

Work Stress



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Work Stress

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overcome

STRESS

with work stress network

ABOUT THE UK NATIONAL WORK STRESS NETWORK

The battle for improvement in health and safety law has a long history. In the past, the challenge has been to protect the physical safety and health of working people and, of course, this battle continues. The passing of the Health and Safety at Work Act in 1974 was a key moment in meeting this challenge. The granting of important rights to workers' trade union representatives to inspect the workplace, to raise concerns with employers and to be consulted has brought about a significant fall in the level of injury and death in the workplace. These rights were not easily won in the face of opposition from employers and other vested interests. The challenge in the 21st Century is to bring about the same protection for the mental health and safety of workers as was achieved for their physical health and safety in the last century.

Too many workers are trapped in highly stressful work environments as a result of poor work organisation, bullying, victimization, harassment or discrimination. Contrary to popular myth it is those at the bottom of the workplace pecking order and not high flying executives who are the major victims of stress-related illness. The human cost is enormous. Too often managers or employers make excessive demands, neglect their common law duty of care and clearly ignore the cost to the organisation through sick pay, long-term absence, reduced production and potential compensation for making their workers ill. Stress is a workplace hazard and needs to be tackled like other health and safety issues. The UK National Work-Stress Network is committed to the eradication of the causes of work-related stress and associated illnesses.

Origins

The UK National Work-Stress Network was established following the launch of the European Work-Stress Network at the Rimini Hazards Conference (1994). The National Hazards Campaign¹ Conferences in Liverpool (1995) and Bradford (1996) saw the opportunity to expand the national network here in the UK. From the first Stress Conference organized by the Network emerged a Steering Group which continues to direct its work. The Steering Group consists of volunteers and is open to anybody interested in ridding workplaces of the scourge of work-related stress illnesses.

The Network consists of many hundreds of like-minded people, some of whom have suffered the consequences of work-related stress. Amongst these are experienced caseworkers, Counsellors, Occupational Health Workers, trade union officials at all levels, and those who are just determined to see effective management which recognizes the needs of the workforce as well as of business. However, the Network is not equipped to provide individual casework support or representation – that is the role of TU officers or officials, medical experts and where appropriate, lawyers.

¹ <http://www.hazardscampaign.org.uk/>

Aims

The UK National Work-Stress Network:

- ▼ campaigns for:
 - The stricter control and management of stress in the workplace, backed up by effective regulation and enforcement.
 - The recognition of work-related stress illness as an industrial injury.
 - The recognition of bullying, victimization, harassment or discrimination as serious workplace hazards, which employers have a duty to prevent.
 - Dignity at work within a caring supportive culture.

Attempts to raise awareness of the problem of stress in the workplace.

- ▼ assists groups of workers in tackling workplace stress by the provision of training workshops and seminars.
- ▼ works with other organisations seeking to eliminate bullying, harassment and all aspects of work-related stress.

The services we provide include:

- ▼ this booklet;
- ▼ our popular information-packed website (www.workstress.net) including regular e-newsletters (All free to copy and circulate);
- ▼ the provision of workshops, seminars and speakers².

Activities

Apart from constant lobbying of opinion formers and decision makers, the Network:

- ▼ organizes an annual residential conference with expert speakers and workshop activities;
- ▼ campaigns to secure protection for the mental health of workers through involvement with the Hazards Campaign and in conjunction with the TUC, UK trade unions and European organisations;
- ▼ plays a significant role at Hazards Conferences in the UK and Europe.

Funding

The Network is NOT a membership organisation with participation available only to those who pay a subscription. Anybody is welcome to join the Steering Group and to help drive the campaign forward. Our activities are funded solely by very generous donations and sponsorship by individuals, trade union branches and other sympathetic organisations.

Contact us

To receive more information about how to play an active role in the Network's campaigning work, to contact the Network Co-ordinator, to tell us about your successes in the workplace, to make a donation or to request a workshop/seminar or a speaker, then do please get in touch. Contact us via our website: www.workstress.net.

² See Page 48 'How Can I Support the Network'

WHAT ARE THE CAUSES OF WORKPLACE STRESS?

The Health and Safety Executive (HSE) defines stress as “*the adverse reaction people have to excessive pressure or other types of demand placed on them.*”

Excessive pressure

Pressure is part and parcel of all work and helps to keep workers and managers motivated. It is excessive pressure, beyond the control of the employee, which can lead to damaging levels of stress that undermines performance, is costly to employers and can lead to major mental and physical illness, even death. There is no such thing as ‘good’ stress.

Pressures leading to health-damaging stress levels can be low level and sustained over a long period of time or be relatively short in duration but very intense, such as those traumatic events experienced sometimes but not exclusively by military personnel on active service or members of the emergency services³. Although there are, of course, sources of damaging stress in our everyday lives and relationships which can affect our experience of work, this booklet is concerned with those sources of stress which are work-related and thus to a great extent under the control of the employer.

Lack of control

In the same way that the poor management of physical hazards can endanger the physical health and safety of workers, so the poor management of the work environment can endanger their mental health. The ‘work environment’ includes not only the physical surroundings but work practices, management style and culture and the nature of relationships within the workplace.

Poor physical working conditions undoubtedly affect the mental health of workers. Workplaces that are too hot or too cold, too noisy or dirty or where conditions are hazardous can result in high levels of stress and mental illness. More often, however, it is ill thought out and poorly managed working practices that lead to damage. In workplaces where workers have little or no control over their work; where they are unclear what is expected of them; where demands placed upon them are beyond their (or anybody’s) capacity; where there is little or no recognition of their efforts and where their voice is not heard, levels of damaging stress are likely to be high. World Health Organisation figures in BOX 1, below, show clearly the inter-relation between stress and physical health.

BOX 1⁴

Casualisation of work

<i>Stressor</i>	<i>May result in</i>	<i>Health results</i>
High job demands	Seven times higher risk	For emotional exhaustion
Low co-worker support	Two times higher risk	For back, neck and shoulder problems
Low job control	Two times higher risk	For cardiovascular mortality
High strain (high demands, low control)	Three times higher risk	For hypertensive morbidity

³ See Page 10, ‘Post traumatic stress’ and Page 12, ‘The physiology of stress’

⁴ World Health Organisation (WHO) statistics Quoted in EU-OSHA E-Facts 51

There is no doubt that the increasing casualisation and precariousness of jobs within the British economy is a potent source of stress-related mental illness. There has been a relentless trend towards part-time, temporary, zero hours, on-call and other insecure contractual arrangements. Workers in such arrangements typically have poor working conditions, poor training, low pay and low job satisfaction. This growing asymmetry in the employer/employee contractual relationship has been accompanied by an intensification of the pace of work, an increase in work demands, long hours, a decrease in the capacity of workers to take control of their work and, for some, a growing expectation to undertake training in their own time. All of these are well recognised stressors and may account in part for the steep increase in reported work stress between spring of 2009 and spring of 2010 as recession began to bite and such insecure contractual arrangements and greater work demands became more widespread. Current Government austerity measures can only worsen an already bad situation.

Bullying

And then there is the issue of management style and workplace culture. Authoritarian, dictatorial, insensitive and sometimes cruel management styles are well recognized causes of work-related stress illnesses. These are often characterised by those that use them as 'strong' management but in reality are more likely to be signs of weakness and insecurity. These styles of management feed in to the creation of a workplace culture where bullying behaviour can be the norm.

Workplace bullying, which can be the bullying of an employee by another employee or group of employees ('mobbing') but is more usually the bullying of more junior staff by those in managerial or supervisory positions, is a significant cause of work-related stress illness sometimes leading to suicide. Some researchers have postulated that up to half the recorded cases of mental illness caused by work-related stress have been caused by workplace bullying. The National Bullying Helpline (discontinued in 2011) estimated that one in four employees had experienced bullying in the workplace.

What is bullying?

There are various definitions of bullying but all agree that it involves the unjust exercise of power by one individual over another using means intended to humiliate, frighten, denigrate or injure the victim.

Bullies use offensive, intimidating, malicious or insulting behaviour against their victims to cow them into submission, to hide their own ineffectiveness, to pass on to those over whom they exercise authority the bullying that they, themselves, are suffering from those who exercise authority over them, sometimes in the mistaken belief that this is 'strong' management and sometimes, it seems, simply for the pleasure of making somebody suffer. A particularly nasty dimension is added when there is a sexual, racial or religious dimension to the behaviour. Bullying may be overt or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. A bully does not have to be face to face with his/her victim. People can be bullied by memo, by email, or telephone. Some regard the inappropriate use of automatic supervision methods such as computer recording

of downtime from work or the number of calls handled, as an insidious form of bullying. Some workers are subject to malicious use of websites, email, mobile phone texting and other uses of technology to create an atmosphere of fear and anxiety. This 'cyber' bullying is a growing problem.

The costs of bullying

Whatever the perpetrator and whatever the method, bullying can have a devastating effect on the victim leading to feelings of anxiety, humiliation, fear, anger and frustration. Bullied workers suffer loss of self-confidence and self-esteem and high levels of stress can lead to mental and physical illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer. In extreme cases victims have been known to take their own lives.

The cost of bullying to the individual is high in terms of personal well-being but the cost to the employer and to society at large is also high. It has been estimated that in 2007 33.5 million days were lost to UK businesses because of bullying (more than 33 times the number of days lost because of industrial action) and that the overall cost to business of bullying as a result of absenteeism, lost turnover and productivity was over £13 billion⁵ with a further much greater cost to society at large.

It is in the interests of everyone to eradicate this scourge in the workplace.

BOX 2

Signs of organisational bullying in the workplace

- ▼ Rapid staff turnover; rising sickness and absenteeism rates
- ▼ Otherwise inexplicable declines in productivity
- ▼ Whole departments or sections appearing to be defective
- ▼ Lack of motivation and low morale
- ▼ Loss of respect for management

The UK National Work Stress Network believes that the problem of workplace bullying, some signs of which are shown in BOX 2, should be tackled as part of the employer's general workplace strategy to combat the scourge of work-induced mental illness. This will involve using the tools provided by health and safety legislation and guidance to identify the hazard, assess the risk and take necessary action. This process is described in the sections of this booklet dealing with stress policies and risk assessment.

This is not easy since experience shows that many employers and senior managers are reluctant to accept that bullying is taking place in their workplace. Some will go to extreme lengths to avoid defining any behaviour as bullying. It is almost as though, if behaviour is not termed bullying it does not count, and no

⁵ "The Costs of Workplace Bullying" Sabir I. Giga (University of Bradford), Helge Hoel (University of Manchester) and Duncan Lewis (University of Glamorgan). Research commissioned by Dignity at Work Partnership and funded by UNITE the Union and Dept. for Business, Enterprise and Regulatory Reform, 2008

one has to do anything about it. It can result in a sense of paralysis in the workplace, where unkind and destructive behaviour is tolerated and excused. All negative behaviour⁶ however defined, is damaging and costly to the individual and the organisation. Whatever term is used, the problems of dysfunctional workplaces still need to be resolved.

All workers have a right to be treated with dignity and respect and staff welfare must be given the utmost priority. There needs to be a clear focus on the expectation of positive behaviour throughout organisations. Individuals who are victims of bullying need the support of employers, management, fellow workers and their trade union. Some advice for individual victims is contained within BOX 3, below.

BOX 3

How to respond to bullying

- ▼ Raise the issue with work colleagues and trade union
- ▼ Keep written records of all bullying incidents
- ▼ Confront the bully about his/her behaviour – however care should be taken not to increase the power of the bully in this process. If necessary always ensure that you have a way out of the room, and that you are accompanied or supported by third party witnesses
- ▼ Lack of motivation and low morale
- ▼ Loss of respect for management
- ▼ Use appropriate in-house procedures
- ▼ Share the problem with a friend
- ▼ Respond in writing to bullying memos and keep copies
- ▼ Establish status of meetings before agreeing to attend, always take a work or trade union colleague with you
- ▼ Raise issues with appropriate senior managers
- ▼ Seek counselling and support via the employer
- ▼ Record all absences due to bullying and submit form BI-95 to the Department of Work and Pensions, keeping a copy (www.dwp.gov.uk)

Post-traumatic stress

We often describe upsetting episodes in our lives such as divorce, redundancy or bereavement as ‘traumatic’. These experiences can, indeed, be very stressful. However, post-traumatic stress disorder (PTSD) is a term used to describe the serious psychological reaction suffered by some when exposed to an extreme event or situation often of a threatening or catastrophic nature. The kinds of event that may lead to PTSD are where an individual finds him/herself in a life threatening situation or where there is a threat of serious injury or other threat to his/her own physical integrity; where a person witnesses such an event; or where he/she learns

⁶ Burnes B, & Pope, R (2007), Negative behaviours in the workplace: A study of two primary care trusts in the NHS. The International Journal of Public Sector Management, 20 (4), 285-303. Pope, R & Burnes B, (2009), Looking beyond bullying to assess the impact of negative behaviours on healthcare staff. Nursing Times, 105(39)20-24.

of the unexpected, violent death, serious harm or threat of death or injury experienced by a family member or other close associate.⁷ Traumatic events are so shocking because they undermine our sense that life is fair, reasonably safe, and that we are secure. A traumatic experience makes it very clear that we can die at any time.

