cipd

Guide

Building the business case for managing stress in the workplace

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Introduction

Stress in the workplace: what it is and why it matters to business

The issue of stress at work is a business-critical one. If it is not managed properly stress will cause employee health and absence problems, and reduce individual and organisational productivity.

However, too few employers understand what stress is, how it affects people, or how to identify and manage it.

The Health and Safety Executive (HSE) defines stress as 'the adverse reaction people have to excessive pressure or other types of demand placed upon them'. Of course a certain level of pressure in a business environment is desirable. Pressure helps to motivate people and will boost their energy and productivity levels but, when the pressure individuals are under exceeds their ability to cope, it becomes a negative rather than a positive force – in other words, stress.

Stress creates physical changes linked closely to our flight or fight reflex. Adrenaline, noradrenaline and cortisol are among 40 hormones produced by the body when stressed.

Stress in itself is not a medical condition but research shows that prolonged exposure to stress is linked to psychological conditions such as anxiety and depression as well as physical effects such as heart disease, back pain and headaches.

A 2007 study by the Institute of Psychiatry (Melchior et al 2007) found that people with high-stress jobs have twice the risk of developing serious depression or anxiety compared with others in less stressful occupations.

Stress makes people more likely to drink too much alcohol or smoke excessively and interferes with sleep. Individuals suffering from stress are likely to find sleep difficult because adrenaline and cortisol will interfere with the body's ability to 'switch off' and relax.

The HSE identifies the top causes of work-related stress as job demands, control, support, roles, relationships and change. CIPD research identifies workload and management style as the top two causes of work-related stress.

One of the difficulties of managing stress at work is that obviously only a proportion of stress will be caused by people's jobs, with CIPD members estimating that 60% of stress-related absence is for non-work causes. In many cases there is a complex relationship between different causes of stress at work and home. For example, someone suffering from debt problems and a deteriorating personal relationship may find that the demands of their job, which are perfectly manageable in normal circumstances, start to get on top of them. Employers cannot just shut their eyes to the problem and say, 'this is not a work problem so it is not my responsibility', because the chances are the situation will lead to changes in the individual's behaviour, attendance or performance in the workplace.

A significant proportion of the working population are at risk from the negative effects of stress on a daily basis. According to a CIPD survey of 1,000 employees in 2006 (Truss), 22% of respondents described their jobs as either very or extremely stressful and 15% reported that they felt under excessive pressure at work every day. Not surprisingly stress is one of the biggest causes of employee absence. Research by the CIPD (2008 *Absence Management* survey report) finds that stress is the number one cause of long-term absence for non-manual employees and the fourth biggest cause for manual workers. In addition, stress-related absences are frequently long, averaging 21 days per spell of absence (Spurgeon et al 2007). The impact on UK plc is significant. The HSE *Self-reported Work-related Illness Survey 2004/05* found that 12,820,000 days were lost to stress, anxiety and depression in 2004–05, with an estimated cost to the UK economy of £3.7 billion a year.

However, absence is only one cost to business associated with stress. Higher levels of stress are associated with lower levels of motivation and commitment (Guest and Conway 2005). Research also identifies stress as a significant cause of conflict at work (OPP 2008) and finds that stress is associated with higher intentions among employees to leave organisations (Guest and Conway 2005).

Research by the Sainsbury Centre for Mental Health (2007) finds that mental health problems, including stress, are a major cause of presenteeism (people coming to work while ill and not performing), which is associated with annual costs to employers of more than £600 per employee per year. Stress at work is the equivalent of an engine warning light coming on indicating that something is wrong that is interfering with performance and will eventually lead to a breakdown.

Stress in the workplace: a growing problem

Stress in the workplace is a growing problem for individuals and employers and government. HSE research finds that the prevalence of work-related stress has increased from 820 per 100,000 people employed in the previous 12 months in 1974 to 1,300 per 100,000 people employed in the previous 12 months in 2005. More than 30% of respondents to the CIPD 2008 *Absence Management* survey identified an increase in stress-related absence, with just 11% reporting a decrease.

The growing impact of work-related stress on public health is reflected by the increasing proportion of incapacity benefit claims that are the result of mental or behavioural problems, including stress. The proportion of Incapacity Benefit (IB) claimants suffering from such conditions has increased from 28% in 1997 to nearly 40% today (Department for Work and Pensions 2006).

It is important to consider some of the reasons for the increase, because it is only by pinning down the causes of growing levels of stress and other mental health problems, such as depression and anxiety, that solutions can be identified.

One likely reason is changes in the nature of employment in the last decade and a half, which have led to an intensification of work. The economist Francis Green finds that work intensity increased significantly between 1992 and 2001 (Green 2001). Green identified a number of factors that have contributed to the intensification of work over this period, including competitive pressures increasingly being passed on to employees, and the decline of union representation and power. He also cites as a cause of work intensification the introduction of HR policies designed to encourage greater worker involvement and commitment, including incentives that link effort with pay. The final factor reported by Green as contributing to increased work intensity is technological advances. The development of the Internet, emails, mobile phones, laptops and Blackberrys have increased the pace of work and also blurred the line between work and home for many employees, making it harder for them to switch off and recharge their batteries.

Other developments that over the last two decades may well have contributed to the increased prevalence of stress and other mental health problems in society as a whole include an increase in social isolation as a result of the breakdown of traditional communities and the growth in single occupancy households.

In addition, increased reliance on electronic communication technologies such as the Internet, emails, instant messaging and social networking websites such as Facebook and Bebo mean that people are no longer having as many of the face-to-face conversations with family and friends that help put life and its problems into perspective.

Finally, the huge increase in personal debt over the last few years, concerns over higher living costs and, more recently, growing worries over job security against a backdrop of rising unemployment, are also likely to undermine positive mental health and increase stress levels.

All of these trends are likely to continue and increase, particularly as the economic environment becomes tougher, putting people under greater pressure than ever before, both at work and at home.

Against this background, the business case for employers to invest in the well-being of their employees by taking steps to identify and manage stress more effectively becomes cast iron.

1 Impact of stress on individual employees

Stress has an impact at an individual level, by affecting employees' physical and mental health, as well as by undermining their motivation and commitment.

Stress has an impact at an individual level, by affecting employees in a variety of ways, for example:

- Impact of stress on physical health: chronic exposure to the stress reaction can impact on physical health in a range of ways. For some individuals, it may lead to hypertension and increased risk of cardiovascular disease; for others the impact will be on the digestive system and manifest in peptic ulcers, irritable bowel syndrome or other digestive disorders; others still may find stress leads to muscular tension, back pain, headaches or other aches and pains; other physical manifestations of stress include fatigue/exhaustion (often associated with insomnia or sleep disorder) and reduced immune function.
- Impact of stress on mental health and state of mind: chronic exposure to the stress reaction can potentially impact on mental health. In particular, stress can be a precursor to common mental health problems, that is, anxiety, depression or a combination of the two; indeed, the term 'stress' is sometimes used to indicate a low-level depressive and/or anxiety disorder (though stress is not a medical diagnosis). However, even before it has led to a specific mental health problem, stress can affect one's state of mind through: reduced ability to concentrate, forgetfulness, feeling anxious and tense, feeling vulnerable or tearful, moodiness and/or low self-esteem. It can also affect one's ability to interact with other people, due to increased moodiness, reduced self-esteem and impact on interpersonal skills.

