



Guide

Work-related stress

What the law says

‘Stress at work is a major issue ... together we can successfully manage and prevent it.’ [Health and Safety Executive \(HSE\)](#)

‘Whatever your industry, size of business or location, there are things you can do for the health and well-being of your employees.’ [Health, Work and Well-being](#)

‘Work can have a positive impact on our health and well-being. Healthy and well-motivated employees can have an equally positive impact on the productivity and effectiveness of a business.’ [Acas](#)

‘Managers need to know what stress is; and also understand what skills, abilities and behaviours are necessary to manage employees in a way that minimises work-related stress.’ [CIPD](#)

Acknowledgements

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Introduction

This guidance summarises the legal duties that employers have to reduce and where possible prevent work-related stress impacting on the health of their employees. It provides a starting point to help understand the legal requirements, and suggests actions that employers can take to help to not just comply with the law, but improve the working conditions for all employees.

It has been designed for directors and managers in the public, private and third sector, in organisations of all sizes. It will also be of interest to those in supporting professions such as health and safety practitioners, HR practitioners and occupational health practitioners.

Stress is defined as 'the adverse reaction people have to excessive pressures or other types of demand placed on them'. This is distinct from normal workplace pressure, which can create a 'buzz' and be a motivating factor. This adverse reaction can seriously affect the mental health of employees, for example through anxiety or depression, and also have a significant effect on their physical health.

The duty of care that you have to your employees for work-related stress is set out in both statutory law and the common law.

Statutory law is contained in acts of parliament and regulations that set out the actions that employers should take, and the working conditions they should provide.

Common law precedent comes from the successful cases that individuals have taken against employers where they suffered ill-health as a result of work-related stress caused by their employer's negligence.

In some circumstances an employee who is suffering ill-health due to stress might be defined as having a disability, and therefore fall under equality legislation. You need to give consideration to whether their illness is having a substantial and adverse effect on their ability to carry out normal duties, whether it is likely to last more than 12 months, and could re-occur.

This guide therefore provides a concise summary of what the law says in both statutory law and the common law. It covers the law relating to work-related stress and related areas such as equality law. By following the guidance, you will help improve the quality of your employees' working lives, which in turn will improve the effectiveness of the workplace. This guide is your starting point to help ensure your organisation avoids prosecution or any civil action from employees.

Identifying a problem

- Monitoring working conditions to spot signs of stress
- Being aware of working conditions that could cause ill-health
- Consulting with employees to get their views on the workplace
- Giving consideration to employees with specific health needs or disabilities

Preventing harm

- Assessing the potential impact of workplace stressors
- Identifying measures that could prevent ill-health
- Ensuring employees are aware of preventative measures

Protecting individuals

- Taking action where harm to individuals is foreseeable
- Considering the needs of individuals
- Making reasonable adjustments to meet specific health needs or disabilities

Managing the workplace

- Monitoring the ongoing impact of work on vulnerable individuals
- Avoiding discriminating against individuals because of their health needs or disability
- Preventing workplace bullying and harassment

In this guidance

The following pages set out:

- a four-step guide to the law on work-related stress
- suggested actions that you can take to comply with the law
- a checklist of key questions to check your compliance
- a list of resources, references and links to more detailed information on the law.

Each of the four steps consists of the following:

- **legal principles** that summarise what the law says for each step – these state the overall aims of the law
- **core duties** that set out the specific duties that you have for managing work-related stress and the impact of other health needs – these summarise the basic requirements for complying with the law
- **employer actions** that will help achieve legal compliance – *these are suggestions for measures that employers can take.*

Business benefits of managing stress

Tackling work-related stress should not just be seen as a legal obligation; there are also a range of other benefits, including:

- reduced cost of absence, including sick pay, sickness cover, overtime and recruitment
- improved workplace morale, better working relationships and increased employee satisfaction
- increased productivity, through employees being healthier, happier and better motivated
- protection from reputational damage and financial costs of prosecution or litigation.

Legal principles

This guide provides a consolidated summary of the law in four steps. The legal principles contained in each of the four steps are referenced according to their source, to enable further reading if required (see 'Further reading' on page 14).

HSW *Health and Safety at Work*

PHR *Protection from Harassment*

EQ *Equality Legislation*

WTR *Working Time*

CSR *Consultation with Employees and Safety Representatives*

CLN *Common Law Negligence*

Identifying a problem

As an employer you have a legal obligation to try to identify any problems that your organisation might be having with work-related stress. In practice this means using a range of analytic and anecdotal measures to find out what's going on. Engaging employees directly, for instance through safety representatives, will help you understand what their perspective is, and help you identify what might be causing excessive workplace pressure.