Avoiding PTSD

The thrust of the Stress Network's campaign is to demand that employers take the necessary steps to protect workers against work-induced stress illnesses. Obviously, this is much more difficult and in some cases impossible in respect of workers engaged in inherently risky occupations such as some military personnel, members of civilian emergency services and others. However, these workers must not be put carelessly or unnecessarily in harm's way and they have the moral right, and in most cases, the legal right to have their risks assessed and minimized as much as is possible.

Signs of a stressed workplace

In BOX 4 are listed some of the conditions that can lead to unhealthy levels of stress in the workplace. No doubt you can add to them.

BOX 4

The Stressed Workplace

- ▼ unpleasant or hazardous working conditions
- ▼ technology controlling workers
- ▼ hot desking
- ▼ the threat of, or actual violence (verbal and/or physical abuse)
- ▼ lack of a clear job description or chain of command
- ▼ job insecurity
- ▼ lack of an understanding leadership
- ▼ cuts in government and local government funding leading to increased workloads
- ▼ long-hours culture
- ▼ no recognition or reward for good job performance
- ▼ no opportunity to voice complaints
- ▼ lack of employee representation and consultation
- ▼ lack of control
- ▼ no opportunity to use personal talents or abilities
- ▼ inadequate time to complete tasks to personal or company standards
- ▼ unreasonable workload
- ▼ unremitting or prolonged pressures
- ▼ confusion caused by conflicting demands
- ▼ misuse of procedures (discipline/performance/absence)
- ▼ unrealistic targets
- ▼ bullying and poor relationships

⁷ Diagnostic Statistical Manual of Mental Disorders IV's (DSM IV)

WHAT ARE THE SYMPTOMS OF STRESS?

The physiology of stress

Work-related stress is the result of a conflict between the role and needs of an individual employee and the demands of the workplace. Although stress itself is not an illness it can create serious ill-health issues, generally as a result of continued unrelenting pressures. If pressures are not released then the body continues to respond and can create over-production of various significant hormones which in normal quantities are fine but in excess can create serious difficulties. Physiologically we are programmed to deal with threatening situations by producing increased levels of certain hormones including cortisol. Adrenaline is the hormone which increases heart-rate and puts our bodies into a state of arousal, 'the fight or flight' reaction. This response is only intended to be short term. The effect of excessive pressure is to keep the body constantly in such a state, which leads to harmful signs and symptoms including those in BOX 5 opposite. Excess hormone production weakens the auto-immune system and makes us more vulnerable to illness. Excessive pressure can cause more intense symptoms of migraine, irritable bowel syndrome or back pain in those who already have a pre-disposition to such ailments.

There is a complex interplay between physical and psychosocial hazards in the workplace. Just as it is clear that poor or hazardous working conditions can lead to high levels of stress and mental illness so it is equally clear that the effects of stress can lead to physical symptoms of ill health, such as heart disease, as well as longer term psychological damage. British Academy research points to 'very consistent evidence' that work stress leads to an estimated 50% increase in the risk of heart disease. Many of the early outward signs will be noticeable to managers and work colleagues and should alert those with significant control and responsibility for workplaces to problems within the organisation.

Sufferers from Post-Traumatic Stress Disorder (PTSD) may suffer additional symptoms. Many people feel grief-stricken, depressed, anxious, guilty and angry after a traumatic experience. As well as these understandable emotional reactions, there are three main types of symptoms produced by such an experience: flashbacks & nightmares; avoidance & numbing and 'being on guard'.

Reaction to a traumatic incident can be delayed, often for several weeks or months after the incident and sometimes for much longer. Nearly everyone will have the symptoms of post-traumatic stress for the first month or so. Over a few weeks, most people slowly come to terms with what has happened, and their stress symptoms start to disappear. However, for about one in three the torment can continue indefinitely. Up-to-date statistics on the prevalence of PTSD can be found on the HSE website⁸ The Royal College of Psychiatrists also has a web page devoted to PTSD⁹

8 <http://www.hse.gov.uk/statistics/tables/index.htm#thor>

9 <http://www.rcpsych.ac.uk/mentalhealthinfo/problems/posttraumaticstressdisorder/posttraumaticstressdisorder.aspx#1>

BOX 5**Symptoms of Stress**

They include:

- ▼ changes in behaviour
- ▼ unusual tearfulness, irritability or aggression
- ▼ indecisiveness
- ▼ increased sickness absence
- ▼ poor timekeeping
- ▼ reduced performance, e.g. inability to concentrate
- ▼ overworking or failure to delegate
- ▼ erosion of self-confidence
- ▼ relationship problems, e.g. becoming withdrawn or argumentative
- ▼ increased unwillingness to co-operate or accept advice
- ▼ excessive smoking, drinking or drug abuse

The sufferer may also complain of or demonstrate symptoms of:

- ▼ muscle aches and pains
- ▼ diarrhoea
- ▼ irregular heartbeats and/or increased heart rate
- ▼ headaches
- ▼ feelings of panic and fear
- ▼ depression or using drugs (including painkillers).
- ▼ anxiety/panic attacks
- ▼ raised blood pressure
- ▼ indigestion

How can I control these health problems?

The serious consequences resulting from unacceptable levels of stress in the work-place demand action. It is not enough for employers to take steps simply to ameliorate the effects of work-induced stress, which many are tempted to do, believing that such actions as providing counselling services, relaxation lessons or medical referrals for employees relieves them of further responsibility. Although these may be necessary actions they are not in themselves sufficient. Such an approach is an attempt to shift the blame for work stress disorders from the employer to the employee who in some way by failing to learn to relax or to resolve conflict through counselling can be deemed responsible for his/her own condition. The primary duty of employers is to identify and to remove the work-related causes of unhealthy levels of stress amongst their employees through the process of risk assessment¹⁰ as laid down in the Management of Health and Safety Regulations 2003 using the guidance provided in the HSE Management Standards for Work Related Stress 2004.

¹⁰ See Page 42, 'The Process of Risk Assessment'

Of course, employees themselves can take steps to control levels of stress by taking time out when they can, learning to prioritise, taking control of their workload where possible, finding ways to relax and sharing their concerns with work colleagues, branch members, stewards and managers – all should lend a helping hand and have a sympathetic ear. A healthy lifestyle avoiding potentially harmful coping strategies such as comfort-eating, alcohol, smoking and drugs can also help. However, as has been said, self-help or employer provided help is no substitute for action to reform the workplace.

How can PTSD be helped?

Sufferers from PTSD need medical attention and should always consult their GP if they suffer any of the symptoms listed. They may well be referred on to specialist help. There are some self-help steps which can be taken by keeping life as normal as possible, by returning to a familiar routine, by eating and resting properly and by talking about the incident to a trusted person. The support of family and friends is important. Concentration is often affected so sufferers may be more accident prone than usual. Post-traumatic stress disorder is a condition that must be reported to the Driver and Vehicle Licensing Agency (DVLA). PTSD, like other work-related stress illnesses is NOT a sign of weakness in the individual and sufferers should avoid isolating themselves from other people and/or not talking about their experience. It will take time for the symptoms to recede and alcohol, tobacco or drugs are not the answer.

THE COSTS OF STRESS

The Costs of stress to Business and the Economy

Throughout this booklet we quote statistics related to the prevalence of work-related stress illness. The evidence is overwhelming that work-related mental ill health is a major problem in our society with substantial economic, commercial and human costs. The TUC's 2010 survey of safety reps found stress is by far the most common health and safety problem at work. Nearly two thirds (62 per cent) of reps say that stress is in the top five problems faced by the workers they represent. More than a quarter of reps (27 per cent) pick out stress as the hazard at work that most concerns them. And yet, despite all of this, efforts to tackle the problem to date have had little effect. Indeed, the incidence of work stress has been steadily increasing in the UK since 1992 at a rate of about 0.5% to 1.0% each year with the increase particularly marked amongst women workers. Worryingly, during the single year 2009 to 2010 most measures of work stress saw an absolute increase of 4-6%¹¹

In November 2009 the Government's National Institute for Health and Clinical Excellence (NICE) said the cost of work related mental illness in the UK was £28bn - a quarter of the UK's total sick bill and an amount far in excess of losses incurred by strike action (£500million). NICE estimated that an average firm with 1,000 employees could save £250,000 a year by tackling the causes of work-related stress. A survey by the Chartered Institute of Personnel and Develop-

¹¹ British Academy, "Stress at Work" Professor Tarani Chandola, October 2010

ment (CIPD) conducted at about the same time as the NICE survey revealed that a quarter of UK workers describe their mental health as moderate or poor, yet nearly all continued to work regularly. This phenomenon of “presenteeism” (going to work when ill, often because workers are scared not to) carries its own costs in terms of lack of concentration, low motivation and poor productivity according to the Sainsbury Centre for Mental Health. Research by MIND shows that about 20% of workers had time off work during 2008/09 as a result of stress-related illness although, worryingly, over 90% lied about the cause of their time off work blaming stomach bugs or headaches rather than the true causes of long hours, unmanageable workload and workplace bullying. Annual self-reporting surveys continue to reflect high levels of work-stress in the UK. Evidence from the HSE¹² indicates that 13.5 million working days in 2009/2010 were lost due to stress, depression and anxiety. This makes stress, depression or anxiety the largest contributor to the overall estimated annual days lost from work-related ill-health in 2008/09. GPs report that approximately one-third of all diagnoses of work-related ill-health are cases of mental ill-health, with an average length of sickness absence per certified case of 26.8 working days.

According to the Labour Force Survey, some occupation groups have particularly high levels of work-related stress, including teachers, nurses, housing and welfare officers, customer service workers, and certain professional and managerial groups. These groups report high rates of work-related mental illness, along with medical practitioners and those in public sector, security-based occupations such as police officers, prison officers, and UK armed forces personnel. A Freedom of Information request to Derbyshire Constabulary in 2009 revealed that in a force of 2,128 police officers the estimated cost of sickness absence owing to acknowledged work-related stress illnesses was in excess of £1 million.

The Human Costs of Stress

The cost of work-related stress illness to business and to the national economy is high but of far more importance is the personal cost to employees and their families in terms of ruined lives, serious illness and even premature death. Only those who have been victims can appreciate the torment and the horrifying debilitating effects of clinical depression, anxiety and other mental health problems brought on by work-related stress. The current position is dire with a staggering rise in mental ill health related to the current economic down turn and Government austerity measures emerging. According to MIND, the recession “has had a devastating effect on the wellbeing of British workers”¹³. New government statistics show the biggest rise in antidepressant prescriptions ever, showing a massive rise from 35.9 million in 2008 to 39.1 million issued in 2009¹⁴. Every year, one in six people of working age experiences a mental health problem¹⁵ and 5 million people rate themselves as very or extremely stressed by their jobs¹⁶.

¹² Self-reported Work-related Illness (SWI) question-set module on the national Labour Force Survey,

¹³ <http://www.mind.org.uk/news/show/3372>

¹⁴ Data from the annual Prescription Cost Analysis. Latest data available from 2008-2009

¹⁵ Office of National Statistics, 2001, Psychiatric morbidity among adults living in private households in GB – cited on the Mind website

¹⁶ Sinclair, A. O'Reagon, S. (2007) 'Mental health and work' Brighton: Institute for Employment Studies – cited on the Mind website

There has been a decline in sickness absence since the beginning of the recession in 2008. In other circumstances this would be a welcome development but the decline masks the disturbing trend of 'presenteeism' where workers who should be off work ill with mental problems are too afraid to take time off, sometimes because of aggressive absence monitoring and 'return to work' policies and procedures, and struggle to work. Not only is this storing up trouble for the future of the individual but it represents a hidden cost for the employer in terms of lack of productivity, proneness to accidents and poor concentration. A Canadian study quoted by leading researcher in the field, Professor Tarani Chandola found that of the cost to employers of work-related stress, approximately 80% was owing to absenteeism and approximately 20% to presenteeism.