- Impact of stress on engagement/motivation/commitment: another way in which chronic exposure to stress can have an impact is through its effect on the psychological contract, that is, the relationship between employee and employer. As for other stress-related impacts, this is a complex and potentially two-way association: when an employee feels that their employer is not treating them fairly (for example by managing change poorly) this can either be seen as a breach of psychological contract leading to stress, or as a stressful situation leading to a less functional psychological contract. Either way, high stress levels are likely to be associated with lower employee engagement, motivation and commitment to their work/employer.

Separately or in combination, these individual-level effects are almost certain to lead to organisational impact. Thus stress can have a range of organisation-level effects, which are explored below.

2 Impact of stress on the organisation

Stress has serious implications for organisational performance. This section highlights the impact that stress can have in terms of increased employee absence, staff turnover and reduced productivity. In addition, stress is a major cause of conflict at work, undermines positive employee relations, and can also lead to reputational damage.

Stress and sickness absence

When looking at the organisational implications of stress, sickness absence tends to be the most obvious and most easily calculated cost. Given the impact stress has on individual employees, as outlined above, it is not surprising that high employee stress levels tend to be associated with high levels of sickness absence. There are a number of reasons that an individual experiencing stress might take sickness absence, including:

- *Sickness absence due to stress-related ill-health:* in some cases, ill-health directly caused by chronic exposure to stress (for example depression or cardiovascular problems) is sufficiently severe to require time of work.
- *Ill-health indirectly due to stress or exacerbated by stress:* in some cases stress has an indirect or contributory impact on ill-health, for example by reducing immune functioning and thereby making an individual vulnerable to infections, such as colds, flu or stomach bugs.
- *Sickness absence as a way of coping with stressful work situations*: for some individuals, if work-related stress reaches a level where they are at risk of being made ill, taking a spell of sickness absence is, consciously or unconsciously, a way of coping with the situation or recovering from its effects. This might be particularly true in cases where poor relationships or bullying are the source of stress.
- *'Sickness' absence due to poor engagement/ motivation/commitment:* where stressful work

conditions have led to poor employee engagement, it is much more likely that there will be occasions on which individuals are not motivated enough to come to work even though they are not actually ill enough to warrant time off.

Even in organisations that have excellent absence recording systems, it is unlikely that the above causes of absence can be teased out either from one another or from other reasons for absence. It is a common complaint that employees tend to use stress as a reason for absence when they are not actually ill, suggesting that figures for absence due to stress are inflated. On the other hand, there are many situations where an absence is in fact due, directly or indirectly, to stress-related problems, but where that is not clear and/or recorded. For example, where someone is afraid that they may be stigmatised if they admit to stress-related problems (particularly mental health problems), they will give another reason to explain their absence; and where someone is suffering from a stress-related physical health problem, such as persistent headaches or hypertension, it is likely that the reason for absence will be recorded as the physical symptoms, not the stress-related cause.

So, how to calculate the cost of stress-related sickness absence in your organisation? Firstly, you will need to consider what proportion of sickness absence is likely to be stress-related. If you have good sickness absence data, you may be able to use this to establish the level

of stress-related sickness absence, making allowances for the factors mentioned above. If you don't have good data and have the time and scope to do so, you might want to change your absence recording system to give you better information. Alternatively, you may want to rely on some more generic statistics on stress-related absence to generate an estimate that you feel is appropriate for your organisation. In the latter case, the following information may be of use:

- Estimates suggest that somewhere between 30% and 60% of sickness absence is stress-related (NHS Health Scotland). An Office of National Statistics survey suggested that mental health problems account for 44.6% of all days off work, while the CBI suggests that 36% of sickness absence can be attributed to mental health conditions (note, these latter two statistics refer to mental health problems, not stress-related ill-health, so they will include some mental ill-health that is not stress-related, but will exclude some stress-related sickness that is not mental ill-health).
- Stress-related sickness usually constitutes a higher proportion of causation for non-manual workers than for manual workers (CIPD 2008 *Absence Management* survey report).
- A higher proportion of long-term sickness is likely to be stress-related than short-term sickness (CIPD 2008 *Absence Management* survey report).

Secondly, you will need to put a cost figure to sickness absence. Again, you may have accurate data that you can use for your organisation, taking into account: salary/sick pay costs, temporary cover or overtime costs to cover the absent employee, administration costs and performance/productivity/opportunity costs. Alternatively, you might prefer to use figures from the CIPD's annual *Absence Management* survey: in 2008, this survey suggested that the average cost of sickness absence per employee per year was £666, with the cost being lower in the private sector and higher in the public sector.

Armed with the cost of sickness absence per employee and the proportion that is stress-related, you can multiply the one by the other and by the number of employees in your organisation to establish a figure for the cost of stress-related sickness absence in

your organisation. For example, in a transport sector organisation with 1,000 employees where the cost of sickness absence (from the CIPD survey) is estimated to be £727 per employee per year and the proportion of sickness due to stress is estimated to be 40%, the cost of stress-related sickness absence will be: 1,000 x £727 x 40% = £290,800.

While you are unlikely to reduce stress-related sickness absence to zero, substantial savings can be made by making some impact on its level. For example, even a reduction by a third would represent nearly £100,000 saving for the example company above. It is also worth bearing in mind that sickness absence can itself be a source of stress for the manager and colleagues of the person who is off sick, due to having to cover their workload, handle the administration of their sick leave, return to work, and so on. This means that reducing stress-related sickness can prevent a potential downward spiral where one person's stress-related absence leads to stress in other members of their team, leading to further absence and so on.

Stress and performance/productivity (presenteeism)

While sickness absence is perhaps the most obvious cost associated with stress, recent research has suggested that the cost of reduced productivity at work due to mental distress and ill-health is actually much higher than the cost of absence. The 2007 Sainsbury Centre for Mental Health report, *Mental Health at Work: Developing the business case*, suggests that the overall cost to employers of mental ill-health are the equivalent of £1,035 per employee per year. Of this total, the report suggests that only £335 (32.4%) is due to absenteeism, while £605, or 58.4%, is due to 'presenteeism'. Presenteeism is defined as '*the loss in productivity that occurs when employees come to work but function at less than full capacity because of ill health*'.

The cost of presenteeism is much more difficult to measure than that of absence. Performance may drop when someone is suffering from stress-related problems for a number of reasons. These reasons may be health-related, for example, where fatigue or pain lead to poorer performance on the job; they may be due to reduced concentration, forgetfulness

or increased worrying having an impact on ability to function at work; they may result from poorer interpersonal interactions, with colleagues, clients or service users; or they may be due to poor engagement, leading to lower motivation or reduced willingness to perform discretionary tasks. The Sainsbury Centre for Mental Health report suggests that it is, in practice, extremely difficult for employers to relate performance to the health status of individuals, particularly for mental health conditions, as many employees do not disclose their mental health problem to their employer.

The above factors mean that it may not be possible for you to calculate the cost of stress-related presenteeism or performance/productivity costs in your organisation precisely. Instead, you could potentially use the generic statistic quoted in the Sainsbury Centre for Mental Health report: if the average presenteeism cost per employee is £605, you just multiply that figure by the number of employees in your organisation to get a total cost for the company. For example, in an organisation with 1,000 employees, the estimated cost of presenteeism due to mental ill-health would be £605,000. Of course, chronic exposure to stress doesn't always or only lead to mental health problems (and not all mental health problems are stress-related), so there will be performance/productivity costs for stress-related reasons other than mental ill-health (and some of the performance/productivity costs due to mental health problems will not be directly stress-related). However, these figures do at least give some indication of the importance and extent of this, more hidden, cost of stress.