Legal principles

- your duty to identify significant and foreseeable risks to employee health ^{HSW}
- your duty to prevent harm to employee health that is foreseeable and caused by work ^{CLN}
- your duty to consider any physical or mental impairment that has a substantial or long-term effect on their ability to work ^{EQ}
- your duty to consult with employees on health and safety matters. ^{LSR}

Core requirements

You need to be proactive in considering what factors could cause ill-health or exacerbate existing health conditions. The law states that you should:

- take reasonable steps to examine the workplace to identify risk
- identify possible sources of stress that could foreseeably cause employee ill-health (see 'When is action required?' below)
- take notice of signs of harm to employees that are plain enough for you to realise that preventative or protective action is required
- consider existing health needs or disabilities on the employee's ability to carry out their work
- expect that employees can withstand normal pressures of work.

Employer actions

There are a number of actions that you can take to gather data and evidence on the nature of any problem you may have with work-related stress, including:

- engaging and consulting with safety representatives
- setting up specific focus groups to review issues of work-related stress
- reviewing the results of employee satisfaction surveys or stress surveys and actioning their findings
- reviewing the findings of risk assessments
- analysing sickness absence data, turnover rates, and so on.

When is action required?

The law requires you to take action when harm to your employees' health is 'foreseeable'. As an employer you are entitled to expect that employees can cope with the normal pressures of the job unless you know of a particular problem. However, there are number of factors that will help determine whether harm is foreseeable or not, including:

- Is the workload much more than is normal for the job?
- Are the job demands unreasonable when compared with the demands made of others doing comparable work?
- Are there signs that employees are suffering from stress, such as prolonged or repeated incidences of absence?
- Are there any other non-work factors that may be contributing?

In addition you must give consideration to whether the employee's health needs could be categorised as a disability. This is defined as a physical or mental impairment that has a long-term adverse effect on their ability to carry out normal day-to-day activities (see 'Further reading' on page 14).

Case study: Young v The Post Office

POST OFFICE WORKER AWARDED £94,000 IN STRESS CLAIM

The High Court has awarded a former Post Office worker nearly £94,000 in damages after suffering a stress-related illness that the court found was caused by his work. Maurice Young, a workshop manager at a Post Office depot in Scarborough, suffered a breakdown in May 1997 as a result of overwork and lack of training on new systems. After four months off sick he returned to work with Post Office managers promising flexible working arrangements to allow him to gradually take on his normal work. Seven weeks later however he went off sick again with depression. The court heard that managers had failed to implement the measures they had promised and as a result Young's illness recurred.

The court found that the first breakdown could not have been foreseeable to Young's managers, however when he returned to work there was a good chance his health would suffer if circumstances didn't change. Hearing the case Lord Justice May said 'Mr Young had already suffered from psychiatric illness and his employers knew this, in my view it is entirely foreseeable that there might be a recurrence if appropriate steps were not taken when he returned to work'. Young was awarded £93,880 in damages plus costs.

Ref - *Young v The Post Office* [2002] EWCA Civ 661

Case study: HSE improvement notice West Dorset General Hospitals NHS Trust 300

GROUND-BREAKING INVESTIGATION PUSHES STRESS UP THE AGENDA

It was the first of its kind in the health sector and so when HSE issued an Improvement Notice to West Dorset General NHS Hospitals Trust in July 2003, it attracted a lot of attention. HSE served the notice for a failure to risk assess exposure to causes of work-related stress and at the time, it was only the fourth notice HSE had served on stress.

The Trust successfully met the terms of the improvement notice: to complete a suitable and sufficient risk assessment for work-related stress, by March 2004. They went on to share their experiences with other Trusts.

A notice like this highlights the legal reason why employers should be proactive in tackling work-related stress. A duty exists for all employers to undertake an adequate risk assessment under the Management of Health and Safety Regulations (reg 3); that should include arrangements for managing risks posed by work related stress. This is in addition to employers' general duty of care required by Section 2 of the Health and Safety at Work etc Act 1974.

Preventing harm

The law requires you to actively manage the workplace to try to prevent accidents and ill-health before they happen. The same principles apply to controlling potential causes of work-related stress. The process of risk assessment, as well as being required by law, provides a simple and effective method for preventing the day-to-day pressure of work from becoming excessive.

