

Employer's responsibilities for staff with mental health problems



Your employer is required to comply with the following legislation to meet their legal responsibilities to staff suffering from mental health problems.

1. Health and Safety at Work Act 1974

Employers have a general duty of care under section 2 of this Act to ensure the health, safety and welfare at work of employees and this includes their mental health.

2. The Management of Health and Safety at Work Regulations – Preventing Harm

The Management of Health and Safety at Work Regulations requires employers to do suitable and sufficient assessments of health and safety risks and apply preventative/protective measures that can remove or significantly reduce potential harm. The regulations expect employers, in consultation with their workforce and representatives to focus on adapting the job around the individual's particular needs, through introducing or reviewing technology, work organisation and conditions, social relationships and the work environment. For identifying sources of stress (which is a clear risk to people's health and wellbeing) we note it is not only high pressured work or a job with plenty of contact with the public which can be a cause but also, repetitive monotonous work too.

To risk assess staff's stress levels the Health and Safety Executive developed the Stress Management Standards. The standards are an audit tool that list six specific sources of stress with criteria to determine the extent of stress and its possible harm. These are:

Demands of the job

Control – the level or influences that an individual has over determining how they manage their own work load/job content

Support – regarding how much support staff get from management and or colleagues

Relationships – highlighting conflict with others, for example is there a bullying culture in the workplace?

Role – in terms of clarity of roles, staff knowing where their own job begins and ends in relation to others.

Change – how much and how it is handled can affect individual's mental wellbeing. In times of recession, mental illnesses among workers traditionally increases due to lack of job security

3. Safety Representatives and Safety Committee Regulations - Safety Reps can:

- Investigate potential hazards and inspect the workplace which includes surveying members about their stress levels and request the employer to conduct a risk assessment
- Take up members' health and safety complaints
- Be consulted by their employer about health and safety matters, most importantly risk assessments the employer is undertaking to resolve staff's wellbeing issues
- Receive information from employer
- Inspect employers' health and safety documentation, for example sickness absence records to identify trends and possible problems.
- Attend health and safety committees with other safety reps and managers to identify, resolve and monitor health and safety issues that come up in the workplace.

4. Working time Regulations – Limit excess work hours

These regulations may be relevant if stress is caused by excessive working hours or working particular shift patterns. Most workers under the Working Time Regulations (WTR) are entitled to:

- A maximum working week of not more than 48 hours, including overtime, when averaged over a 17 week period, unless the worker signed an opt out agreement.
- A maximum of 8 hours' night work
- A minimum daily rest period of 11 hours
- A minimum of a day off a week, or two days per fortnight.
- A rest break of at least 20 minutes if the working day is more than six hours; and
- Paid annual leave of at least 5.6 weeks
- Employer also obliged to give adequate rest breaks where the work pattern put workers health and safety at risk because it is monotonous or the work-rate is predetermined.

5. Equality Act 2010 - Reasonable adjustments -allowing disabled people to work

This Act includes provisions on disability discrimination, which defines a disability as a physical or mental impairment that has a substantial and long term adverse effect on an employee's ability to carry out normal day to day activities. If an employee has a recognised disability there is then a duty set out under the Act for the employer to make reasonable adjustment to assist that person to get or keep doing their job.

The Equality & Human Right Commission states

"Equality law recognises that to bring about equality for disabled people may mean changing the way in which employment is structured, the removal of physical barriers and/or providing extra support for a disabled worker. This is the duty to make reasonable adjustments"

Examples on what workplace adjustment could be made for workers suffering from mental health conditions are set out below:

Working hours or patterns

- ✓ Take a flexible approach to start/finish times and/or shift patterns
- ✓ Phase return to work by offering temporary part time hours
- ✓ Allow a worker to arrange their annual leave so that it is spaced regularly throughout the year
- ✓ Allow possibility to work from home at times
- ✓ Temporary reallocation of some tasks

Physical environment

- ✓ Minimise noise – by providing private office/room dividers/partitions, reducing pitch/volume of phone ring tones
- ✓ Provide a quiet space for breaks away from the main work space
- ✓ Offer a reserved car park

Support with workload

- ✓ increase frequency of supervision
- ✓ support someone to prioritise their work
- ✓ allow the individual to focus on a specific piece of work
- ✓ consider job sharing

Support from others

- ✓ provide a job coach
- ✓ provide a buddy or mentor
- ✓ provide mediation if there are difficulties between colleagues

Other useful CSP resources:

CSP *Stress at Work* advice sheets - available on the CSP website www.csp.org.uk