Stress and staff turnover
Costs relating to stress also include staff leaving the organisation for stress-related reasons. The 2008 CIPD annual *Recruitment, Retention and Turnover* survey reveals that 19% of respondents cite stress of the job or role as a key reason for employee turnover. In addition, 19% cite level of workload, 16% cite lack of support from line managers and 14% cite number of working hours as being key reasons for employee turnover: these working conditions may also be associated with stress. Furthermore, there may be people who state that their reason for leaving is 'change of career' or 'promotion outside the organisation' (the most frequently

cited reasons) for whom stress or stressful working conditions contributed to their considering leaving the organisation, but who do not specify this.

From the perspective of the impact that stress may have on employees, as outlined above, leaving the organisation might be seen as: a way of protecting physical and/or mental health; a response to uncomfortable or distressing states of mind; a reaction to conflict or breakdown in working relationships; or a result of an individual becoming disengaged and demotivated. Whatever the mechanism by which stress leads to an employee leaving the organisation, it is clear that staff turnover is costly. The cost of replacing an employee who leaves the organisation includes: vacancy cover, recruitment and selection costs, training and induction costs. You may know what these costs are for your organisation or be able to calculate them. Alternatively, you may want to use the figures provided by the CIPD *Recruitment, Retention and Turnover* survey: the 2008 CIPD survey shows costs of labour turnover per employee ranging from £20,000 for senior managers/directors to £2,750 for manual/craft workers, with an average for all employees of £5,800 (see **www.cipd.co.uk/surveys** for a breakdown by occupational group).

In order to determine the cost of stress-related staff turnover in your organisation, you will need to calculate the proportion of turnover that is stress-related, multiplied by the number of employees leaving and the cost per departure. For example, in an organisation of 1,000 employees with a 17% labour turnover (2008 CIPD survey shows an average of 17.3%), 170 employees will leave during the year. If, for example, 20% of this turnover is stress-related and the average cost of replacing each departing employee is £5,800, then the cost of stress-related staff turnover will be: 170 x 20% x £5,800 = £197,200. You would need to estimate this percentage for your organisation.

As mentioned for sickness absence, you may not be able to reduce stress-related staff turnover to zero, but you can make substantial savings by cutting the rate. In addition, also similarly to sickness absence, by retaining staff you will also reduce the risk of stress for other team members by preventing them from having to cover a

departing colleague's workload and from having to deal with the disruption of change in team membership.

Stress and other costs

In addition to the costs of stress-related sickness absence, presenteeism and staff turnover, stress can be a source of other costly problems, for example:

- Stress can lead to higher rates of accident and injury: there is evidence that when individuals are experiencing high levels of stress, they are more likely to have or cause an accident. This may be due to poorer concentration, forgetfulness, reduced motivation or other stress-related mechanisms. Depending on the workplace involved, the result may be a minor slip/trip accident or a more serious machine/chemical accident. For example, in the offshore oil industry or transportation industry, this could lead to situations in which the health or even lives of a number of people are put at risk. Whatever the sector, the costs of accidents might include: the costs of sickness absence, as outlined above, while the individuals recover from the effect of the accident; damage to machines or property; potential damage payouts to the individual and others affected.
- Stress can lead to workplace conflict: one of the impacts of stress noted above was that high stress levels can be associated with poor interpersonal skills and relationships. This can, in turn, lead to higher levels of conflict in the workplace. This may be expressed as low-level interpersonal conflict within a team or between teams, or it may develop into more extreme conflict situations. Any workplace conflict is likely to be costly due to its impact on performance and the increased risk of individuals leaving the organisation. In addition, conflict at work generally requires considerable management and HR time for resolution and can require the employer to bring in external mediation or conflict resolution services.
- Stress can lead to poor employee relations and disputes: where stress-related workplace conflict is perceived as bullying, harassment or discrimination, becomes a formal grievance or escalates into an employment dispute, the administrative costs become even higher, as management and HR time get swallowed up in conducting investigations,

following procedures and potentially dealing with a tribunal or court case. Add damage and legal cost payouts to the mix and it becomes clear that the costs are significant. CIPD survey data suggests that organisations spend an average of 15 days' management, HR and in-house lawyers' time preparing for an employment tribunal hearing and that the average cost associated with employment tribunal claims is around £20,000 per year. In addition, where the workforce is unionised, there may be an increased risk of industrial disputes if stress levels are high.
- Absence of stress management or high stress levels may lead to increased insurance premiums: depending on the type of insurance your organisation has and who your insurer is, you may find that your premiums are affected by whether stress is an issue in your workplace or not. For example, your employer liability insurance premiums may be increased: this may be an indirect effect, for example, due to higher levels of employment disputes; or it may be a direct effect, whereby your insurer penalises you for not having stress risk assessments or stress management interventions in place. Some insurers now demand that employers instigate stress management activities as a prerequisite for insurance. Conversely, you may find you can get discounted premiums if you can show you are tackling stress effectively. In addition, if you provide private medical insurance and/or permanent health insurance, a greater number of long-term sickness cases and other stress-related health problems may lead to greater usage and higher premiums. Similarly, if you use occupational health or employee assistance services on a usage basis, these costs will increase if stress levels are high.

Stress and external stakeholders

Other issues that should be considered when making the business case for stress include the organisation's external relations. For example:

- Reputation/goodwill/PR: organisations that fail to manage stress-related problems effectively increase their risk of damage to reputation and poor public relations. For example, where employees are suffering high levels of stress, they are less likely to be responsive to customers, service users and

other external stakeholders. Where this leads to low customer satisfaction and/or high levels of complaints, this can have a lasting effect on the organisation's reputation. Employment tribunal and court cases, high-profile employee disputes or industrial relations problems can also give an organisation a bad reputation.

- Employer brand, recruitment and retention: in the specific case of employer brand, a reputation for causing stress can be particularly detrimental to an organisation's ability to recruit and retain quality staff. Where an employer draws a high proportion of its staff from a specific geographical area or professional group, this can be particularly damaging. For example, if an accountancy/ engineering/law firm is known within its professional community to have a high incidence of stress-related problems (for example staff becoming ill or leaving due to stress) this may result in high-performing accountants/engineers/lawyers avoiding applying for positions with the firm.

- Investor relations: there is some evidence that institutional investors have started to take an interest in the degree to which organisations manage stress-related risks. For example, Henderson Global Investors has produced surveys of UK employers in which it recommends that companies take action to manage work-related stress and disclose their occupational health information, linking action to reduce stress with enhanced company value. Some investors are asking questions about stress management that feed into investment decisions, and Business in the Community has launched a campaign, called Business Action on Health, to encourage FTSE 100 companies to disclose information on employee health and well-being.

The converse of all the above points is that a well-managed organisation, in which stress levels are low, is likely to have a better reputation, employer brand and investment potential/value.

The ethical or moral case for managing stress: the CSR agenda
Not all employers are driven purely by the financial incentives outlined above or by the risks associated with not managing stress. For some, the fact that stress can have a negative impact on staff is

sufficient to make the ethical or moral case for stress management. It may be that the organisation's corporate values explicitly include elements relating to caring for staff. In organisations where corporate social responsibility (CSR) is a guiding value, it could be argued that the employer's first responsibility is to its staff and to ensuring staff health and well-being: stress management could therefore be considered part of the CSR agenda.

3 How to manage stress

This section gives an overview of how organisations can identify and manage stress in the workplace. It looks at this from two different perspectives. First, it covers interventions focused on managing stress: primary interventions, which prevent stress (including the HSE Management Standards); the secondary interventions, to help cope with and manage stress; and the tertiary interventions, which deal with the impact of stress and to aid recovery and rehabilitation. Second, it looks at how stress management and HR practice overlap, considering a diversity of HR practices to show how they can: a) prevent and tackle stress, even if not explicitly targeted at doing so; and b) be included or integrated into stress-focused interventions.