Legal principles

- your duty to prevent injury to health from work-related stress as a workplace hazard ^{H5W}
- your duty to limit employees' working hours, provide annual leave and regular rest breaks ^{WTR}

Core requirements

Having identified potential causes of stress in the workplace, employers must implement measures to prevent them from causing harm to employee health, by:

- undertaking a suitable and sufficient assessment of the risk to employee health
- developing and implementing preventative measures to control the causes of stress
- providing information to employees on the nature of the potential causes of stress and the measures you have taken to control them
- recording the risk assessment and keeping a written copy of it (if your organisation has five or more employees)
- not requiring employees to work more than 48 hours per week unless they provide a written opt-out from this requirement
- providing employees with 5.6 weeks paid leave per year and regular rest breaks during their working shift

Employer actions

There are a number of measures that employers can implement to help prevent work-related stress:

- Develop standard processes for completing, reviewing and recording risk assessments (see 'Five steps to risk assessment' below).
- Ensure risk assessment processes reflect the HSE Management Standards guidance, or provide an equivalent approach (see page 12).
- Provide information, training and instruction to managers to raise awareness of how to manage work-related stress.
- Implement a policy on working hours and monitor employees' working hours against this policy.

Five steps to risk assessment

A risk assessment is simply a careful examination of what, in your work, could cause harm to your employees, so you can weigh up whether you have taken enough precautions or need to do more. The process shouldn't be overcomplicated, simply follow these five steps:

Step 1 – Identify the hazards.

Step 2 – Decide who might be harmed and how.

Step 3 – Evaluate the risks and decide on precautions.

Step 4 – Record your findings and implement them.

Step 5 – Review your assessment and update if necessary.

The law does not expect you to eliminate all risks, but you are required to protect employees as far as is 'reasonably practicable'. This involves weighing any risk against the trouble, time and money needed to control it. The law expects you to put measures in place except where they are ruled out because they involve grossly disproportionate sacrifices.

Protecting individuals

Over and above the legal duties to put preventative measures in place, you have a duty to protect individuals from harm caused by work-related stress. As an employer you are required to take reasonable steps to prevent work-related stress affecting employee health once you are aware that it is affecting them. You are also required to make reasonable adjustments to an employee's work or workplace if their health needs can be defined as a disability.

Legal principles

- your duty of care to protect employees from injury to health caused by work ^{CLN}
- your duty to make reasonable adjustments for employees with a disability ^{EQ}

Core requirements

Having identified that harm to an employee's health is foreseeable, or that their health needs can be defined as a disability, you must:

- take reasonable steps to protect the employee from harm (see 'What is reasonable?' below)
- make reasonable adjustments to prevent employees with a disability being placed at a substantial disadvantage.

Employer actions

There are a number of things that you can do to implement reasonable steps to protect employees, or make reasonable adjustments:

- Talk to them to get their own thoughts about how they're coping with work.
- Develop and agree an individual action plan with the employee affected.
- Undertake a disability impact assessment to consider the effects of the individual's disability on their work.

- Consider obtaining specialist occupational health advice to help determine what measures will help the employee.
- Refer the employee to a confidential counselling service if you have one available.
- Ensure you treat the employee fairly within your organisation's equality policy.

What is reasonable?

As an employer you are required to act reasonably in what you do to protect employees from harm; this includes giving consideration to the following:

- the risk of and magnitude of harm to health
- the likelihood that the measures will resolve the problem
- the costs and practicability of preventing it
- the size and scope of your organisation's business
- the resources you have available and demands your organisation faces
- the interests of other employees and the impact on their health of any changes you make.

Similarly these same factors should be considered in deciding how far you need to go in making workplace adjustments for a disabled employee to prevent them from being disadvantaged. In addition you should consider the availability to you of additional funding, grants or other assistance available to help implement the measures needed.

Managing the workplace

Harassment covers a wide range of conduct, ranging from serious crimes (such as sexual assault) to seemingly trivial remarks. It can generally be defined as unwanted conduct that results in, intended or otherwise, the violation of an individual's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Legal principles

- your duty to protect employees against harassment in the workplace ^{PHA, CLN}
- your duty to protect disabled employees from discrimination, harassment or victimisation ^{EQ}
- your duty to provide health surveillance where identified by risk assessment ^{HSW}
- your duty to protect the health of night workers ^{WTR}

Core requirements

To ensure your employees are treated fairly at work, you must:

- Prevent all employees from being subject to bullying or harassment.
- Prevent direct or disability-related discrimination of disabled employees.
- Prevent disability-related victimisation or harassment.
- Provide health surveillance where there is an identifiable work-related condition, there is a likelihood of recurrence, or where surveillance will help protection.
- Provide night workers with regular health assessments.