But it is not only mental health that suffers as a result of work-induced stress. There can be real and serious physical consequences of high, sustained levels of stress, chief amongst which is a greatly increased risk of heart disease. Studies have shown that the physiological syndrome linked to heart disease increases under conditions of stress. Professor Chandola has said of a twelve year study of Whitehall civil servants: "We found that chronic work stress was associated with coronary heart disease and this association was stronger both among men and women aged under 50." Those under 50 who said their work was stressful were nearly 70% more likely to develop heart disease than the stress-free.

WHY IS ACTION ON STRESS NECESSARY?

In the face of such overwhelming evidence of a major health and safety problem in the workplace with its significant costs to business, the economy, society and the individual, it is reasonable to ask why effective and urgent action is not being taken to combat it. The answer seems to be a combination of staggering complacency on the part of many British employers and managers in the private and public sectors, a weak legislative framework resulting from the lack of resolve of successive governments and weak enforcement action by the Health and Safety Executive (HSE), which has been consistently underfunded and looks destined to be a major casualty in the current round of spending cuts. We need to take action on all of these fronts.

Employer complacency

The complacency of British industry is amply illustrated by the response of the CBI to the NICE report in 2009 when a spokesman said: "The mental health of staff is something firms have been making a priority. More and more schemes have been set up to support staff in recent years." Research by the employment charity, the Shaw Trust¹⁷ challenged this view in May 2010 when, according to the Independent on Sunday¹⁸, it showed that: "The vast majority of employers and HR directors have no idea about the mental health of employees. Half do not believe any of their employees ever suffer from a mental health problem." The view of the Shaw Trust accords with the experience of the UK National Work Stress Network. Outside some public sector organisations there has been little serious attempt to

¹⁷ "Mental Health-Still the last Workplace Taboo?" The Shaw Trust, December 2010.

¹⁸ Independent on Sunday 16 May 2010

tackle the problem of work-induced stress illness beyond some cosmetic exercises and sporadic attempts to shut the stable door after the horse has bolted by instituting employee counselling schemes and such palliative measures.

The complacency of employers may be due in part to a lack of awareness of the scale of the problem arising from the unwillingness of employees to admit to suffering from stress-related illnesses (93% lie about their condition according to MIND). However, the weakness of the civil and criminal law in this area is an important and, in the opinion of the Network, the main contributory factor. Mr. Mike Shiers, a personal injury partner with Plymouth law firm Nash & Co comforted employers with the thought that stress legal cases brought by employees are extremely difficult to win. He said in 2005: “Providing employers take their health and safety responsibilities seriously, listen to the problems of their workforce and have a confidential referral scheme in place for staff to visit counsellors, then they shouldn’t have a huge amount to worry about. These cases are still very difficult to prove.¹⁹” Mr. Shiers was speaking no more than the truth. Judges have led employers to believe that providing a metaphorical sticking plaster in the form of counselling and other palliative services for employees can relieve them of the responsibility of having inflicted the wound in the first place.

Neither, it would seem, do employers have much to fear from the criminal law. Although the Health and Safety at Work Act 1974 requires employers to ensure the health of their workers so far as is reasonably practicable and the Management of Health and Safety at Work Regulations 2003 require the identification of workplace risks and their eradication or amelioration, employers seem to be able to disregard this duty in relation to the mental health of their employees with impunity. As Brendan Barber, TUC General Secretary, has said, employers put this duty in the ‘too difficult’ box. Despite the efforts of the HSE to encourage employers to adopt the advisory “Management Standards for Work Related Stress”²⁰ and the wealth of advice on the process of risk assessment in this area there remains widespread ignorance and apparent indifference amongst many employers and senior managers. In a pan-European survey²¹ conducted in 2009, ‘lack of awareness’ of the issue of work stress was cited by 61% of managers interviewed as the major reason for failing to take effective action; only Turkey (75%) and Estonia (64%) revealed greater ignorance amongst senior managers.

Negative attitudes to health and safety

In one sense it is not surprising that work stress is not given the attention it deserves by British employers. When faced with many competing demands in other areas, many of them statutory, the temptation to ignore mere guidance must be great. In addition, the negative attitude to health and safety legislation displayed by the right wing media and by the Conservative/Liberal Democrat Government may well have led employers to regard progress in this area as of low priority and to have given them an expectation that the Government review of health and safety legislation under Lord Young will lead to a further weakening of the law.

¹⁹ “Workplace stress is not a clear-cut issue”, Western Morning News, Thursday March 24 2005.

²⁰ See Page 33, ‘What Action Needs to be Taken?’

²¹ EU-OSHA and the UK Data Archive bear no responsibility for their further analysis or interpretation.

It is worth noting at this point the possible distraction of the language of ‘well-being’ adopted by some employers in preference to the language of stress prevention. While ‘stress’ is a properly emotive term, ‘well-being’ is a comparatively inoffensive concept with the potential for misuse by employers who seek to undermine not only the work and influence of trade union health and safety representatives, but also the seriousness of the stress related problems suffered by workers and regularly tackled by these reps. A Trade Union perspective will highlight issues of employer responsibility (and liability) for workplace stress.

The preferred approach of HSE to tackling the problem of work-related stress is to educate and persuade. Enforcement is seen as a last resort and, indeed, although all of the evidence shows that the problem of mental ill-health caused by work is acute and getting worse and that the majority of employers simply ignore their responsibilities in this area, examples of enforcement action by HSE are few and far between.

THE CURRENT LAW

Separate laws may exist in Scotland and Northern Ireland and should be checked for compatibility.

Health & Safety law

[Health & Safety at Work Act \(1974\)](#)

There is no legislation in the UK dealing directly with work-related stress. However, the Health and Safety at Work Act 1974 (HASAWA) requires all employers to ensure ‘as far as is reasonably practicable’ the health, safety and welfare of all of their employees. This duty extends to ensuring their mental as well as their physical health and safety.

[The Management of Health and Safety Regulations \(2003\)](#)

These Regulations implement the requirements of the European Framework Directive 89/391 laying down the processes that employers must follow in order to fulfil their duties under the HASAWA, and in particular the process of ‘risk assessment’.²² By this process employers are required to identify workplace hazards, assess the risk they pose to employees and to take action to eliminate or reduce to a practicable minimum the risks identified, taking into account individuals’ capabilities. The legislation is enforced at the discretion of Health and Safety Executive (HSE) and Local Authority inspectors. HSE says that this legislation covers the duty of employers to assess and deal with risks to the mental health of their employees.

[The Management Standards for Work Related Stress \(2004\)](#)

In 2004, HSE published the The Management Standards for Work Related Stress²³, a voluntary code which sets a number of benchmarks by which employers can judge the level of their compliance with the law. The effectiveness of this legislation depends on the willingness of the HSE to take enforcement action and, as will be discussed later, there is little current evidence of such willingness.

²² See page 42, ‘The process of risk assessment’

²³ See Page 33, ‘The Management Standards for Work Related Stress’

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) (1995).

It is worth mentioning at this point the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995. The Network believes that under RIDDOR employees should have the right to report all dangerous incidents, including bullying and harassment. Employers are legally obliged to have reporting procedures in place. Industrial Injury form BI-95 available from the local Department of Work and Pensions centres should also be completed, and copies retained for reference. Employees have a duty under health and safety law to report to their employers any shortcomings in the employer's health and safety provision of which they become aware. Employees should make use of this provision to press for better protection against workplace stressors.

It should be noted that at the present time the Conservative/Liberal Democrat Government is undertaking a review of health & safety legislation allegedly to remove so-called trivial and irritating aspects and to tackle what it calls the 'compensation culture'. The UK National Work Stress Network deplores this attack on essential protections for working people in the guise of a tidying up exercise.

Other criminal law

Other than laws dealing specifically with health and safety at work, there is other criminal legislation which has a bearing on factors that can lead to unacceptable levels of work stress:

Employers' Liability Act (1969)

This legislation imposes on employers the requirement to have appropriate insurance to ensure that a safer working environment can be achieved and injuries to employees and third party persons can be reduced.

Criminal Justice and Public Order Act (1974)

This Act makes intentional harassment in the workplace a criminal offence, punishable by law where the perpetrator in speech, or in writing, uses abusive or insulting language or behaviour, or disorderly behaviour so that another person feels harassment, alarm or distress.

Public Order Act (1986)

The act defines racial hatred as: "...that hatred against a group of persons in Great Britain defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins". In cases where racist actions and words have caused stress, then the act's provisions may apply, in addition to the discrimination laws below.

Protection from Harassment Act (1997)

This legislation makes personal harassment illegal. Instances of such behaviour should be reported to the Police, who may take action, and possibly to employers where the acts are work related.

Employment law

Employers must comply with health and safety at work legislation. Under common law, they have a general duty of care to their employees and this duty is an implied term in every contract of employment. If an employer fails to take reasonable care to protect an employee from a foreseeable injury he or she could be found by the civil courts in a negligence action to have breached the 'duty of care' or, in exceptional circumstances be prosecuted in the criminal courts for a criminal offence. A number of specific acts and regulations are relevant to the issue of work-related stress:

Employment Protection (Consolidation) Act (1978)

An employee may complain to an Employment Tribunal of wrongful, unfair or constructive dismissal in circumstances where workplace bullying has led him to leave his employment. These employment rights may be dependent on length of the employee's continuous service.

Working Time Regulations (1998)

Defines 'working time' and sets maximum limits although there is an opt-out arrangement. Not all workers are covered by these regulations.

Employment Relations Act (1999)

Amendments to the Employment Rights Act 1996, gave employees the right to 'reasonable' time off to care for dependants and for parental leave. They also provided (amongst other things) for employers to recognise employees' rights to representation at disciplinary hearings which must also be convened at a mutually agreeable time to all parties expected to participate.

Employment Act 2002 (Disputes Resolution) Regulations (2004)

This legislation provides for a statutory procedure to enable all workers to raise grievances in the workplace where they have an issue that needs to be addressed by their employer. There is also provision for a statutory procedure to be followed in the event that the employer is contemplating dismissal or action short of dismissal against the employee. Employers will be obliged to ensure that specific procedural steps are taken, and where not then compensation can be awarded in the Employment Tribunal. Generally speaking before cases which may involve stress allegations can be taken to the Tribunal (e.g. Discrimination, Unfair Dismissal, Constructive Dismissal) the appropriate Dispute Resolution (Grievance or Dismissal and Disciplinary) procedures must have been complied with. Advice and information about the legal requirements of these procedures can be obtained from Trade Union representatives, ACAS and Citizens' Advice Bureau.

Anti-discrimination law²⁴

Discrimination together with associated harassment and victimisation is often a major cause of stress and bullying. The law has changed in respect to the issue of discrimination and new advice and guidance is emerging following the enactment of the new Equality Act (2010).

²⁴ See: ACAS <http://www.acas.org.uk/index.aspx?articleid=3017> Government Equalities Office http://www.equalities.gov.uk/equality_act_2010.aspx Citizens' Advice Bureau http://www.adviceguide.org.uk/index/your_rights/discrimination/equality_act_2010_discrimination_and_yourrights.htm

A battery of laws providing protection from discrimination has existed in various forms. These laws apply to discrimination in relation to Age, Disability, Ethnicity and Race, Religion or Belief, Sex and Sexual Orientation.

The following Acts have now been subsumed into the new legislation.

[Sex Discrimination Act \(1975\) \(with Amendment Regulations \(2003\)\); Race Relations Act \(1976\), \(with Amendment Regulations \(2000\) and \(2003\)\); The Employment Equality \(Sexual Orientation\) Regulations \(2003\); Employment Equality \(Religion or Belief\) Regulations \(2003\); Employment Equality \(Age\) Regulations \(2006\); Disability Discrimination Act \(1995 and as amended \(2004\)\).](#)

Breaches of anti-discrimination law can all be taken to an Employment Tribunal. Where, for example, there is a sexual, sexual orientation or racial element to any behaviour causing stress, the employer could be held vicariously liable for the actions of a harassing bullying employee, even where they were not aware of the behaviour. Similarly under the Religion or Belief and Age legislation, discriminatory behaviour is illegal and employer liabilities can be tested in Employment Tribunal.