Overview of interventions focused on managing stress

Traditionally, interventions designed specifically to manage stress have been classified into the following three categories:

- Primary interventions are designed to prevent stress. These include activities such as stress risk assessment, where this aims to identify potential sources of stress and manage them in such a way as to eliminate or reduce the risk that they present.
- Secondary interventions help respond to stressful situations in order to enable coping and reduce harm. These include activities such as stress management training aimed at helping individuals deal with stressors so that they do not suffer stress, or at least do not become harmed by stress.
- Tertiary interventions deal with the impact of stress, helping with recovery and rehabilitation. These include activities such as counselling, occupational health support and return-to-work processes.

Another way of looking at this classification would be to distinguish between proactive interventions (primary interventions and some secondary ones) and reactive interventions (tertiary interventions and some

secondary ones). The former would aim to prevent harm by taking action before it happens, whereas the latter respond to stress-related situations to minimise harm once it is occurring or to 'cure' whatever harm has occurred.

Stress management interventions can also be classified according to the level of the organisation at which they intervene:

- Organisational interventions look at potential stress-related problems across the whole organisation. Generally, the aim is to see whether: a) there are any sources of stress to which the whole workforce is exposed; and b) there are particular 'hotspots' within the organisation, for example a team, unit, department, grade, job family or other group of staff that seems to be more exposed to stress risks, or showing greater prevalence of stress-related problems/harm. Thus organisational interventions mostly operate in a preventative way, but may include some element of reacting/responding where stress problems have already occurred.
- Manager- or team-level interventions look at how a manager, perhaps in collaboration with team members, can best prevent, identify and respond to

stress in their team. Often, this level of intervention will involve learning and development activities that aim to provide the manager with the skills and/or processes to manage stress. They may include introduction of specific team-focused stress risk assessment processes; or they may be more about raising managers' awareness of stress and helping them see how their people management skills can be used to manage stress for their staff. Manager/team interventions can be either proactive/preventative or reactive/responding to problems and are very often a combination of the two.

• Individual interventions support individual employees with stress management. The majority of these activities would be secondary or tertiary interventions, for example: learning and development activities for individuals to help develop coping skills and/or resilience (secondary); counselling services to help individuals deal with stressful situations or the impact of stress-related problems (tertiary/secondary); and occupational health services to support recovery of individuals who have suffered stress-related ill-health, including rehabilitation and return to work where appropriate (tertiary).

Many employers' stress management activities are limited to individual-level tertiary interventions, meaning that they only take action once stress-related harm has occurred (in the form of individual ill-health or suffering) and only intervene with the individual concerned. However, employers are legally required to conduct (proactive) risk assessments for health and safety risks, including those related to stress (see section on enforcement interventions below) and the UK Health and Safety Executive has provided guidance on preventative organisational interventions (see next section).

Of course, not all employee stress is work-related: individual employees will be exposed to varying levels of non-work sources of stress. Many cases of stress-related ill-health/distress can be traced to a combination of work and non-work factors. In cases where non-work stressors predominate, employers cannot tackle the causes themselves. For example, where an employee is going through a relationship breakdown or bereavement, their employer cannot change the core problem. However, the employer can

provide secondary and tertiary interventions that make a huge difference to the impact on the individual. For example, flexible working or compassionate leave may make the situation easier to handle, resilience training may make the individual better able to deal with their stressful personal life, and counselling may help to restore self-esteem following a distressing life event. While employers do not have legal responsibility to provide these kinds of interventions, they do have a responsibility not to exacerbate the situation where the possibility of harm is foreseeable. In addition, there are sound business and moral reasons for providing support, in as much as it can prevent stress-related absence/turnover/reduced performance/accidents (see section above) and such interventions, by showing that the employer cares about and for its staff, are likely to enhance employee engagement, commitment and contribution.

It is also worth remembering that the link between work and stress can be two-way: difficult work situations can cause stress, but also stress can lead to difficult work situations. For example, conflict is very stressful in itself, but also people suffering stress are more likely to get into conflict; similarly, if workloads are very high, staff may experience stress as a result, but also if staff are feeling distressed, workloads may appear more unmanageable. Thus good people management needs to take both sides of the equation into consideration and intervention can stop the impact in either direction and prevent a potential downward spiral of effects.

HSE Management Standards and process for stress risk assessment
UK employers have a legal responsibility to conduct health and safety risk assessments, including assessing the risk of stress-related harm to their workforce. This responsibility includes proactively identifying risk factors, then implementing measures to minimise risk and prevent harm to employees. In order to help employers fulfil their responsibility to undertake stress risk assessments (and meet government targets to reduce work-related sickness absence), the UK Health and Safety Executive (HSE) has issued Management Standards for work-related stress. The status of these is guidance, so they do not impose additional legal responsibilities, but rather aim to provide

information and support. That said, the existence of the Management Standards and the fact that they are being used to train HSE inspectors to understand what employers can and should do to manage stress means that enforcement action may become more frequent and more sophisticated in future years.

The HSE Management Standards aim to 'define a desirable set of conditions to work towards'. Drawing on extensive research into the causes of stress at work, they identify six categories of potential sources of work-related stress (or, conversely, areas that can enhance well-being and performance if well managed):

- the **demands** of people's jobs, such as workload, working patterns and the work environment
- the amount of **control** individuals have at work or how much say they have over the way they do their work
- the **support** employees receive in the workplace, in terms of encouragement and resources, from their employer, their line manager and their colleagues
- how well **relationships** are functioning in the workplace, including prevention of bullying and harassment, managing conflict and ensuring positive relationships
- how clear people are about their **role** and whether they have conflicting roles
- how well **change** is managed and communicated in the workplace, including both large and small changes.

Each of the six standards provides an overall statement of the standard; for example, the control statement is: 'Employees indicate that they are able to have a say about the way they do their work.' Each standard statement is supported by a set of bullet points showing 'what should be happening/states to be achieved'. In addition, all the standards include a statement that 'systems are in place locally to respond to any individual concerns'.

In addition to the Management Standards themselves, the HSE provides guidance for employers on how to conduct stress risk assessments. The Management Standards process sets out five steps that use the Management Standards as a basis for the identification and tackling of stress-related issues, taking a primary/

preventative, organisational-level approach. The process applies to stress the HSE's general guidance on 'five steps to risk assessment', as follows:

1 Identify the hazards/stress risk factors: encompassing an understanding of the Management Standards and how they apply to your particular work setting.
2 Decide who might be harmed and how: gathering data in order to tease out which of the Management Standards might present a risk to your workforce and to which parts of the workforce.
3 Evaluate the risks: including exploring the problem (using the data from step 2) and identifying solutions.
4 Record the findings: recording and implementing action plans to tackle any risks identified.
5 Monitor and review: monitoring the action plan and reviewing the effectiveness of actions taken.

As well as guidance on each of the five steps above, the HSE also provides an 'indicator tool' or questionnaire, designed to be used during step 2 as an employee survey to assess staff perceptions of each of the six areas covered by the standards. The HSE process does not require that employers use their indicator tool, or even a staff survey of any kind, in their stress risk assessment process. However, it makes clear that workers should be involved in every step of the process: staff perceptions are important both for identifying risk factors and for designing solutions. These can be gathered through use of stress-specific surveys (using the HSE indicator tool or other stress-focused questionnaire), through relevant questions embedded in more general employee opinion surveys, or through more qualitative processes such as focus groups and other consultation mechanisms. In order to identify solutions and design actions to tackle stress, the more interactive methodologies may be best and the HSE guidance suggests the use of focus groups for this stage.