Employer actions

There are a number of measures you can take to ensure that your employees are treated fairly in the workplace, such as:

- Implement a bullying and harassment policy for all employees and ensure any such incidents are treated seriously (see 'What is harassment?' below).
- Develop an equality policy and promote awareness among all employees.
- Ensure all HR policies reflect the needs of disabled employees.
- Ensure disabled employees are not discriminated on recruitment, promotion, pay and conditions.
- Ensure employee health is monitored for night workers.
- Ensure employee health is monitored where a risk assessment identifies there is a work-related condition or the likelihood a previous condition could reoccur.

What is harassment?

Harassment occurs when one person pursues an unwanted course of action to another that violates that person's dignity and causes them alarm or distress. In general the courts have placed a high threshold on the kinds of behaviour that are considered as harassment, and aren't trivial day-to-day workplace incidents.

Harassment also extends to behaviour relating to an employee's disability, where this results in an intimidating, hostile, degrading, humiliating or offensive working environment for the individual.

As an employer you are expected to take all possible steps to prevent the harassment from occurring, including having a policy in place, promoting awareness of it to all employees, and actively enforcing it.

Case study: Green v Deutsche Bank

BULLIED CITY WORKER AWARDED £828,000 FOLLOWING 'SPITEFUL CAMPAIGN'

The High Court has awarded a former Deutsche Bank worker £828,000 in damages following what the judge described as a relentless campaign of mean and spiteful behaviour by colleagues. Helen Green, a high flyer at the bank, was admitted to hospital suffering a major depressive illness as a result of a 3-year campaign of bullying. This included amongst other things, ignoring her, laughing at her when she walked by, making lewd comments, and hiding her post. Green raised the problem with her manager and HR department but her complaints were ignored.

In judgement, Mr Justice Owen described the behaviour as 'oppressive and unreasonable' adding that 'line managers knew or ought to have known what was going on. They

collectively closed their eyes to what was happening, no doubt in the hope that the problem would go away'.

He identified that 'there were obvious steps that could have been taken. It ought to have been made clear that such behaviour was simply unacceptable, and those involved warned that if they persisted disciplinary action would follow. By whatever means the bullying could and should have been stopped'. The size of the damages awarded reflected the court's view that Green would never again work in a job that paid as well as she had been at the bank.

Ref – *Helen Green v DB Group Services (UK) Ltd* [2006] EWHC 1898

Case study: Dickins v O2 Plc

O2 PAY £110,000 TO STRESSED WORKER

In a hearing at the Court of Appeal, telecoms giant O2 has been ordered to pay damages of nearly £110,000 to an accountant who suffered ill-health due to excessive working hours and demanding workload. Susan Dickins, had warned managers that she couldn't cope and was 'at the end of her tether'. The court heard that Dickins had been a conscientious, hard working and reliable employee who had mentioned difficulties over a period of time, as such the warning signs were evident 'yet managers did nothing of substance about it'.

She had raised issues in appraisals and had asked for a sabbatical from work so that she

could recover. Managers had not referred Dickins to Occupational Health for specialist help, nor provided her with time away from work to recover from exhaustion. Passing judgement Lady Justice Smith said 'Ms Dickins told her employer that she needed help with her work and no help was provided, she asked for a less stressful job and was told to hold on for 3 months. She tipped over the edge because nothing significant was done to address her need for a rest and to change her work requirements'. Dickins was awarded £109,754 in damages.

Ref – *Dickins v O2 Plc* [2008] EWCA Civ 1144

The Management Standards for Work-related Stress

The Management Standards approach has been developed by the Health and Safety Executive (HSE) to help reduce the levels of work-related stress reported by British workers. The goal is for you to work with your employees and their representatives to implement the Management Standards by continually improving the way you manage workplace pressures that can result in work-related stress. This will be good for employees and good for business.

This approach gives you the help you need to achieve these aims. It demonstrates good practice through risk assessment, allows evaluation of the current situation using surveys and other techniques, and promotes active discussion with your employees to help decide upon practical improvements.

What are the Management Standards for Work-related Stress?

The Management Standards cover six key areas of work design that, if not properly managed, are associated with poor health and well-being, lower productivity and increased sickness absence. In other words, the six Management Standards cover the primary sources of stress at work. These are:

Demands	this includes issues such as workload, work patterns and the work environment
Control	how much say the person has in the way they do their work
Support	this includes the encouragement, sponsorship and resources provided by the organisation, line management and colleagues
Relationships	this includes promoting positive working to avoid conflict and dealing with unacceptable behaviour
Role	whether people understand their role within the organisation and whether the organisation ensures they do not have conflicting roles
Change	how organisational change (large or small) is managed and communicated in the organisation

This approach incorporates a number of key features considered to be essential to reduce the causes of stress. If you follow this risk assessment and management process correctly, you will be adopting an approach that is considered suitable and sufficient.