New duties came into force effective from 1st October 2010 and more will be in place from April 2011. These provisions include amongst others:-

- ▼ Basic protections against direct and indirect discrimination;
- ▼ Levelling up protections for carers who may be discriminated against because they are associated with someone who has protected status;
- ▼ Harmonising thresholds for duties to make reasonable adjustments for disabled persons;
- ▼ Preventing 'pay level secrecy' in the workplace;
- ▼ Empowering Employment Tribunals to make recommendations affecting the wider workforce.

[Human Rights Act \(1998\)](#)

This legislation provides for a range of freedoms for individual people. However, care must be exercised in assessing whether there is any scope to use this legislation as it is not automatic that this law will apply to stress and bullying situations. Further, the legislation only imposes duties on public authorities.

Other issues

[Work/Life Balance](#)

There is now a greater emphasis on 'family-friendly' work policies, and recognition of the need for a proper work/life balance, for all workers at all levels. Those employers who run rough-shod over employees and care little for their wellbeing are open to challenge, although it is fair to say that the legal protections for employees in relation to family friendly and work-life balance issues are weak.

[Whistle-Blowers](#)

Employees who criticize or draw attention to employer's unsafe practices at work have some limited protections in law.

The chart, below, shows how existing features of equality legislation and new features have been merged together in the Equality Act (2010).

Types of Discrimination that are unlawful, covered by existing laws and the new Equality Act 2010

A DIRECT	Unfair treatment because of a protected characteristic
B INDIRECT	Unfair application of policies that disadvantage those with protected characteristics
C BY ASSOCIATION	Unfair treatment of a person associating with those with protected characteristics
D BY PERCEPTION	Direct discrimination of those whom others believe to have protected characteristics
E HARASSMENT	Unfair treatment of individuals or as seen by others who object to that treatment
F 3RD PARTY HARASSMENT	Unfair treatment of employees by others including by non-employees
G VICTIMISATION	Unfair treatment of someone complaining or supporting complaints under the Act

How has the Equality Act changed things?

AGE The new Act introduces change in respect of E and G above and brings in new laws for C and F
DISABILITY The new Act introduces change in respect of E and G above and brings in new laws for B , C , D and F
GENDER REASSIGNMENT The new Act introduces change in respect of E and G above and brings in new laws for B , C , D and F
RACE The new Act introduces change in respect of E and G above and introduces new laws for F
RELIGION OR BELIEF The new Act introduces change in respect of E and G above and introduces new laws for F
SEX The new Act introduces change in respect of G above and brings in new laws for C and D
SEXUAL ORIENTATION The new Act introduces change in respect of E and G above and introduces new laws for F
MARRIAGE AND CIVIL PARTNERSHIP The new Act introduces change in respect of G above. Areas C , D , E and F remain excluded

TAKING A STRESS ACTION TO COURT

Please note that the Network does not provide any direct and detailed advice, representation or guidance. These notes are merely an assessment based on knowledge openly available on the interpretations of legal cases and precedents. It is essential that independent legal advice is taken in the event of legal action being contemplated.

Despite such an array of statutes it has proved very difficult, indeed nigh on impossible, for workers to establish employer liability for their stress-related illnesses. Whereas courts are used to dealing with claims for damages in the case of physical injury sustained at work, where they can both discern the injury and link it with a discreet incident in the workplace, or with some cases of work-related ill health, they have proven very unwilling to accept easily the link between working conditions in the broadest sense and mental illness.

Courts have established very restrictive conditions in stress cases. For a case to succeed the employee must be able to prove all of the following:

That the employer should have foreseen the injury.

In this case it is essential that the employee has made the employer aware that he/she is suffering from stress-related ill-health caused by work. If the employer subsequently fails to take action to protect the employee and the ill health re-occurs then the first hurdle in the way of a successful action will have been overcome.

The problem here is that many workers are afraid to admit to employers that they are suffering from a mental condition fearing that they leave themselves open to capability procedures and prejudicial treatment. Research has shown that in the vast majority of cases workers on stress-related sick leave lie about the nature of their illness.

That the employer failed in his duty of care.

The law requires employers, as far as is reasonably practicable to provide a safe system of work for their employees and to protect them from foreseeable risks to their health and safety.

The problem here is that the court, in making a judgement about whether the employer has acted reasonably, will feel it necessary to weigh the risk of mental injury caused by work against the 'practicability', including the cost of preventing the risk. Courts have tended to err on the side of the employer.

That mental injury was caused by the failure of the employer in his duty of care.

This is possibly the greatest problem of all in pursuing a claim for damages against an employer in a stress case. The onus of proof is on the claimant to establish first that he/she is suffering from a clinically recognised health condition and that there is a direct and objective causal link between a failure of the employer's duty of care and the employee's ensuing mental illness. This is extremely difficult and often impossible since there is frequently a complex web of circumstances that has led to the employee's mental ill health.

In the face of such demanding tests, employees suffering from work-related

stress illnesses will often face disappointment when told by their Trade Union or solicitor that, following an assessment of their circumstances, their case is judged not viable in law and not capable of being pursued.

Successful cases

Despite the formidable barriers described above, there have been some high profile successful work stress cases:

[Walker v Northumberland County Council, \(1995\)](#)²⁵

The first notably successful case was that of John Walker [Walker v Northumberland CC [1995] IAER 737]. Claimant Walker was a Social Worker subjected to considerable workload related to child abuse cases. Walker duly advised his managers of his high work overload.

“I have been working under great pressure which has been physically and mentally tiring. The point I make in requesting a week off in lieu of an excess of 100 hours overtime, is that I am exhausted and need a break without using up too much annual leave,” he reported two years prior to his initial breakdown.

The employer did carry out a review of working practices which revealed that staff found it difficult to handle work allocations. Shortly after this, Mr Walker suffered his first breakdown. In time he was able to return to duty under an agreement whereby the employer would do what was necessary to prevent any further breakdowns. They failed to adhere to this agreement, causing a second breakdown.

In court despite the warning signs issued by Mr Walker that he was under high stress levels, the employer was found guilty only of the second episode of ill-health. Whilst this was a ground-breaking case, the findings were restrictive, leading to the issue of foreseeability being a key feature of such claims.

[Hatton v Sutherland \(2002\)](#)²⁶

Four stress cases, including that of teacher MS Hatton had been successful in County Court with damages awarded, but were appealed under the collective title of “Hatton v Sutherland”, whereby the Courts sought to clarify the law in depth. Lady Hale in her judgment set out 16 propositions in Para 43 of judgment. These propositions subsequently had the effect of reducing levels of success in many further cases. Significant barriers were now raised related to the issue of foreseeability and causation. The matter of foreseeability has become the key threshold test, and the question as to whether it was reasonably foreseeable that a claimant carrying out particular work was liable to suffer psychiatric illness as opposed to simple emotional responses which were and could be attributable to work-stresses caused by any breach of duty of care on the part of the defendant [employer].

The court highlighted probable relevant factors in responding to the threshold question:-

- ▼ Was the actual workload significantly more than normal for the job?
- ▼ Were demands made of the complainant unreasonable where compared with similar jobs?

²⁵ http://www.safetyphoto.co.uk/subsite/case%20u%20v%20w/walker_v_northumberland_county_c.htm

²⁶ <http://www.bullyingonline.org/action/hatton.htm>

- ▼ What were the levels of sickness absence in the job, and were they abnormally high?
- ▼ What was the exact nature and extent of the work carried out by the employee?

Risk assessments related to stress factors in the workplace should arise from the above questions and any duty to take steps should also be driven where it is evident that there is impending harm to health and the employer must take appropriate action in respect of that evidence.

There would be a need to recognise that stress signs are different from those of 'impending harm to health', and where the risk is clearly immediate then the duty to respond is greater. Hatton therefore created the need to identify those steps that both COULD and SHOULD have been taken when establishing any possible breach of duty of care.

*Barber v Somerset County Council (HOL 2004)*²⁷

One of the Hatton cases, that of another teacher Mr Barber in Somerset, was further appealed in the House of Lords on the issue of whether a breach of duty of care had occurred. Barber's workload increased and caused him stress; following a brief period off he returned having presented a sick note stating only "Stress". No action was taken to reduce workload and sometime later he advised senior managers of his situation, shortly followed by a breakdown from which he was never able to return to teaching.

Generally upholding the Hale propositions in the Hatton case, the Lords rejected pleas by the employer that resources were stretched and found that "at very least the school should have taken the initiative making relevant enquires of Barber as to his wellbeing and making adjustments to work to support his return."

Where employers know that stress-related illness has occurred they should regard themselves under positive duty to initiate and take action. Early intervention is desirable.

After Barber, cases of Stress claims reverted to the Court of Appeal, generally covered by the lead case of Hartman v South Essex Mental Health Trust [2005] IRLR 293. The outcome was mostly to reinforce the 16 Hatton principles, reconfirming their validity including the basic threshold question.

Pretty well all cases therefore rely on the Hale 16 Propositions in Hatton, but employers are now obliged to react to employees' problems where they are highlighted and known.

Two more recent cases have brought a new emphasis on Lord Walker's judgment in the Barber case.

Hiles v South Gloucestershire NHS Primary Care Trust [2007] and Daw v Intel Corporation UK Ltd [Court of Appeal] 2007 2 AER 126

Both claimants had broken down emotionally in front of line managers, and subsequently suffered breakdowns. In each case the judgements held that breaking down in tears in front of a manager was sufficient signal to the employer to investigate cause, thus allowing for suitable steps to be taken to prevent breakdowns.

²⁷ <http://www.publications.parliament.uk/pa/ld200304/ldjudgmt/jd040401/barber-2.htm>

In Daw the issue of whether the employer had a counselling provision was sufficient to cover duty of care was closely examined. Intel had such a service, which was available to Daw. The court however found that this was in itself insufficient to fully discharge employer duty over the provision of a safe working environment, and the provision of such a service alone was not a reason to absolve other duties or relieve the employer of liability.

Both cases linked back to the Judgement in Barber through his Lordship's words:- "a prudent employer faced with knowledge of work overload (over a given period and known to be increasing) such that the employee needed to take time off work for stress, would have instigated an investigation into the employee's situation to secure improvements as necessary."

The tears of the two Complainants were not the normal reaction to a work situation and should have been looked into.

[Dickens v O2 \[Court of Appeal 2008\]²⁸](#).

Further steps toward a higher level requirement for employers to react emerged following this case. Complainant Dickens was a finance officer for O2, and she had repeatedly reported workload issues and high stress levels commencing in April 2002. In a subsequent appraisal meeting [end of May] having had other requests to change role ignored, her pleas were again repeated and she stated that she felt she needed a sabbatical. Agreement was reached that she be referred to Occupational Health, but this never happened and after three months she went off sick [June], never able to return. In judgement, Lady Smith indicated that the April signs of trouble were sufficient to have indicated foreseeability of injury.

This precedent now sets the Hatton judgement in a different light, drawing on Daw v Intel to show that employers have a duty to respond as soon as they have knowledge of health problems. The correct action would have been to send Dickens home at the end of May pending report from Occupational Health to give advice on necessary actions.



²⁸ http://www.nelsonslaw.co.uk/site/library/legalnews/Work_Related_Stress.html

BOX 6***Lessons for employees***

Employees should therefore:-

- ▼ Log, record and report all instances of work overload and stress situations, keeping written records and copies of emails, notes and letters to their employers/managers;
- ▼ Maintain regular dialogue with managers and TU Stewards/Reps and relevant managers;
- ▼ Ensure that all medical notes are copied and retained prior to handing in, and understand that the word “Stress” alone is insufficient. The absence due to stress must be confirmed as work-related by the GP.
- ▼ Any and all references to Occupational Health need to be recorded with copies of referral forms, reports and notes of discussions retained. Where possible when attending at Occupational Health appointments, employees should be accompanied preferably by a Trade Union caseworker or if not a trade union member, by a chosen family member. Preparatory notes should be made and discussion recorded in writing to supplement and verify or challenge the eventual report.
- ▼ Notes of all meetings must be retained, both the official records taken by managers/clerical staff, and notes taken at meetings by the employee’s own representative.
- ▼ At all meetings employees should insist that their statements be recorded in writing, especially that they are being affected by work problems as identified.