As well as gathering employee views, there is a range of data that can, and ideally should, be gathered/ analysed as part of the stress risk assessment process, including: sickness absence, staff turnover, productivity/ performance, accidents/incidents, grievances, use of occupational health and employee assistance programmes, and any other relevant statistics. One

of the benefits of gathering this data is that much of it can be directly linked to financial costs to the organisation, meaning that any improvements generated by the stress risk assessment process can be quantified in terms of benefit to the business.

For further information, visit the HSE website/consult HSE publications – see the references on page 33.

Other stress-focused interventions
Other than stress risk assessment, the classic interventions focused on preventing or tackling stress include:

- Stress policy – a policy document setting out the organisation's strategy for tackling stress and who is responsible for what. Clearly, a policy is only effective to the extent that it is implemented in practice. This includes ensuring that managers, employees and other key personnel know what is expected of them and where they can get support; it also includes implementation of any specific activities such as stress risk assessments, learning and development interventions and introduction of support services
- Training for managers on how to manage stress in their staff – training events and/or online learning packages that provide information about stress and how managers can manage it in others. Generally, these interventions aim to raise managers' awareness and understanding of stress and help them see how their people management skills can be used to manage stress for their staff. They may also include introduction of specific stress risk assessment processes that managers are expected to implement to assess the risk of stress-related harm to their team. Ideally, managers are trained not only to identify the signs of stress in their staff and to respond to stress-related problems when they arise, but also to manage staff in a way that prevents stress at work. Recent research, funded by the CIPD, HSE and Investors in People, has identified the management behaviours that prevent and reduce stress in those being managed: guidance based on the research findings is available on the CIPD website – see the references on page 33.
- Stress risk assessments at team or individual level – in some organisations, stress risk assessments are conducted at local levels, as well as or instead of organisational levels. In the latter case, local

stress risk assessment results may be aggregated at organisational level to ensure the organisation is reviewing stress risks across the workforce. Team stress risk assessments are often implemented via training for managers (see above), with the manager expected to conduct the assessment following the training course. They will often be proactive and done on a regular basis, though sometimes they are conducted in response to particular problems. Individual stress risk assessments may be conducted by the person's manager, by a team of staff who have volunteered/ been selected and trained to do the assessments, or by internal or external experts. They are generally conducted in response to an identified problem.
- Learning and development interventions for individuals on stress management/coping/resilience – delivered in a group training, individual coaching, online learning or other format, these interventions aim to help individual employees understand stress and develop preventative/coping approaches. Such programmes may include material to help individuals:
  - prevent stress by reducing their exposure to stressful situations, for example assertiveness, time management, delegation
  - deal with stressful situations, so as to minimise the amount of stress experienced, for example cognitive behavioural approaches, mindfulness, perspective-taking, emotion management techniques
  - manage their stress reactions to avoid chronic exposure to stress, for example work–life balance, taking breaks, relaxation techniques
  - make lifestyle choices that ensure that they can handle stress when it occurs, for example exercise, nutrition, relaxation, social support, sleep hygiene.
- Counselling – provided as part of an employee assistance programme (EAP), through an in-house counselling or welfare service, as part of occupational health services or ad hoc referral to an external counsellor. The aim of counselling may be to help individuals deal with stressful situations so as to prevent harm, but it is often only accessed once the individual is already experiencing a level of distress and needs support. Ideally, counselling will prevent the individual from becoming distressed

or ill enough to need time off work; however, in some situations, it is used as a means of helping the individual recover from stress-related ill-health in order that they are able to return to work following a period of sickness absence.

- Return to work/rehabilitation – provided once an individual has suffered stress-related ill-health to a degree that they have been absent from work. This may include counselling to help the individual recover. It may also include occupational health or other medical intervention to treat any mental health or physical symptoms. Very often, it is helpful to put in place a phased return to work to help rehabilitate an individual following stress-related illness. Indeed, the process of returning to work can be an important way to help the person recover from the health problems they are experiencing: re-establishing social contact and a sense of purpose provided by working can contribute to the recovery process. Research suggests that an early return to work is advisable, where possible, as the longer someone is absent, the less likely they are to return to work. However, if the health problem is due to work-related stress, it is vital that attention be given to the causative factors and that they are removed/reduced before the person returns to the workplace, otherwise there is a risk of the individual becoming ill again upon return.

The links between HR practice and stress management

It is probably fair to say that most, if not all, HR practice impacts on employee stress levels in one way or another. Where an organisation has effective HR policies, practices and procedures, stress is much less likely to occur or, when it does occur, to cause harm. Some HR practices will serve to prevent stress by removing or reducing potential sources of stress: for example, by designing jobs that do not involve excessive workloads and selecting people with the skills to do the jobs they are recruited to do. Other HR practices are more reactive and serve to prevent the escalation of stressful situations: for example, by responding to conflict situations and providing mediation or conflict resolution. Thus, HR practices that are not explicitly focused on managing stress can in fact be seen as central to the organisation's stress management.

Conversely, much of the activity undertaken with the explicit intention of managing stress would fit within the HR portfolio. For example, individual resilience training could be part of the organisation's learning and development programme; manager training for preventing/managing stress might be integrated into management development; and employee surveys, absence/retention data monitoring and many of the activities that constitute a stress risk assessment may be part of the HR team's remit. Very often the solutions that emerge from a stress risk assessment include HR activities, such as management/leadership development, team-building, learning and development, job design or organisation development. And many of the interventions required to deal with the fallout of stress-related harm, such as return-to-work procedures, are also HR activities.

It could therefore be argued that HR practice and stress management are inextricably intertwined, with HR being part of stress management and vice versa. The following sections take a look at the diversity of HR practices to show how they can: a) prevent and tackle stress, even if not explicitly targeted at doing so; and b) include/integrate into the classic stress-focused interventions covered above.

1 Corporate and HR strategy

The overall business, management and strategic approach taken by the organisation, including HR and senior managers, can have a profound effect on the degree to which the workforce experiences stress reactions. In particular, the following areas are important:

- Culture, vision and values: a supportive, open culture, in which values of respect and empowerment are strong and the organisation's vision is clearly identified and communicated, will reduce the likelihood of stressful situations arising for staff. By contrast, a culture that encourages blame, secrecy, silo-working and/or a lack of clarity about the organisation's purpose is likely to create a stressful working environment for employees. Other cultural aspects associated with high stress levels would include workplaces with macho, long-hours or bullying working environments. Interventions to

improve culture, vision and values, even if instigated for other reasons, have the potential to reduce stress. In some cases, a stress risk assessment will highlight the need for such interventions, which will then become part of the implementation of solutions to minimise stress risks.

- Organisational development and change management: ensuring that the organisation is being effectively developed and that change is managed in a way that ensures good communication, support and participation opportunities for staff will contribute to reducing stress levels. Conversely, poorly managed change, in which staff feel threatened, insecure and in the dark, can be highly stressful. In addition, stress risk assessment solutions may include or involve organisation development activities.

- Job/work design: good job design is fundamental to preventing stress. Where jobs are designed in a way that makes them challenging, without being overwhelming, they will enhance well-being and prevent stress; whereas, poorly designed jobs can lead to stress. Stress risk assessments can highlight the need for job redesign interventions and vice versa.