Am I doing enough?

If you are starting from scratch, following the Management Standards' step-by-step approach may save you time. However, like many other organisations, you may have already developed your own approach to managing work-related stress. You may not use the word 'stress', for example, but may focus on positive aspects such as 'wellness' or 'healthy workplaces'.

The checklist on the next page will help you assess what you are already doing, and help you decide what more you need to do.

Managing stress checklist

1 Identifying a problem

- Do you have arrangements to identify those aspects of the work, organisation or environment that are known to be risk factors for work-related stress?
- Does your approach highlight the extent and nature of the gap, if any, between the current situation and what is seen as good practice, such as that set out in the Management Standards?
- Do you involve the workforce:
 - by asking about their views regarding good and bad features of workplace conditions?
 - by seeking their suggestions, advice and comments on potential solutions to problems (for example improvements to working conditions, changes in the way work is organised, and so on)?
 - by ensuring that people are empowered to contribute and feel that their views are listened to and acted on?
 - by communicating outcomes (for example action plans)?
- Are you aware of cases where your employees' health needs may be categorised as a disability?

2 Preventing harm

- Do you ensure commitment from all parties (senior management, employees and their representatives)?
- Do you include all the steps in the risk assessment process?
- Do you focus on prevention and organisation-level solutions?
- Do you seek to develop and adopt solutions that are 'reasonably practicable'?
- Do you provide documentation to show what you have done at each stage of the process and that you are implementing the recommended actions?
- Do you have a policy on working hours, and do you monitor your employees' working hours against this policy?

3 Protecting individuals

- Do you have plans in place for dealing with individual issues with work-related stress?
- Do you have a plan for making reasonable adjustments to a disabled employee's work activities or workplace if required?

4 Managing the workplace

- Do you have a policy in place for bullying and harassment and is it actively enforced?
- Do you promote awareness of this policy to all employees?
- Do you have appropriate policies in place to prevent discrimination, victimisation and harassment of disabled employees?
- If you have night workers, do you provide them with regular health assessments?

Further reading

Further information and guidance is available from the following sources:

Work-related stress

- Managing the causes of work-related stress: the Management Standards Approach, Guidance (HSG218) www.hse.gov.uk/stress
- Stress at Work, Acas booklet, www.acas.org.uk
- Preventing stress, promoting positive manager behaviour, CIPD guidance, www.cipd.co.uk/subjects/health/stress/_preventing_stress

Health at safety at work

- Management of Health and Safety at Work Regulations 1999, Approved Code of Practice and Guidance (L21)
- Five steps to risk assessment, Guidance (INDG163)
- As low as reasonable practicable at a glance, available from HSE website www.hse.gov.uk/risk/theory/alarpglance

Available from HSE Books <http://books.hse.gov.uk/hse/public/>

Protection from harassment

- Harassment and bullying at work, CIPD factsheet, www.cipd.co.uk/subjects/dvsequil/harassmt/harrass

Equality legislation

- Making reasonable adjustments for disabled employees
- Disability health and employment: guide for employers
- Top tips for small employers
- A guide to employing disabled people

All available from Equality and Human Rights Commission website: <http://www.equalityhumanrights.com/advice-and-guidance/information-for-employers/>

Government Equalities Office website: www.equalities.gov.uk/equality_bill.aspx

Working time

- Guide to working time and time off, Government guidance. Available from www.businesslink.gov.uk select 'employing people'

Consultation with employees

- Involving your workers in health and safety, Guidance (HSG263), available from HSE worker involvement website, www.hse.gov.uk/business/involvement
- Hazards at work: Stress, TUC Guide for Safety Representatives, available from www.tuc.org.uk/h_and_s/stress.cfm

Common law negligence

- Building the business case for managing stress in the workplace, CIPD Guide, see chapter 6 'Stress at work and the courts'. Available from www.cipd.co.uk/subjects/health/stress/_bscsstrs

About this guide

This guide has been developed with the help of the following organisations:

Acas

Health and Safety Executive

Chartered Institute of Personnel and Development

Health, Work and Well-being

It is addressed to the directors and managers of employers of all sizes in the public, private and third sector. The guide summarises the requirements of statutory law and the common law as it applies to the duty of care employers have to their employees to prevent psychological harm caused by work-related stress. It also summarises related areas of law such as disability discrimination, working time and harassment. The guide itself is not obligatory and does not necessarily reflect the policy of the sponsor organisations.

We explore leading-edge people management and development issues through our research. Our aim is to share knowledge, increase learning and understanding, and help our members make informed decisions about improving practice in their organisations.

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