BOX 7***Lessons for employers***

All of the above cases have common threads:-

Employee problems are reported and largely inadequate steps are taken. Breakdown occurs, often followed by unsupported return to duty which can then lead to second more serious breakdowns and possible inability to return to the workplace ever again.

- ▼ At all such stages the employer should be aware of the issues raised and take the cry for help as serious and not just wait for the calamity to happen.
- ▼ Stress-related illnesses are not always entirely work-linked and home and family issues can often impact on the ability of the employee to fulfil their job. Where it is known that background issues are coming into play, a good employer will seek to acknowledge those difficulties and be as supportive as possible. If support and assistance is identified as appropriate then it should be provided at the earliest opportunity.
- ▼ Bullying, harassment and victimisation are often common in many workplaces, but all too often regarded as good effective and firm management. Bullying contributes to some 35% or more of stress-related illnesses. Employers have a duty of care to ensure that bullying is identified and stopped, and failure to do so may lead to breach of that duty of care. Any identified humiliation or distress caused to employees requires urgent action.

Employer responsibility extends to recognition of the existence of problems and he should act by:-

- ▼ Carrying out a full and competent risk assessment
- ▼ Making references to Occupational Health for suitable advice
- ▼ Consideration of appropriate adjustments to work and job description

Stress should not be treated differently from other work-health issues – the objective is **NOT** to cause illness as a result of working practices.

SOME ADVICE

Individuals who believe they have been subjected to workplace stress and wish to seek a remedy should consult their trade union representative. If not a member of a trade union, they should seek legal advice or seriously consider joining a union! The UK National Work-Stress Network does not provide detailed advice or individual casework support. The Network can give only very basic advice and general information, and cannot provide representation for individuals.

Trade Union Members

If you are suffering from stress at work, including harassment or bullying, you should seek help at an early stage from your trade union. It is important that you make notes of any incidents and keep all relevant correspondence or items that refer to your case. This is difficult but important. If you have any witnesses that may support your case this can be extremely useful. You should first discuss the matter with a local representative or Branch Official. If you believe you need more expert help at any stage do not be afraid to contact your Union's Regional or Head Office according to the practice of the individual union concerned. You should discuss with your Trade Union Representative or Safety Representative how to progress your case through internal Grievance Procedures. Do not attend any meetings alone – insist on having your TU Representative or a work colleague with you. Statutory Grievance and Disciplinary and Dismissal Procedures now have to be complied with in most cases before a claim can be taken to the Employment Tribunal. (See above: *Employment Act 2002 (Dispute Resolution Regulations 2004)*).

In time, you may wish to discuss getting appropriate legal advice from union solicitors. If once you have met the solicitor, you have further concerns which you believe have not been addressed you should raise them with the solicitor or if that is not possible contact the appropriate trade union official to discuss these issues further. The union will only pursue a grievance or take other action if you want it to, and if it believes there is a strong enough case. If you would like to discuss your problem confidentially with a union representative but wish it to go no further, then that option is available to you.

You may also wish to consider:

- ▼ counselling or advice either through your employer's occupational health/employee assistance service or a harassment adviser, stress counsellor, welfare organisation, wellbeing at work projects or personnel officer;
- ▼ services provided through local facilities, e.g. the Local Hospital, GP Surgery or health centre;
- ▼ information centres, libraries and Citizens' Advice Bureau and the Helplines listed in this publication on the Network website²⁹ or in your local directories.

The availability of such services will depend on the size and/or type of employer and what resources exist locally.

²⁹ www.workstress.net

Trade Union Representatives

If you are a Shop Steward or an elected Safety Representative make sure that you are familiar with your own union's procedures and advice on the handling of members' casework.

You should be aware that the issues of harassment, bullying and work-related stress are complex. If a member approaches you with a problem of this nature you may need to consult a senior union official at Branch, Regional or National level or, where appropriate within the union's casework policies, seek legal advice. In some cases it may be better to refer the member to a union official with greater experience in dealing with these types of cases.

BOX 8

Problems of stress amongst union representatives

The problem of high levels of stress amongst trade union caseworkers and lay officers themselves is becoming increasingly apparent. It is common for such people to take on workloads and work under pressures that would not be tolerated in normal worker/employer situations. For example, the caseload carried by such people can greatly exceed that of comparable workers in the professions although often of equal complexity. This is not a well-researched area but trade unions would do well to be aware of these pressures and the possible adverse health consequences they can bring. Trade unions may wish to consider the creation of training, monitoring, counselling and support mechanisms for caseworkers and lay officers where these do not already exist.

Being a Trade Union Representative can bring its own stresses. TU Reps do the work because they are committed to improving the working conditions of their members. But it is important that they look after themselves as well!

Advice for the Rep

- ▼ Be careful to establish manageable and realistic boundaries to your contact with members. Some members when in crisis will be focussed on their own problems to the exclusion of everything else and may not recognise the limits on your availability.
- ▼ Keep records of your contacts and actions with members.
- ▼ As well as ensuring a work/life balance, you may have to balance the demands of your substantive post with those of your trade union role. Your trade union activities may not be supported or appreciated by your colleagues and management. You may find yourself with demands both from your members and your colleagues. This can bring its own stresses and if difficulties arise you should consult a senior union official for advice and support.
- ▼ Be careful about over-identifying emotionally with the plight of your member. It is important that you remain focused and realistic.
- ▼ Be careful about representing or advising friends! It can be difficult to give or receive advice in these circumstances and can affect friendships adversely.
- ▼ Above all recognise that being a trade union representative can be very stressful. So look after yourself. Use the checklist in BOX 5, Page 13. The trade union representative is often the last to recognise the damaging stress he/she is suffering!

You may wish to discuss with the member whether they should seek advice within the workplace where this is available from, for example, the Occupational Health Adviser, Harassment and Discrimination Adviser, Stress Counsellor or Personnel Officers. Where these sources of advice do not exist or are considered inappropriate, you may recommend seeking advice from external advisers, for example, from GPs, Health Information Centres, libraries and Citizens' Advice Bureau.

Be prepared to have to spend considerable time with a person whose health and family life may be seriously damaged. Be aware that members in such situations are often very anxious that all aspects of their case need to be considered, and that they may demand a lot of your time. Members will often put all the blame for their stress on their workplace but sometimes the workplace will be a component part to a complex situation which includes difficult personal issues.

Remember that you may not be able to help the member yourself, and if you feel that the case requires expert help, then you must refer them on through your trade union procedures to more senior officials who may have access to specialist services in dealing with stress cases.

Once again we emphasise the vital need to keep good written records at all stages.

Non-union Members

If you are not already a member of a trade union you may wish to approach the appropriate union to join. Be aware that the union may not be willing to incur expenditure on already existing casework which is a good reason for ensuring you join before you encounter problems. Many unions, however, will be prepared to offer advice and to deal with further issues which arise after your join date (subject to the union's rules). If you do not wish to pursue your case through that option, you may seek independent legal advice, although you should be aware that you may have to pay the cost of instructing solicitors to advise and represent you privately. You should enquire about the scale of the solicitors' charges when you make your initial enquiry. Some legal firms offer no-win no-fee terms, which may be worth exploring.

The local Citizens' Advice Bureau will probably be able to give you some local contacts e.g. solicitors or law centres. Some 'no-win no-fee' legal companies will advise on the prospects of success of potential cases, but you should remember that proof of injury requires some very detailed evidence. You may also want to consider the other avenues available as outlined in the section above. It is possible though not advisable to take a case before an Employment Tribunal without legal support because this area of the law is complex and difficult.

SICKNESS ABSENCE

If your health is affected by work and other pressures you will need to consider how to act. You can self-certify for the first few days of absence and after day 7 [including weekends and leave days] must provide a medical certificate for your employer. Make sure you keep copies of all such certificates.

You will need to check your employer's Sickness Absence policies and proce-

dures to see what entitlements there are and the extent of sick leave that is allowed. Statutory Sick Pay [SSP] is paid by the employer for up to 28 weeks often but not always in addition to normal salary, dependent on your employer and any national or local agreements that have been negotiated or indeed imposed.

If your absence needs to be extensive then keep your Union Steward informed and of course maintain such contact as is necessary with your employer. Your managers should not be overly intrusive and demanding or use harassment to force you back to work. Neither can they insist that you do work from home when off sick – to do so may breach sick pay and health and safety regulations.

Try not to be fearful of a medical certificate saying that you are off work through ‘stress, anxiety or depression’ and if it says ‘work-related stress’ then that is a clear signal to your employer that there is something wrong. Even where the background causes may be personal and domestic, your employer needs to be aware and to know how to support you.

It is not a criticism of you, and should not be taken by a manager as a sign of weakness.

What if I feel that I really need to go to work despite my illness?

Many people often struggle in despite not being 100% fit. In the case of viral infections, coughs, colds etc., it is not acceptable as you may pass on your illness to others and create problems in the workplace. In some professions good medical health is essential to effective and safe work and so you must follow the employer’s requirements. Read your body signals, and act accordingly. Take medical advice where you need to.

What will happen when I am going back to work?

Your employer may have a Sickness Absence Management policy that requires there to be some investigation into why you have been off ill. It is also intended to be supportive and to see how and where you need assistance. This should not be a punitive process, issuing blame and for example setting capability targets. It will depend how long you have been off and of course if you have had repeated variable length absences.

If there is to be a return to work meeting, then we strongly urge that you take your Trade Union Steward or a chosen work-colleague with you. Do not be forced into accepting someone who is chosen by your management.

It is a right for the employer to find out what has been the problem and to discuss this in confidence and to seek to find ways that they can assist and support your return as good sympathetic employers.

If the process does not go favourably, then talk to your Union and consider taking a grievance against the manager in question.

My GP has signed me as ‘fit for some work’ what does that mean?

An interesting recent development has been the introduction in April 2010 of ‘fit’ notes’ (GP certificates of “Fitness for Work”) to replace old style ‘sick’ notes. These notes allow doctors to specify conditions for the employee’s return to work such as alteration to working hours or duties, for example. The Department of

Work and Pensions (DWP) in an exemplary case study involving an employee off work with a stress-related illness gave the example of a note specifying that the employee should avoid contact with customers and that a workplace support network should be provided. The interesting question is whether a court would consider an employer not following such advice to be in breach of a duty of care and thus enable a work stress case to succeed.

There is the obvious problem that the new note is not legally binding on the employer and is essentially advice directed at the patient. However, is it possible that the production of a 'fit' note will prevent an employer arguing that a subsequent work-related stress illness was unforeseeable? This has yet to be tested in the courts.

A further problem is that many GPs will not know the exact workplace roles and tasks and the employers will not understand how a person can come back and do only part of the job.

We would recommend that the Trade Union becomes involved in helping to agree what can and should be done and if necessary then a referral for Occupational Health assessment should be considered necessary for advice.

I have been off sick for a long time. What can I expect my employer to do?

After long-term illnesses for any reason, be it physical or psychological or indeed following bereavement and family tragedy, the return to work is a challenging situation to contemplate and undertake. It is normal [and to be anticipated] that the employer will want to have assurances that the employee is fit to return. This assessment and any recommendations on how the return is to be effected will come from a formal referral to Occupational Health at the employer's request and expense. You should agree to this and keep copies of all papers, and INSIST on having a copy of the written report. You can take your Trade Union Representative (preferably) or even a relative or a chosen friend to the appointment if you wish but usually by prior arrangement.

Almost certainly there will be a formal return to work meeting to discuss the situation and to receive and consider the report which will hopefully set out a rehabilitation programme for implementation by the employer. The report will also say whether you are covered by the Disability Discrimination Act, and that is a signal to the employer that he has certain additional duties in your regard.

You may be placed on light duties and with a phased part-time return to work. This should normally be on full pay and for an agreed period and with regular support and monitoring as necessary. There may also be opportunity for personal confidential mentoring through an agreed third party employee – not usually the line manager, but someone chosen specifically for that role.

Do not attempt to negotiate your own phased return rehabilitation programme – you need trusted help of your choosing and not someone imposed by your managers. Your Union Steward will be ideally placed to ensure that procedures are correctly followed and that you are fairly treated.

WHAT ACTION NEEDS TO BE TAKEN?

The problem of work-related stress illness is extremely serious for the individual, for the organisation and for the country and needs to be tackled with greater urgency than has been shown to date. The priorities must be to reduce to the lowest practicable level the incidence of avoidable related-stress illness in the workplace and then to give maximum support to those workers affected.