2 Recruitment, selection and resourcing

Employing the right people to do the job and getting the staffing right on particular projects is vital for ensuring stress is prevented. For example:

- Recruitment, selection and assessment: one of the classic theories in the stress management literature is the person–environment fit model, which proposes that the key source of work-related stress, and ultimately ill-health, is a misfit between the individual and their work environment. This proposes two key areas of misfit: between the needs and values of the person and those of the work environment; and between the individual's skills and abilities and the organisation's demands on them. This means that selecting recruits for appropriate competence/potential combined with realistic job previews, in order to ensure that the person and environment do fit is not only important for performance, but also for stress management.

- Induction and on-boarding: starting a new job can be a particularly stressful period, so activities that help the new recruit learn the ropes and settle in more easily will help reduce stress levels.

- Resourcing: in workplaces where project working is the norm or following organisational change, getting the right people and enough of them working on particular projects/new teams is important to ensure not only the performance of the team, but also the well-being of those involved. In some situations, stress risk assessments highlight resourcing problems, such as too few people on demanding projects or inappropriate distribution of staff across work areas.

- Teamworking: working in a team can be a source of support and enjoyment or a source of conflict and interpersonal problems. Clearly, the former will reduce stress/enhance well-being and the latter is likely to be stressful. Note: a certain level of conflict in teams can be healthy, where it leads to creative sharing and development of new ideas; it is when this gets out of hand or becomes destructive that it impacts on stress levels. Team-building and other interventions that enhance teamworking can prevent stress and are sometimes identified as solutions during stress risk assessments.

- Diversity and equality: ensuring that people from diverse backgrounds are treated with respect and fairness is important for positive working relationships and well-being. Conversely, unfair or disrespectful behaviour – the extreme form of which is harassment – can lead to stress-related problems.

3 Learning, training and development

Developing skills, including stress management/resilience skills, is vital to stress prevention and coping with stressful situations:

- Training needs assessment and fulfilment: ensuring that individuals have the skills to do their job, by making sure that any training needs are met through training interventions and/or on-the-job development, is important for preventing and reducing stress. Not having the skills to do one's job is highly stressful and some stress risk assessments identify skills deficits as a key risk, in which case training and development interventions provide the solution.

- Personal development: learning and development interventions that specifically target resilience/coping skills/pressure management can be explicitly stress-focused interventions (as outlined above). Other personal development interventions, including assertiveness and interpersonal skills may not explicitly mention stress, but will also enhance the individual's ability to prevent and deal with stress.

- Career development and talent management: ensuring that staff are promoted and developed in such a way as to keep them in their 'stretch' zone, but not tipping into 'strain'/overload/out-of-depth, is important for stress levels. Both work that is insufficiently challenging and work that is overwhelming can lead to poor well-being and poor performance. For individuals for whom their career is a key focus, perception that their career is not moving forward can be particularly stressful as it leads to frustration and may impact on self-esteem.

- Coaching and mentoring programmes: these may contribute to any or all of the above areas. In addition, they can prevent stress by ensuring that individuals feel supported, which can buffer the impact of stress. Having a coach or mentor can provide individuals with a mechanism for dealing with difficult, stressful situations and/or a means of obtaining specific support and advice when needed.

4 Management and leadership

Management and leadership development can be a way of ensuring both stress prevention and the effectiveness of local responses to stress-related problems:

- Management development: there is a saying that 'stress management is just good management'. Certainly, many stress risk assessments and surveys identify poor managment or lack of management skills as a key source of stress. Thus, ensuring that managers behave in ways that prevent and reduce stress is essential for stress prevention. Research funded by the CIPD, HSE and Investors in People has identified the management behaviours that prevent and reduce stress in those being managed: guidance based on the research findings is available on the CIPD website – see the references on page 33. Management development can therefore be explicitly a stress management intervention, where it is a response to stress risk assessment findings or a proactive programme as part of stress management activities, or it may just reduce staff stress as a beneficial by-product.

- Training on managing stress in others: some stress management programmes include training for managers on how to identify and tackle stress-related problems. This is an important managerial role: no central HR or health and safety function can monitor all staff all the time to look out for stress-related problems; this has to be delegated out to managers, who have regular contact with the staff and are best placed to pick up early warning signs – and ideally to tackle them before they become serious problems.

- Leadership: while the above two interventions focus on the role of people's immediate line manager in managing their stress level, the role of leaders is also significant for stress levels. Firstly, an organisation's leaders (at all levels) set the culture, tone and values for the entire workforce. Secondly, leaders provide role models for others, in terms of management behaviours and also 'self-care' behaviours, such as not working long hours, keeping fit, and being willing to seek support. Thirdly, leadership that provides clarity about the organisation's vision and purpose and inspires the workforce can prevent stress and enhance a sense of well-being for staff. Stress risk assessments sometimes identify poor leadership as a stress risk factor.

- Performance management: ensuring that performance management systems are effectively implemented by managers can prevent stress by ensuring staff have clarity about their role/objectives/tasks and by providing support, coaching and mentoring. In addition, managing poor performance ensures that staff do not have the burden and frustration of covering the work of poorly performing colleagues; while rewarding good performance can help people feel valued and boost self-esteem.

5 Employee relations, psychological contract and employee engagement activities

High levels of staff stress are likely to lead to poor employee engagement and vice versa. Thus interventions that improve employee relations may be a response to high stress situations or a way of preventing stress in the first place:

- Information and consultation: when staff are consulted on issues that affect them and can participate in decision-making, it is likely to enhance their sense of control. Perceived control, as indicated by the HSE Management Standards (see above), is an important determinant of stress levels. Thus good information and consultation mechanisms are likely to prevent stress. In addition, consultation arrangements such as a joint consultative committee, may be a mechanism for gathering staff views to contribute to the data-gathering phase of a stress risk assessment.
- Internal communications: particularly where internal communication activities facilitate two-way communication, they can be a means of increasing staff perceptions of control and thereby prevent stress.
- Employee opinion/attitude surveys: often employee surveys are conducted with a wide remit and they may not explicitly cover stress-related issues. However, in as much as they allow employees to 'have a say' and particularly where they lead to interventions that improve employee relations or working conditions, they can prevent and reduce stress. Survey data may form part of the information that is used in the data-gathering and analysis phases of a stress risk assessment. In some cases, a stress risk assessment will include a staff survey that specifically focuses on stress-related issues and exposure to stress risk factors/sources of stress.
- Conflict management: interpersonal conflict is very stressful; also, if people are suffering stress, they are more likely to get into conflict situations. Thus good conflict management, including interventions such as mediation, can be a way of reducing stress or may be needed as a result of stress in the workforce.
- Bullying and harassment: there is considerable research that links bullying and harassment to stress-related outcomes. Preventing bullying and harassment, through policies and training, can therefore prevent stress.

