory.



Attempting to apply a **single** theory in all contexts is “at best ambitious and at worst futile” (McPherson et al., 2015)

Relevant to creation of a rehabilitation theory?

- Restorative justice
- Therapeutic jurisprudence
- Trauma informed professional regulation
<https://www.theregreview.org/2023/08/14/freiberg-trauma-informed-regulation/>

	RJ	TJ	TIPR	Others?
Pro-Rehab Professional Culture				
Pro-Rehab Legisl & Processes				
Rehab Principles, Guidelines/Tools				
Recognising Ill Health				
Customised Conditions				
Practitioner Engagement				
Feedback Loop				
Closure &				

Whole-of-system reform?

- Legal Services Board and Commissioner Victoria, Lawyer Wellbeing Systems Theory of Change
 - Sector level
 - Organisation
 - Interpersonal
 - Individual
 - <https://lsbc.vic.gov.au/lawyers/practising-law/lawyer-wellbeing/lawyer-wellbeing-research-and-projects/lawyer-wellbeing>
 - **NB: Source of distress/solution multi-faceted. Burden not solely on individuals to heal themselves**

Theory development





Please join us in Aotearoa!

4th Disciplinary Tribunal

4 May 2026

Ōtākou Whakaihu Waka, Pōneke
University of Otago, Wellington Campus

Registration opens mid January 2026

Amor.Hirao@aut.ac.nz

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