Statutory underpinning

The UK National Work Stress Network wishes to see effective and well enforced statutory underpinning of the HSE Management Standards for Work Related Stress in the form of Regulation or an Approved Code of Practice. We also seek the inclusion in the Management of Health and Safety at Work Regulations 2003 of a specific duty to carry out risk assessments of the factors in the workplace which put at risk the mental health of employees such as hours of work, pressure of work, shift work, temporary contracts, casual working, pace of work and its distribution, as well as the style and manner of management.

We also want the recognition of work-related stress illness as an industrial injury for the purpose of sickness benefits and specific statutory recognition of the right of people at work to be treated with dignity and respect.

Mental illness caused by work-induced stress is like any other occupational injury and needs to be controlled in the same way by the process of risk assessment laid down in the Management of Health and Safety at Work Regulations 2003³⁰. The HSE 'Management Standards for Work Related Stress' define both issues that need to be addressed by employers and the processes they should undertake³¹.

The Management Standards for Work Related Stress

It is now widely recognised that the mental and physical damage caused by excessive workplace stress is a major health and safety problem for employees. As has been pointed out, this has been recognised by Safety Representatives and their Trade Unions for many years as evidenced by responses to successive surveys of TUC Safety Representatives. However some employers seem either ignorant or indifferent to the scale and severity of the problem and others have said that lack of knowledge has prevented them taking action on the issue. The promulgation of the Management Standards for Work Related Stress by the Health and Safety Executive (HSE) in 2004 and the supporting documentation which has appeared since should prevent any employer in future pleading ignorance about the steps which he must take to protect the mental and physical health of his employees.

*What are the Management Standards for Work Related Stress?*³²

The Standards recognise that as with other workplace hazards, the causes of work-related stress are rooted in management culture and practices. They are aimed at employers whose responsibility it is to assess the levels and causes of

³⁰ See Page 18, 'The current law'

³¹ See www.hse.gov.uk/stress/standards/

³² See www.hse.gov.uk/stress/standards/

work-related stress that exist in their workplace and then to take action to eliminate or at least reduce these stress factors.

The Management Standards are advisory but employers have duties already under the Management of Health and Safety at Work Regulations 2003 to assess the risk of stress-related ill health arising from work activities and under the Health and Safety at Work etc. Act 1974 to take measures to control that risk³³. The Management Standards advise employers on the specific application of these duties to stress hazards in their workplace.

The Standards define the six key areas of management activity that, if not properly managed, can lead to damaging levels of workplace stress:

- ▼ **Demands** made of workers including issues such as workload, work patterns and the work environment. Demands on the individual are often quoted as the main cause of work-related stress. It is important that job demands are fully evaluated to identify their true extent and to ensure that these demands do not become unmanageable. Workload, capability/capacity to do the work, physical and psychosocial environments would be looked at here.
- ▼ **Control** exercised by workers including how much say the worker has in the way they do their work. Research has shown that where an individual has little control in how their work is carried out, this can be associated with poor mental health. Research also suggests that where there are greater opportunities for decision making there is better self-esteem and job satisfaction. An obvious issue for consideration here would be task design.
- ▼ **Support** given to workers including the encouragement, sponsorship and resources provided by the organisation, line management and colleagues. To eliminate/reduce any potential stressors identified within a particular role, all the above elements are key in conducting a risk assessment.

All training should be undertaken jointly by management and workers where possible and both should be aware of the total training programme and its content. The ensuing action plan will also incorporate an evaluation of current risk (with existing controls in place); a plan for the implementation of additional control measures; and an evaluation of risk with the additional controls in place.
- ▼ **Relationships** with and between workers including promoting a positive working environment to avoid conflict and dealing with unacceptable behaviour such as bullying. "Relationships" is the term used to describe the way people interact at work. Other people can be important sources of support but they can also be sources of stress. At work, relationships with colleagues at all levels can dramatically affect the way we feel at the end of the day. Two potential aspects of these relationships that could lead to work-related stress are bullying and harassment.
- ▼ **Role** certainty amongst workers. Whether all workers at every level understand their role within the organisation and whether the organisation ensures that they do not have conflicting roles. The potential for developing work-related stress can be greatly

³³ See Page 42, 'The process of risk assessment'

reduced when a role is clearly defined and understood and when expectations do not produce areas of conflict. The main potentially stressful areas are role conflict and role ambiguity, together with the burden of responsibilities.

- ▼ **Change** to the conditions of workers. How organisational change (large or small) is managed and communicated within the organisation. Many organisations have had to undergo change in recent years sometimes to incorporate the introduction of new technology, new working practices or procedures. Downsizing and complete or partial restructuring are other motivators of change in the workplace. The changes could be to implement one clear overall objective or could be a series of smaller, on-going, more subtle frequent changes. Poor management of any change can lead to individuals feeling anxious about their employment status and reporting work-related stress. Therefore, it is very important that any change is properly managed.

The Standards help to measure performance in managing work-related stress. Each standard is accompanied by simple statements about good management practice in each of the six areas. They form the basis of an effective risk assessment process³⁴ by identifying the main risk factors for work related stress; by helping employers focus on the underlying causes and their prevention; and by providing a yardstick by which organisations can gauge their performance in tackling the key causes of stress.

HSE expects organisations to carry out a suitable and sufficient risk assessment for stress, and to take action to tackle any problems identified by that risk assessment. Although HSE prefers to rely on persuasion in this area there have been some examples of enforcement action taken against employers failing to carry out and act on adequate risk assessments of stress hazards. HSE does not see the necessity of an Approved Code of Practice at this stage but has promised to keep this option under review.

A copy of the *Management Standards* can be found at <http://www.hse.gov.uk/stress/standards/index.htm>

[How successful have the Management Standards for Work Related Stress been?](#)

HSE has not evaluated in any comprehensive way the impact of the Management Standards for Work Related Stress on levels of work-related stress-induced illnesses nor the extent of their use by employers. There is, therefore, little objective evidence on which to draw. However, the UK National Work Stress Network believes, based on our contact with workers in a wide variety of employment sectors, that while there has been some implementation of the Standards in the public sector and some examples of good practice, particularly in some parts of the National Health Service, generally speaking there is widespread ignorance of the Management Standards and the associated risk assessment processes in much of the public sector and very large sections of the private sector. This impression is supported by the finding of Professor Tarani Chandola who, in his report to the British Academy, "Stress at Work", October 2010 says: "There is little evidence that the

³⁴ See Page 42, 'The process of risk assessment'

management standards on work stress (and related agreed codes of practice) introduced by the Health and Safety Executive in 2004 has reduced work stressors so far. Given the tougher economic environment after the 2008/09 recession, it is possible that these management standards may not be widely used or may become even less effective at reducing work stress....The contribution of specific legislation on work stress and/or enforcement of this legislation to lower work stress in some European countries also needs to be investigated.”

This is despite efforts by HSE since 2004 to publicise the existence of the Standards and to persuade employers to take the issue of work-related stress seriously. In particular, between 2005 and 2007, HSE worked intensively with 100 volunteer organisations (the ‘Willing 100’) in the high risk sectors of health, education, local government, finance and central government to test the operation of the Management Standards and to provide role models for others to follow.

What is the view of the UK National Work Stress Network?

The Stress Network endorses the Management Standards for Work Related Stress and associated procedures as a useful management tool to tackle the problem of work-related stress. We acknowledge the valuable assessment tools which have been developed in order to assist employers to comply with their responsibilities and which are available as free downloads on the HSE website³⁵. However, we have always believed that a voluntary approach would not work and that statutory regulation or at least an ACoP combined with strict enforcement was essential. Nothing in our experience since 2004 or in the limited research conducted by HSE has led us to change our mind. For example, in the ‘Willing 100’ project, by the end of two years, despite the intense help given by HSE, 38 organisations had dropped out, many of the others had not even reached the stage of action planning and there was a distinct lack of enthusiasm on the part of senior management. You can read the full evaluation report at <http://www.hse.gov.uk/research/rrpdf/rr693.pdf>

What can you do?

Until we secure statutory underpinning of the Management Standards, we must work with them as a voluntary tool. This means persuading employers of the business and moral case for tackling the serious problem of work-related stress and working with them to secure a low-stress workplace. Trade Union Safety Representatives and workplace Safety Committees have a vital role to play in this regard. As well as gathering anecdotal evidence of stress-related ill-health in the workplace, a more systematic informal audit of the workforce could be conducted, possibly using the HSE assessment tools referred to above or the simple branch audit form shown and explained in BOX 9, see opposite, which is used on Stress Network training courses. In this way more robust evidence can be gathered to use in discussions with employer or for presentation to the workplace Safety Committee. At the end of the day, employers have a statutory duty to assess risks to the mental as well as physical health of employees and the Management Standards provide a helpful framework within which this can be done.

³⁵ <http://www.hse.gov.uk/stress/standards/downloads.htm>

Management Competencies³⁶

HSE together with Chartered Institute of Personnel and Development (CIPD) and Investors in People (IIP) jointly funded a research project that enabled the creation of an effective assessment tool to establish the effectiveness of managers in their personnel management skills. These competencies are linked to the HSE Management Standards and are directly related to the management of stress in the workplace. The final report and assessment tool was jointly published (2007 and 2009) and offers advice to Managers and to Personnel Officers. The assessment tool uses self and peer appraisal as well as managed team input to assess how effective managers are at handling personnel issues. The Network Conference Report page at www.workstress.net contains details of the competencies as highlighted at our annual conference 2009.

Workplace Stress Audit

BOX 9	Risk levels		
	1 low	2 med	3 high
For each stress factor indicate the extent to which its presence is an issue for you in your workplace.			
WORK DEMAND			
TARGETS AND DEADLINES			
SHIFT HOURS			
JOB SECURITY			
TIME KEEPING			
WORK-RATE CONTROL			
JOB DEFINITION			
INFORMATION & SUPPORT			
TECHNOLOGY			
WORKPLACE CONSULTATION			
COLLEAGUE ABSENCE			
HOURS, BREAKS, HOLIDAYS			
WORKLOAD MONITORING			
TEAM WORKING			
EXTERNAL FACTORS [e.g. environment]			
PAY/PROMOTION STRUCTURE			
HARASSMENT/BULLYING			
MANAGEMENT ATTITUDE			
PERFORMANCE MANAGEMENT			

Individuals are asked to score in the high, medium or low columns as they perceive their situation to be. The more ticks in column three give an indication of where the hotspots are. Other columns may still be important in assessing how the workforce feels that it is under pressure. The statements in the left hand column can be added to, reduced or amended with more specific factors relevant to the individual workplace.

³⁶ See <http://www.hse.gov.uk/research/rrhtm/rr553.htm> and http://www.cipd.co.uk/subjects/health/stress/_lnstrswrk.htm

Developing an organisational approach

The trade union role

In taking an organisational approach to tackling mental ill health in the workplace the whole trade union team should be involved as the organisational culture, risk assessment regime and all policies and procedures need to be reviewed within the context of mental health. The Shop Steward/Union Representative, the Health and Safety Representative, the Union Learning Representative, and the Equality Representative will all have a role to play in developing an organisation with a good approach to mental wellbeing at its core.

The approach needs to address both the prevention of mental ill health caused or made worse by work and the development of a workplace culture and of policies that support workers with mental ill health. Currently some work is being undertaken to support representatives in their proactive role in developing mental wellbeing.

Handling the cases of members suffering from work-related mental ill health can be demanding and complex with a requirement to know something about the particular mental illness, workplace policies and the Disability Discrimination Act (superseded by the Equality Act 2010 in Oct 2010)³⁷. The TUC has issued a booklet “Representing and supporting members with mental health problems at work: Guidance for trade union representatives” available from TUC publications (www.tuc.org.uk/publications)

As well as developing mental wellbeing policies, all workplace policies need to be reviewed with mental ill health in mind, some policy requirements might be difficult to achieve for those with mental ill health³⁸.

The role of managers

Line managers are the key to developing good workplace policies and support mechanisms. Union representatives need to argue for sufficient resources and appropriate training for line managers so that they can carry out their role effectively

Individuals in a workplace with specific HR/health and safety roles, not just HR/safety professionals, need to be competent to carry out their functions. For example, a work place policy that requires line managers to phone or visit workers who are off work sick with mental ill health also needs to ensure that line managers are competent and understand the specifics of the particular mental illness.