6 HR policy and practice

HR policies and practices will impact on employee stress in a number of ways, for example:

- Flexible working and work–life balance: where these policies help employees deal with non-work sources of stress, such as caring responsibilities, they can be regarded as directly contributing to stress management. More generally, ensuring that individuals are achieving balance in their lives can be a way of preventing stress-related illness and helping them ensure they have the resources to deal with stressful situations.
- Leave (especially compassionate, annual, sabbaticals): providing compassionate leave to help staff deal with personal crises can also be seen as contributing to stress management. More broadly, annual leave and sabbaticals can help prevent chronic exposure to stress reactions, by ensuring that staff get a break, to rest and relax, thereby reducing the risk of stress-related illness.
- Absence and attendance management: stress management could be said to contribute to absence management in as much as it reduces the likelihood of staff taking stress-related absences (see section on absence on page 5). Absence management may also include interventions that target stress, such as ensuring return-to-work interviews include questions to identify any work-related causes of the absence, and rehabilitation programmes that help with recovery from stress-related illness. Absence data can also be used as part of a stress risk assessment. In addition, tackling non-genuine absences could be seen as a way of reducing stress for the team members of those who are absent, by reducing the burden and frustration of having to cover an absent colleague's work.
- Grievances and disciplinaries: involvement in a grievance or disciplinary procedure can be highly stressful. Thus, ensuring that these procedures are fair, open and as supportive as possible is a way of minimising stress risk. In some cases, grievances may highlight a source of work-related stress that can therefore be tackled. Statistics on grievances and disciplinaries may also be used as one source of data in stress risk assessment.
- Pay, reward and recognition: one of the classic theories in the stress management literature is the effort–reward imbalance model. This suggests that a key source of stress is where the effort an individual exerts in their job is not perceived to be adequately rewarded; thus high effort, low reward

is a stressful situation. Reward in this context is not purely about financial remuneration, but includes recognition and positive feedback. This means that, while they would not explicitly be regarded as part of stress management, effective reward and recognition policies will help reduce stress risks.

- Leavers, including exit interviews and redundancy: good management of departures from the organisation can also contribute to stress management. Information-gathering in exit interviews can contribute to the identification of stress risk factors and can form part of stress risk assessment data-gathering. In redundancy situations, ensuring that the redundancy process is handled in a supportive and open manner can reduce the stress caused to those being made redundant and also to those who remain in the organisation and are affected by seeing their colleagues leave.

7 Health, safety and well-being

Research suggests that stress is best managed where HR, health and safety and occupational health professionals work together to address stress-related issues and interventions:

- General health and safety: the HSE Management Standards suggest that stress management is a strand of health and safety and that stress risk assessments should mirror the assessment of all health and safety risks. Good stress management is therefore a part of health and safety management and is required for an employer to meet its obligations under health and safety legislation.
- Accident, injury and trauma management: accidents, injury and particularly trauma can all give rise to a stress reaction. Ensuring that the staff involved get appropriate support to help them deal with trauma will reduce the risk of them developing stress-related health problems such as post-traumatic stress disorder. Conversely, high stress levels may increase the risk of staff having accidents, so reducing stress may help reduce the incidence of accidents.
- Employee assistance programmes/counselling/welfare support: these may be an explicit part of an organisation's stress management strategy – see

above. They can be a useful way of supporting staff in dealing with stressful situations and in recovering from distress/stress-related ill-health.

- Occupational health provision and rehabilitation: where occupational health services include treatment of, or support for rehabilitation following, stress-related ill-health, they are a potential tertiary intervention for responding to stress.
- Health promotion: sometimes health promotion programmes include individual stress management interventions, such as stress awareness activities and/or training in resilience or coping skills. In addition, health promotion that encourages staff to take exercise, eat healthily and look after their physical well-being will also mean that individuals are better placed to deal with stressful situations and less likely to suffer stress-related illness.
- Working time and shift work: research suggests that working long hours can lead to stress-related health problems. Shift work may also make people more vulnerable to stress. Thus, ensuring that staff keep working hours within reasonable bounds and well-managed shift patterns can help reduce stress risks. In addition, stress risk assessments sometimes identify long working hours as a risk factor.
- Alcohol, drugs and smoking: substance use/abuse may be a symptom of stress-related or mental health problems. Sensitive support for those who have these problems, for example through counselling or referral, can help them deal with the stress issues as well as the substance issues.

4 Persuading your organisation to take action

One of the biggest challenges to managing stress in the workplace can be achieving buy-in at board level; and, even when senior management is supportive, there may be others in the organisation who need persuading. This section explores the importance of identifying the business imperative for taking action and highlighting the potential financial benefits using data. It also emphasises the value of understanding individuals' particular interests and concerns to build an effective business case or convincing argument that will resonate with them.

Who do you need to persuade?

In many organisations, the hardest part of tackling stress is getting top management buy-in. Indeed, in some cases, that task seems too hard and those in HR or health and safety decide to just get on with implementing stress management without getting top management support. Unfortunately, this approach tends to backfire in the long run. For example, imagine that a stress risk assessment process, started without senior manager buy-in, identifies that action needs to be taken to tackle stress-related problems. In the absence of senior management backing and resources, it can prove difficult to implement those actions. This means not only that the stress risks identified have not been tackled and therefore continue to pose a risk (potentially increased due to 'foreseeability' – see page 29), but also employee expectations have been raised but not met. Having been asked for their views, employees expect action to be taken and, when it's not, this can lead to disenchantment, disengagement and a worse situation than before the process started.

In some organisations, the management is entirely supportive of a stress management programme, but middle and first line managers have not been convinced of its importance or benefit. Rolling out any kind of stress management activities without this management support is likely to make it harder and may even result in implementation failing. For example, consider a situation where a programme of stress management training is developed. If line managers have not been brought on board and convinced of the value of the training, they may not release their staff to attend, may discourage participation and are highly unlikely to support transfer of learning back into the workplace. Similarly, when conducting a staff survey as part of a stress risk assessment, if line managers do not see the reason for it, they will not encourage staff to participate and may even discourage staff from filling it in, resulting in low response rates and inadequate data.

Employees may need convincing that stress management activities are of value. This is particularly the case where employees distrust or are cynical about the employer's motives in introducing such programmes. If employees don't know what is going on, suspect that their employer is conducting a purely tick-box exercise or perceive the interventions as a way of squeezing more out of staff, they are unlikely to participate. Since employee participation is vital to the success of all stress management interventions, this can be a make or break factor – for example, in terms of getting adequate response rates to surveys, participation in focus groups, attendance at training events and take-up of counselling when needed.

In unionised workplaces, it is important to get union representatives on board because, if they are opposed to the interventions, they can be active in discouraging employee involvement. Conversely, good partnership-working with unions on stress management interventions can not only enhance the effectiveness of the interventions, but also enhance employer–union relations. In many cases, you will find unions are particularly interested in and supportive of stress management activities. The Trades Union Congress (TUC) provides guidance on stress for representatives and many of the larger unions also take an active interest in and position on how stress is managed in the workplace.

It is also worth bearing in mind that research suggests that the most effective stress management programmes are those where all the relevant professionals work together. This means that partnership working between HR, health and safety and occupational health professionals/teams is likely to help ensure success. Building understanding between the different functions is therefore a constituent part of and may be a benefit achieved through the process of instigating and implementing stress management activities.

What would persuade them?
Having identified that some or all of the groups mentioned above need persuading, the next step is to think carefully about what messages are most likely to gain their buy-in. Section 2 (page 5) provides a range of potential arguments in favour of taking action to manage stress. Section 6 highlights the potential legal implications of failing to manage stress at work. However, the key to successful persuasion is to choose the arguments that are most likely to be of interest to your particular audience. In making this choice, it is worth considering both the business imperative and individual perspectives.

The business imperative

Firstly, what is the current business or organisational imperative and how does stress management fit in? For many organisations, some form of economic or financial evidence is vital in order to justify any investment in stress management activities. This is particularly true in times of economic downturn or financial problems.

Showing the financial benefits of any intervention will often grab the attention of senior and line managers. A cost–benefit analysis or return on investment calculation can make it easier to obtain relevant funding or time input. The HSE provides an example of a return on investment case study at Somerset County Council on its website – see references (page 33).

