Stress management

A new focus

The HSE's most recent statistics identify that work-related stress accounts for 37% of all work-related ill health in Great Britain and causes 45% of all working days lost due to ill health. In addition to the clear business benefits for employers to get this right, the HSE's focus is now firmly on employers to ensure they have suitable provision in place to manage this increasing risk.

What does the law say you have to do?

As well as the moral considerations to get this right, employers should be aware of their underlying legal duties in this area.

There is no single health and safety law which deals with employers' responsibilities towards managing workplace stress. Instead, employers must think about their wider health and safety obligations and consider how they apply to stress management.

Section 2 of the Health and Safety at Work etc. Act 1974 sets out employers' duties to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees. Managing work-related stress falls squarely within this duty. Employers also have a duty to carry out a risk assessment for stress and act upon their findings, as set out within the Management of Health and Safety at Work Regulations 1999.

Whilst the HSE's focus is currently on educating employers and is unlikely to turn to prosecution if failures are identified, historically, organisations have been subject to improvement notices for failing to manage work-related stress effectively. It is possible that the HSE may return to using this enforcement tool for those organisations that do not take steps to tackle work-related stress effectively.

Employers should be aware that even if there is no criminal penalty, they may be subject to civil sanctions (for example as a result of a claim made through the employment tribunal) or, in the worst-case scenario, may be asked to explain their conduct before a Coroner, potentially giving rise to serious reputational harm.

How can you achieve compliance?

The HSE refreshed its guidance in this area last year in the form of the stress "Management Standards". This approach is a five-step model which asks employers to:

	identify the risk factors
	consider who can be harmed and how
	evaluate the risks
	record findings
	monitor and review

In particular, the Management Standards identify six key areas of work design that are associated with stress, and which can form the basis of a stress risk assessment. These are demands, control, support, relationships, role and change. All employers should consider how these risk factors are managed internally and identify whether there are any additional control measures which should be put in place, such as training for line managers on how to manage employees and joined up HR, EHS and Occupational Health processes.

How we can help

Eversheds Sutherland can provide practical support to organisations concerned about their stress management approach, advising on legal compliance and best practice.

For more information, please contact:

Paul Verrico
Partner

T: +44 113 200 4084
M: +44 777 067 8808
paulverrico@eversheds-sutherland.com

Surekha Gollapudi
Senior Associate

T: +44 113 200 4247
M: +44 791 900 5078
surekhagollapudi@eversheds-sutherland.com

eversheds-sutherland.com