Training

TUC education tutors have developed courses for union reps, such as Mental Health Awareness, which are available through Trade Union Education Centres³⁹.

³⁷ <http://www.acas.org.uk/CHttpHandler.ashx?id=2833&p=0> and <http://www.equalityhumanrights.com/>

³⁸ See the Stress Network website for an example policy, www.workstress.net

³⁹ Contact the TUC Regional Education Officer in your region or your nearest TU Education Centre



Photo: Mick Holder



Showing support for fellow members suffering from stress or bullying can be an important part of trade union activities

Developing a workplace stress policy – creating a caring, supportive culture

The vital starting point in tackling the issue of work-related stress is the development of an effective stress policy. To be effective the policy will have been written after meaningful consultation between workers, their representatives and management. It is essential that accredited and trained Health & Safety Representatives where they are in post are fully involved in agreeing, implementing and developing the policy.

If the policy is to have any effect it is vital that there is an acknowledgement of the issues and a commitment to tackle them from the very top of the organisation. Senior managers need to 'buy in' to the policy, actively endorse it, recognise explicitly their duty of care to employees and make a commitment to identifying and eradicating work-based causes of unacceptable levels of stress. The same level of commitment is needed from Directors and members of Boards of Management.

The title given to a policy is also important in setting the agenda and context for action. 'Workplace stress prevention policy' or 'Tackling Work Related Stress' are two titles in current use which give proactive messages.

The content of the policy

The policy should begin with a clear statement of intent and include links to (a) relevant health and safety legislation and (b) the employer's own health, safety and welfare policies and procedures. These measures, if properly undertaken, will emphasise that it is the responsibility of supervisory staff at all levels to manage stress issues and to support the policy.

The agreed policy should be effectively communicated to all employees with a request and expectation that it will be actively supported across the organisation. Good communication may include: letters to employees; well-produced posters and flyers for display and distribution in the workplace; promotion of the policy through staff briefing sessions and inductions for new staff. The policy should be clearly and equally applicable to all employees. All staff should have access to resources for tackling and counteracting stress and the policy should not be open to charges of discrimination upon any grounds

Measures and Monitoring

The policy's objectives should be clear and measurable, and should include a commitment to creating a positive workplace culture in which open discussion about stress is encouraged. It should set out clearly the steps and control measures which the employer intends to employ in realising these objectives. It should contain arrangements for supportive and confidential health monitoring and provide for staff self-referrals to appropriate, independent support services. The effectiveness of the policy should be carefully monitored and evaluated. The mechanism for doing this should have been agreed by all contributing parties, and be set out in the policy document.

Risk Assessment

Stress in the workplace can be assessed like any other risk if the matter is approached systematically. There are indicators which signal that danger is arising. It is true that some work has a high stress factor or contains the potential of placing the worker in traumatic situations⁴⁰. Such work is generally easily recognised and those entering upon it are usually trained to understand the issues. It is common for there to be in place measures to control the risk and to support the worker. Workers in these fields should, through trained and elected union representatives, have these measures constantly monitored for their effectiveness. Most workers do not face these situations but nevertheless this argument should not be allowed to excuse employers from taking action to protect workers' health.

A sensitive objective study of the workplace can identify stressors in everyday work by using the process of risk assessment. Begin by looking out for the symptoms of stress described in BOX 5, Page 13.

If you notice these symptoms in your colleagues, this should trigger a more formal study. Absence rates should be checked and any patterns noted.

How does stress become recognised in the workplace?

Often the most difficult part of the whole process is getting workers themselves to acknowledge that there is a problem. Managers, employers and Board Directors may try to shy away from the concept, or suggest that people are wimps, should leave their baggage at home and should 'pull themselves together'. There is still a great deal of ignorance and misunderstanding about the subject or (what is worse) insistence that the problems are personal and not work-related at all.

In many cases, employers may just take the recommendations of the Hatton Appeal judgment, and suggest that counselling and other services will provide a resolution. They may also apply heavy sickness absence monitoring procedures or possibly even move to dismiss on the basis that a known psychological illness must, in their view, make a person unsuitable for that workplace.

In organised workplaces, with good trade union and Health and Safety structures in place, there are forums for raising the issues of sickness absence and for proper discussion of the issue which may lead to recognition by the employer that action is necessary.

Safety Inspection reports

Regular safety reports can flag up issues related to staff sickness absence rates. Employers keep data on sickness absence and although some aspects of this data are covered by the Data Protection Act, establishing general patterns of absence in workshops, sectors or the entire business are not. In such cases, it is possible, therefore, to discuss the impact of absence patterns and to examine the causes of them. Raising the issue in Safety Committee meetings can lead to general acceptance within the organisation that there may be a problem to be addressed. This can prompt discussion of the principles of Risk Assessment and the HSE Management Standards and lead to simple or more sophisticated audit processes being put in place.

⁴⁰ See Page 10 'Post Traumatic Stress'

All such audits must be confidential, open and transparent and apply to all workers, including managers as necessary. Tabulation and publication of results data should not identify individual workers for possible targeting by unsympathetic managers. For this reason, smaller work-forces or discrete groups of workers may require a different auditing approach to ensure anonymity.

The normal procedures of any generic risk assessment apply when establishing a full Stress Risk Assessment process. The process is a cyclical one, allowing for full and frank discussion of the causes and effects of workplace stressors, and for the implementation of control measures as well as the obvious pre-requisite of the employer's acceptance of his/her duty of care to the workforce.

THE PROCESS OF RISK ASSESSMENT

Employers are required by law to assess the risk of stress-related ill health arising from work activities and take action to control that risk. The Health and Safety at Work Act 1974 and particularly the Management of Health and Safety Regulations (2003), require all employers to undertake Risk Assessments of all workplace hazards, record the findings and put in place suitable control measures to eliminate or minimise to a safe level. Such Assessments must be carried out by a 'Competent Person', who is trained in the process and understands the impact of health and safety law, including the HSE Management Standards approach. (See HSE website www.hse.gov.uk/stress for further information and resources – in particular HSG218 "Managing the causes of work-related stress" which incorporates a systematic approach for employers and a number of helpful resources and toolkits. This is free to download)

The five step approach

The process of Risk Assessment is a basic five-step approach (See HSE guidance booklets). The following basic headings apply in all cases of the process:

- ▼ Identify the hazards
- ▼ Who can be harmed and how
- ▼ Evaluate the risks
- ▼ Record the findings (in writing)
- ▼ Monitor and Review the risk assessment periodically (normally annually or sooner if there have been significant organisational or individual changes)

TU Health and Safety Representatives have a legal right to be consulted about proposed changes in the workplace and have a right to be consulted about all risk assessments and the proposed outcomes. However, they do not have the legal responsibility to carry out risk assessments – that responsibility lies with the employer and their designated trained risk assessors.

The HSE Management Standards for Work Related Stress outline an organisational approach to using risk assessment to tackle the significant common causes of stress in the workplace.

The following brief generic approach to risk assessment may be helpful.

1. The risk assessment is completed on the role, not on the individual, but it should be borne in mind that ultimately an individual cannot be totally separated from the role. Particular care should be taken to acknowledge gender differences and to identify the additional risks faced by vulnerable people in the workplace such as part-time workers, shift workers, temporary workers, immigrant workers, workers with disabilities, pregnant workers and older and young workers. Trade Union Health and Safety Reps should be consulted and involved throughout the risk assessment process.
2. The role specification should be included in the assessment, taking into account the skills and abilities of the individual and identifying any training needs to ensure there is no possible conflict between ability and role.
3. A range of measures that may be appropriate to control the risks to staff should be considered. It is likely that a combination of control measures will be required.
4. Summary actions/further possible controls may be included in the final action plan.
5. If the risk is estimated to be low either minimal or no further action may be necessary. If the risk is estimated to be medium or high additional control measures will be required.
6. Try to identify the key stressors and underlying causes with the potential to develop work-related stress in a particular area. Accurately identifying these will help focus resources and find the controls most likely to reduce the risk.
7. Consultation with staff and their Trade Union representatives is essential. Managers may not feel that there is a problem; staff, however, may feel differently. Staff should be encouraged to communicate their views or where they identify stressors within their particular role(s) to enable a complete picture to be built up. Employees are more likely to be committed to control measures if they help to develop and put them into practice. Take an overall view and try to balance the risks to employees against business needs.
8. Having identified the necessary additional control measures, develop an 'Action plan for implementation' listing the measures that need to be implemented, a date for implementation (taking account of resources etc.) and the person responsible for ensuring implementation.
9. Once all the additional control measures have been implemented, carry out a further evaluation of the risk. If the risk is estimated to be low no further action is necessary. If the risk is still estimated to be medium or high, a further review and additional control measures will be required.
10. The control measures must be regularly monitored and reviewed to ensure that they remain effective.
11. The entire process must be recorded in writing, and be openly and transparently available to all those employees who are affected. Copies of assessments and outcomes should also be provided for TU Safety Representatives/Shop Stewards.

Control Measures

Having identified and confirmed the risks, associated hazards and potential actions required, the next step is to put together the appropriate control measures and action plan, in order that the matter can then be taken forward. The measures can be categorised under key headings, and appropriate tools put in place as necessary. Key focus areas will include the factors which form the basis of the HSE Management Standards for Work Related Stress.

HSE does not expect every employer to meet all the Standards at their first attempt. The Standards are goals that employers should be working towards through an on-going process of risk assessment and continuous improvement.

WHAT TO DO ABOUT STRESS



STRESS/bullying

- ▼ Explain your situation and experiences to your line manager
- ▼ Are stress and bullying policies in place?
- ▼ Counselling, Employee Assistance and other support
- ▼ Grievance, Dispute Resolution or Mediation?
- ▼ Legal, Regional or National TU advice
- ▼ If requested agree to see Occupational Health
- ▼ Employment tribunal or Personal Injury claims

STRESS/sickness

- ▼ Counselling, Employee Assistance and other support
- ▼ If need be, take time off—self certifying and then through your GP
- ▼ Make your manager and your TU Steward aware of any caring or home issues
- ▼ Make sure your GP certificate says **work related stress**
- ▼ If requested agree to see Occupational Health
- ▼ Sickness Absence Review, return to work with support

STRESS/TU action

- ▼ Explain your situation and experiences to your line manager
- ▼ Report your concerns to your TU steward or Safety Rep
- ▼ Have the issue raised informally at Branch Meeting
- ▼ Obtain absence data, audits and surveys
- ▼ Refer to Safety Committee or Shop Steward committee
- ▼ Raise collective issues with management
- ▼ Appropriate Risk Assessments and Control Measures

REMEMBER

- ▼ Always keep a log of all meetings, conversations, letters and emails
- ▼ Take a TU representative or family member and ensure you have a copy of the proceedings

THE INTERNATIONAL DIMENSION

Work-related stress is a problem not only for British workers but for workers throughout the world. In developed economies the psychological pressures on workers are similar to those found in the UK with similar causes and similar effects. The march of globalisation has enabled developed countries to export their health and safety problems, including health threatening working conditions to developing countries.

In the European Union work stress is recognised as one of the biggest health and safety challenges of the present day. Nearly one in four workers is affected by it, and probably between 50% and 60% of all lost working days are related to it. This represents a huge cost in terms of both human distress and impaired economic performance. In 2002, the annual economic cost of work-related stress in the EU (15 countries) was estimated at 20 billion Euros. A Europe wide survey in 2009⁴¹ covering all EU countries plus Croatia, Turkey, Switzerland and Norway found that awareness of the issue was greatest in northern European countries. Almost 80% of managers interviewed said that work stress was of major or some concern listing time pressures; dealing with difficult customers/clients/pupils; poor communication and job insecurity as major factors. 40% said that violence was an important issue. Despite this perception of psychosocial risks, less than 30% of workplaces had procedures in place to deal with them.

In recognition of the severity of the problem, the member states agreed in 2004 the voluntary Framework Agreement on Work Related Stress and in 2007 the Framework Agreement on Violence and Harassment at Work in which member states undertook to take steps to identify workplace stress and issues of harassment and violence in the workplace according to normal national arrangements. If a problem of work-related stress or violence/harassment was identified, member states undertook to take action to prevent, eliminate or reduce it. The responsibility for determining the appropriate measures would rest with the employer but measures would be carried out with the participation and collaboration of workers and/or their representatives. In 2008 the UK reported compliance because of the introduction of the Management of Stress at Work advisory document. In the opinion of the Stress Network It is debatable whether such a weak policy response adopted by so few employers and hardly enforced at all is an adequate response to the UK's obligations under the Framework Agreements.

