

THE INCLUSIVE SCOOP

Equality, Diversity and Inclusion Newsletter

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Mental Health in the Workplace

These last few years have been very difficult for a large number of people for a variety of reasons. Many have become seriously poorly, lost loved ones, been furloughed and faced concerns over job security, worked from home and the stresses that this brings with it or lost their jobs entirely amidst the various national lockdowns we've had. The Covid-19 pandemic has put increased focus on how employers support the health, safety and wellbeing of their employees.

There's a number of protections afforded to staff to ensure that their employers are taking as much care for them as is reasonably practicable. It is so important for employers to be forward thinking and proactive about mental health, as this is an areas that is so often overlooked. Everyone should feel comfortable discussing any issues they may have and should be entitled to understanding and compassion within the workplace.

From a legal perspective in England and Wales, the Equality Act 2010 encompasses many mental health illnesses which can be classed as a disability. A range of conditions may qualify an employee for protection under the Equality Act providing there is a mental or physical impairment that has a substantial and long-term effect on their ability to carry out normal day-to-day tasks, where "long term" means that the condition has lasted or is likely to last for 12 months or more. A "substantial" adverse effect on an individual's ability to do normal daily activities is one that is more than a minor or trivial effect. If an employee is taking medication to help them manage their mental health, this will effectively be disregarded when considering whether they meet the definition or not.

If an employee satisfies this definition, an employer has a responsibility to make reasonable adjustments to alleviate any disadvantage suffered (in comparison to other non-disabled employees) as a result of their disability. A failure to do so may amount to disability discrimination. It is important for employers to promote good mental health as well as providing support when an issue emerges. If an employee feels they can talk openly about mental health, problems are more likely to be resolved and are less likely to escalate.

*"DIVERSITY is being invited to the party.
INCLUSION is being asked to dance."*

- Verna Myers



Work-related stress is on the rise



**In 2020, of British adults in employment – a staggering 79% commonly experience work-related stress. This makes work-related stress the most common form of stress in the UK.
Published by Perkbox**

One common mental health condition within the workplace is stress. Stress isn't always a bad thing and many people will need a little bit of stress to stay focused and driven to overcome new challenges in the workplace - there is a fine line though. Too much stress can leave people feeling drained and overwhelmed. It's when stress exceeds a person's ability to manage it that it stops being helpful and starts to become a problem.

Legally, employers are responsible for the general safety of their employees while at work. Legislation such as the Health and Safety at Work Act 1974 states that an employer must take reasonable steps to make sure workplaces are safe and healthy and to control any identified risks.

In addition, the Management of Health and Safety at Work Regulations 1999 require employers to carry out a "suitable and sufficient" assessment of the risks to the health and safety of their employees. An employer is required to put proper controls in place to avoid these risks, wherever possible. Where it is not possible to avoid risk altogether, steps must be taken to reduce them so far as is "reasonably practicable".

While risk assessments should be carried out, managers should also be prepared to help and support employee's experiencing stress. Mental Health isn't a binary box ticking exercise and employers should not treat it as such.

Many organisations have trained staff to assist staff who may be struggling but, although training on mental health can be very useful, a manager should not be expected to be an expert in that field. They should be aware of the signs of stress and be prepared to raise any concerns with the appropriate people but should never make any assumptions. One way this can be done is by making sure employees have regular one-to-ones with their managers and giving them time to talk confidentially about any problems they may be having.

Common signs of stress can include;

- changes in the person's usual behaviour, mood or how they interact with colleagues
- changes in the standard of their work or focus on tasks
- appearing tired, anxious or withdrawn and reduced interest in tasks they previously enjoyed
- changes in appetite and/or increase in smoking and drinking alcohol
- an increase in sickness absences and/or turning up late to work.



**822,000 workers suffered from work-related stress, depression or anxiety in 2020/21.
Published 16th December 2021 by the Health and Safety Executive**

It's beneficial if employers create an environment where employees feel able to talk openly about mental health. Employers should be encouraging positive mental health but in order to successfully promote this. Managers and employees need to become more informed about mental health in general and what support is available. For example, it may be beneficial to arrange mental health awareness training or workshops or appointing mental health team who employees can talk to seek support.

From a business perspective, mental health can affect an employees' morale, work rate, attendance and working relationships. In turn, this will likely impact productivity, staff turnover and business reputation. So it's safe to say that it's really important for a business to be adopting a positive approach to mental health.

For those employer's that choose to ignore the issue, or who undermine the mental health of their staff, risk not only the health of their staff and reputational damage but also expose themselves to unnecessary costs in dealing with any complaints (ranging from grievances to employment litigation) and the considerable time and resources that this entails.

Written by Jamie Riseley, Associate, Employment Law

Contact Us

We hope you've found the article helpful. If you require any advice or support then please do get in touch with a member of the Employment team. We will be happy to discuss this with you further.

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5 Top Tips for Employers

- Be supportive and encourage employees to be honest about the issues they might be facing by having meaningful conversations. As an employer you must be prepared to listen and show empathy. Make sure that you act on any issues raised by the employee and provide help and support where you can.
- Remind your employees of the support available to them. You may be able to offer them access to employee assistance programmes or confidential counselling. Consider whether you need to refer the employee to an Occupational Health professional.
- Make reasonable adjustments. Even if you are not obliged to do so under the Equality Act, it is still good practice to listen to your employees' needs and offer up solutions where possible (for example, would flexible working arrangements assist and can this be accommodated?).
- Encourage your employees to take time away from work and have a good healthy work/life balance. Rest breaks and annual leave are not only a legal entitlement but they are time for an employee to take some time out for other things such as exercise, rest and relaxation.
- Keep the conversation going – mental health needs to form part of your workplace culture, which means you can't just raise the subject of mental health once or display posters in communal areas. You must revisit the topic on a regular basis and ensure all senior members of staff are leading by example.

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