According to Professor Chandola⁴² many countries in Europe, unlike the UK, already have legislation concerning the organisation of work and working conditions although there are few explicit references to stress. For example, there is no direct reference to stress in the Norwegian Working Environment Act or the Belgian Royal Decree (May 2007) but in the former there are a number of provisions concerning the organisation of the workplace and the work environment and in the latter every employer is obliged to analyse and identify all situations which might entail a psychosocial burden such as work content, working conditions and work relationships. Workers in some European countries have lower work stressors in terms of low job demands and higher job control

⁴¹ 2009, European Survey of Enterprises on New and Emerging Risks (ESENER) under the aegis of the European Agency for Safety and Health at Work (EU-OSHA) (EU-OSHA and the UK Data Archive bear no responsibility for the further analysis or interpretation of this research.)

⁴² British Academy, "Stress at Work" Professor Tarani Chandola, October 2010

than UK workers (e.g. Netherlands, Luxembourg and Belgium), and also in terms of having higher job control and higher job demands (such as Norway, Denmark and Finland). In France there is an industry wide agreement on stress at work between employers and trade unions which builds on the Framework Agreement. Although it is not clear whether legislation on work stress and/or enforcement of this legislation explains why workers in these countries have lower levels of work stressors the UK National Work Stress Network would argue that these are probably deciding factors. In fact, 63% of managers and employers in the ESENER pan-European survey⁴³ cited the necessity of complying with legal obligations as far and away the most important driver for addressing work stress health and safety issues.

CONCLUSION

In order that people may be happy in their work these three things are needed...

- ▼ they must be fit for it;
- ▼ they must not do too much of it; and
- ▼ They must have a sense of success in it. (John Ruskin, 1871)

Work Stress is one of the most important health and safety issues to confront workers in the 21st Century (possibly the most important). The campaign in the 20th Century was to reduce the horrifying toll of work-related death, injury and ill health caused by the physical work environment. Years of exhortation failed to persuade employers to tackle these problems voluntarily. The significant turning point was the passing of the Health and Safety at Work Act 1974 and the regulations that flowed from it. Only then, with the threat of legal penalties hanging over them, did employers begin to take seriously the physical safety of their workers. Although this battle has not yet been finally won and voices on the political right together with some employers' organisations are trying to roll back health and safety law, significant progress has been made and many workers' lives have been saved.

We need to learn the lessons of the past and we also need to learn from our international partners when we turn our attention to the scourge of work-induced mental illness. Exhortation to voluntary action and a 'light touch' approach to enforcement in the area of health and safety simply do not work. Employers have their attention focussed on the bottom line and the shareholder interest. Experience tells us that, when faced with a choice between meeting statutory obligations and an invitation to enter into expensive voluntary commitments, it is hardly surprising that most employers choose the former. This is especially the case in the UK where based on the current legal situation, courts have comforted employers with the view that minimum palliative action in the area of mental health is sufficient. Six years after the introduction of the voluntary 'Management Standards for Work Related Stress' and immense efforts to persuade employers to tackle psychosocial problems in the workplace, the voluntary approach has manifestly failed with widespread ignorance of the Standards amongst senior managers, little obvious enthusiasm for their implementation and no evidence to show that in those six years the work-related mental health of workers has improved. Statutory underpinning of the Management Stand-

43 2009, European Survey of Enterprises on New and Emerging Risks (ESENER) under the aegis of the European Agency for Safety and Health at Work (EU-OSHA) (EU-OSHA and the UK Data Archive bear no responsibility for the further analysis or interpretation of this research.)

ards for Work Related Stress is now essential either by Regulation under the Health and Safety at Work Act 1974 or at least by their incorporation into an Approved Code of Practice (ACoP). This legislation must be rigorously enforced.

Research in this country and abroad has shown conclusively that health and safety improvements are greatest where the employee voice is clearly and loudly heard and most of all where that voice is expressed through a trained trade union representative or a workplace Safety Committee. It is essential in the view of the Stress Network that the rights of such individuals in the workplace should be preserved and strengthened, their role applauded and their rights to training and appropriate facilities improved. This is an investment that will save lives.

Organisational culture, which embraces concepts of 'organisational justice' and 'dignity at work', is a key factor in determining how successful an organisation is in managing work-related stress. Organisational culture is often very strong and difficult to change. A healthy culture will be one where communication, support, and mutual respect are the norm. This would include attention to communications and staff welfare for example. So using the Management Standards approach is a key way of influencing, challenging and changing the organisational culture from one which reacts to individual or team stress problems to one in which the employers seek to prevent these problems happening in the first place.

HOW CAN I SUPPORT THE NETWORK?

- ▼ The most direct and useful way you can support the work of the Network is by campaigning in your local area, within your political party, within your trade union and elsewhere for action to be taken to tackle the scourge of work-related stress illness; in the first instance by demanding statutory underpinning in the form of Regulation or HSE Approved Code of Practice (ACoP) for the Management Standards for Work Related Stress.
- ▼ If you are able, join the UK National Work Stress Network Steering Group and help to further the campaign. We ask that if possible you secure your own funding.
- ▼ Make a donation or ask your union branch, national union, professional association or trade body to make a donation. We try to minimise our administrative and organisational costs as far as possible. However, we are a voluntary organisation and are totally reliant on donations from individuals and organisations. If you would like to make a donation towards these costs we would be extremely grateful. Cheques should be made payable to: UK National Work Stress Network and sent to the Network Treasurer (Name and address available on the website: www.workstress.net)
- ▼ Ask us to lead a seminar for you and your organisation on the issue of workplace stress or to provide a speaker on the issue of workplace stress at your conference, branch meeting or training event. We ask for a donation and the provision of travel and subsistence expenses. Discuss this with the Network Co-ordinator (Name and address available on the Network website: www.workstress.net.)
- ▼ Sponsor our website. We provide free reciprocal links for 'not-for-profit' organisations which share our aims and ask for a donation from other businesses/organisations which are not incompatible with those aims. For details of current set-up and renewal fees consult the Network website: www.workstress.net.

SOME PLACES TO LOOK FOR INFORMATION

<p>Health and Safety Executive (HSE) The main resource for information about health and safety regulation and health and safety statistics. The HSE website contains a wealth of useful tools and advice on the management of workplace stress and on many of the issues covered in this booklet. Publications from: HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA</p>	<p>The address of your local HSE Office can be found on their website: http://www.hse.gov.uk hsebooks@prolog.uk.com</p>
<p>Trades Union Congress (TUC) The TUC provides authoritative worker-focussed advice on health and safety issues, including stress. It publishes a free health and safety 48 e-zine called RISKS which will be emailed to registered users. Register by visiting the TUC website. The TUC booklet, <i>Tackling Stress at Work a TUC guide for Safety Representatives & union negotiators</i> is a useful resource</p>	<p>Trades Union Congress Congress House Great Russell Street, London, WC1B 3LS Tel: 020 7636 4030 Fax: 020 7636 0632 http://www.tuc.org.uk</p>
<p>TradeUnions Trade unions and professional associations can advise on the matters raised in this booklet and many publish occupation-specific advice on workplace stress, bullying and other health and safety issues. They can also assist with individual casework. Addresses of TUC-affiliated unions can be obtained from the TUC, otherwise use a web search engine. The website addresses of unions and professional associations sponsoring this publication can be seen opposite.</p>	<p>NASUWT: www.teachersunion.org.uk NUT: www.teachers.org.uk Police Federation: www.polfed.org UNISON: www.unison.org.uk UNITE: www.unitetheunion.org</p>
<p>Advisory Conciliation and Arbitration Service (ACAS) ACAS publishes authoritative advice on a range of employment issues. The ACAS/HSE publication, <i>Stress at Work</i> is very readable and has worked examples. ACAS also has publications on workplace bullying.</p>	<p>http://www.acas.org.uk Publications: acas@ecgroup.co.uk Helpline: 08457 47 47 47</p>
<p>Hazards Campaign The Hazards Campaign is a national network drawing together hazards centres, occupational health projects, health and safety groups, safety reps networks and Trades Union Councils' Safety Committees, specific campaigns and individual health and safety activists from every part of the country. Look on the Hazards Campaign website to see if there is a hazards centre, occupational health project or other group near to you. A copy of the Hazard Campaign Charter can be found on the website.</p>	<p>Hazards Campaign c/o Greater Manchester Hazards Centre Windrush Millennium Centre 70 Alexander Road Manchester M16 7WD www.hazardscampaign.org.uk http://www.hazardscampaign.org.uk/direct/dirindex.htm</p>
<p>Scottish Hazards Campaign Group fulfils a similar role in Scotland to that of the Hazards Campaign in England and Wales.</p>	<p>Scottish Hazards Campaign Group c/o Kathy Jenkins 113 Kingsknowe Road North Edinburgh EH14 2DQ www.scottishhazards.co.uk</p>

Workplace bullying

Apart from the organisations above, which also publish valuable information and advice on bullying, there are a number of useful dedicated sources of information on workplace bullying

Please note that many references to sources of information are contained within the body of the text or in footnotes to this booklet.

In addition, the Network website, www.workstress.net contains information and links on all of the issues raised in the booklet. The references here are a sample of the many sources of information available.

BULLYING	
<p>Bully On-line is the bullying information website started by the late Tim Field and now continued by his son and the Tim Field Foundation.</p> <p>The Government website gives some information about the legal issues involved.</p> <p>The Andrea Adams Trust although it has closed its helpline, still publishes advice on workplace bullying</p>	<p>www.bullyoffline.org</p> <p>http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026670</p> <p>http://www.andreadamstrust.org/</p>
<p>Fit notes advice can be found on DWP and other Government Websites.</p> <p>Hazards Magazine has published advice.</p>	<p>http://www.dwp.gov.uk/fitnote/ http://www.direct.gov.uk/en/Employment/Employees/Sicknessabsence/DG_187161</p> <p>http://www.hazards.org/workandhealth/fitforpurpose.htm</p>
<p>The charity MIND has advice on, amongst other things, Post-Traumatic Stress Disorder.</p>	<p>http://www.mind.org.uk/help/diagnoses_and_conditions/post-traumatic_stress_disorder</p>
<p>Various firms of solicitors specialising in personal injury and trade union work publish advice on legal aspects of issues covered in this booklet. These are examples; there are others. Appearance in this list does not imply endorsement by the UK National Work Stress Network.</p> <p>Irwin Mitchell Solicitors</p> <p>Thompson's Solicitors Summary, Stress & the Law</p> <p>Your Legal Rights advice (Russell Jones & Walker)</p>	<p>www.irwinmitchell.com</p> <p>http://www.thompsons.law.co.uk/ltext/l0780001.htm</p> <p>http://www.yourlegalrights.co.uk/accidents-and-injury/occupational-stress</p>
<p>European Agency for Safety and Health at Work is an agency of the European Union and a useful source of international information on stress at work.</p> <p>The European Framework Agreement on Stress at Work (2004) can be found here.</p>	<p>http://osha.europa.eu/en/topics/stress/index_html</p> <p>http://www.worker-participation.eu/EU-Social-Dialogue/Interprofessional-ESD/Outcomes/Framework-agreements/Framework-agreement-on-stress-at-work</p>
<p>Support Networks exist to assist workers in a number of employment sectors. The Teacher Support Network is available to workers in the education sector.</p>	<p>Teacher Support Network 40A Drayton Park, London N5 1EW Helplines: 08000 562561 (England), 08000 855088 (Wales) 0800 5642270 (Scotland) www.teachersupport.info</p>

Notes and References

Sensitivity and Determination

Psychological injury advice from Irwin Mitchell

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Hazards Campaign Supports the Work Stress Network

Work-related stress is the biggest occupational health problem across all types of work, causing untold misery and illness, from depression, anxiety and sleep disorders, to heart disease and often driving overwhelmed workers to commit suicide. Government cuts only increase the stress on those still in work.

The Hazards Campaign continues to fight for regulations or a code of practice to prevent work-related stress, but supports safety reps, in using the HSE Stress Management Standards to get employers to manage the factors that cause stress effectively.

Hazards
c a m p a i g n

www.workstress.net
design: Eve Barker 020 7485 0476
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Price where sold £2.00