When putting together financial evidence, it is important to focus on the elements that are significant for your organisation and sector. For example, do you have high rates of sickness absence? If so, providing estimates of the saving that could be made by reducing stress-related sickness will be a persuasive argument. However, if your sickness absence rates are already low and there is little likelihood of reducing them further, there will be little interest in a business case based on reducing absence. Instead, perhaps you suspect that presenteeism is reducing productivity or you know that high staff turnover is causing problems in particular areas; in which case, focus on the relevant costs in these areas.

For some organisations, the risks associated with stress-related problems, such as risk to reputation, risk of accidents or risk of legal cases, are the driving incentive to take action. If your organisation is less bothered about the ongoing costs of sickness or staff turnover, but highly risk averse in some or all of these areas, then statistics on the relevant negative impacts and/or legal payouts will be more important. Other organisations are particularly keen to be seen as an ethical employer; perhaps they have a strong corporate social responsibility agenda or a value system that emphasises respect and responsibility. Other organisations still have a particular focus on legal compliance and are best persuaded by information about employers' legal duties under health and safety legislation (see section 5).

The individual perspective

Secondly, what is likely to be of most interest to the particular individuals whose buy-in you are seeking? For example, if the chief executive is a member of a business grouping such as Business in the Community (BITC), then mentioning the BITC campaign Business Action on Health in your arguments might help. If the finance director has recently expressed concern about

the amount your department is spending on recruitment consultants, then including figures relating to staff turnover may help persuade him or her.

Line managers are often overstretched, with little time to give to stress management activities, so finding ways of showing them how the programme will relieve pressure and improve their position may be important. Employees may be interested in the benefits they will gain from reducing their own and their colleagues' stress and may like to hear that their employer cares about their health. Union representatives may be interested in whether they can be seen as partners in the roll-out of stress management initiatives to increase their profile and provide evidence of what they are doing for the benefit of their members.

How can you persuade them?
Once you have worked out who you need to persuade and what arguments are likely to be most persuasive, you are in a position to put together your case. The following steps may be helpful:

1 Establish the current situation
– How much do people already know? It is worth remembering that many people are resistant to stress management because of a lack of understanding of what stress is, the impact it can have and what can be done to tackle it. Some may be fearful of addressing stress, fearing it will 'open a can of worms', in which case clarity about the dangers of not addressing stress and reassurance that stress can be effectively managed will be important.
– What is already being done to prevent or respond to stress-related problems? As shown above, even if your organisation is not currently implementing interventions specifically focused on stress, it may have in place HR practices that help manage stress even though this is not their explicit aim. How would any further interventions integrate with existing activities?
– Is any form of stress risk assessment already being completed as part of health and safety procedures? How would any assessments or other activities you undertake integrate with existing health and safety activity?

2 Generate data and proposals
– Are stress-related problems affecting your organisation? There may be a perception that stress is not a problem in your organisation, in which case you need to establish whether there are stress-related problems and of what kind. Consider the evidence you already have and whether it is sufficient to answer these questions, for example by reviewing existing data such as absence and turnover figures, return-to-work and exit interview data, and any staff feedback from surveys, consultations, grievances or anecdotal comments. This will help clarify whether there is a need for more detailed data-gathering, for example as part of a stress risk assessment.
– If it appears that stress-related problems do exist, then you need to establish what options you have for addressing them. A review of the 'How to manage stress' section (page 10) may help you identify both explicitly stress-focused interventions and HR practices that will help prevent/respond to stress. You can then put together a proposal for the interventions you want to initiate. It is advisable to start the process with some form of diagnosis such as a stress risk assessment.
– Depending on who you are trying to persuade and what data will be most helpful, you may need to:

  • Calculate return on investment/cost–benefit analysis.
  • Get details of key legal cases and responsibilities.
  • Gather evidence of other risks (for example to reputation, accidents, stakeholder relations, employer brand).
  • Generate ethical arguments.

3 Communicate using appropriate channels
– Bearing in mind your audience(s) and the messages you need to impart, choose communication mechanisms that are most likely to be effective. For example, if your aim is to gain buy-in from the top executives, then a position paper, presentation to the senior executive team and/or individual conversations with key players may be appropriate. If communicating with employees, consider using a range of existing communication channels, such as newsletters, team briefings, intranet, staff meetings, posters and so on.

– It is worth remembering that different people take in information in different ways: for some, a written communication is best, to allow time for them to read and reflect; others won't read written information and are best reached by face-to-face communication mechanisms. Use multiple communication channels wherever possible to ensure you reach all members of your target audience.

– When communicating, bear in mind the language you use – for example, is it best to take a positive slant and talk about enhancing well-being or to confront the potential negatives, such as ill-health and cost issues? Also consider how much information they need, depending on how much they already know and how much time they will give to considering your communication.

4 Maintain ongoing buy-in

– The need to communicate and persuade does not finish at the point when you get the go-ahead to implement your proposals. It is vital to sustain buy-in through ongoing communication and feedback.

5 Stress, health and safety law and public policy

Employers have a duty under health and safety legislation to identify and manage stress at work as part of their duty of care to their employees. This section explains the health and safety obligations of employers and also explains the development of the HSE's Stress Management Standards, which provide step-by-step guidance to conducting a stress risk assessment.

Health and safety law and stress

Employers have a duty under health and safety legislation to identify and manage stress at work as part of their duty of care to their employees.

Health and Safety at Work Act 1974

Under section 2(1) of the Health and Safety at Work Act 1974, employers have a duty to 'ensure, so far as is reasonably practical, the health, safety and welfare at work of all…employees.'

This duty to ensure the health and safety of employees covers their mental as well as their physical health. Paragraph 12 of the HSE publication *Tackling Work-related Stress* states that the general duty 'includes taking steps to make sure that employees do not suffer stress-related illnesses as a result of their work'.

Management of Health and Safety at Work Regulations 1999

Regulation 3 of the Management of Health and Safety at Work Regulations 1999 requires all employers to make a suitable and sufficient risk assessment of 'the risks to the health and safety of his employees to which they are exposed whilst they are at work'.

Under Regulation 5(1) 'every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the

size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures'.

Under Regulation 6 'every employer shall ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment'.

Schedule 1 of the Regulations sets out the general principles of prevention as specified in Council Directive 89/391/EEC. These are:

(a) avoiding risks

(b) evaluating the risks which cannot be avoided

(c) combating the risks at source

(d) adapting the work to the individual, especially as regards the design of workplaces, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate and to reducing their effect on health

(e) adapting to technical progress

(f) replacing the dangerous by the non-dangerous or the less dangerous

(g) developing a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and the influence of factors relating to the working environment

(h) giving collective protective measures priority over individual protective measures; and

(i) giving appropriate instructions to employees.

The HSE published an Approved Code of Practice to provide guidance on complying with the Management of Health and Safety at Work Regulations in 2000.

Under paragraph 18 the code sets out that a risk assessment should:

- ensure that all relevant risks and hazards are addressed (they should not be obscured by an excess of information or by concentrating on trivial risks)
- address what actually happens in the workplace or during the work activity (remembering that what happens in practice may differ from the works manual and not forgetting the non-routine operations such as maintenance)
- ensure that all groups of employees and others who might be affected are considered (not forgetting cleaners, security staff, visitors, and so on)
- identify workers who might be particularly at risk, such as young workers, disabled staff, and so on
- take account of existing protective and precautionary measures.

Health and safety legislation and the development of the stress management standards
The Health and Safety Executive identified stress as the second leading cause of occupational ill-health behind musculoskeletal disorders as early as the late 1980s in its *Health Risk Reviews* (Mackay et al 2004). Following this the HSE commissioned a literature review on the existing evidence on work-related stress (Cox et al 2006), which informed the HSE's first published guidance in 1995 on stress management, *Stress at Work: A guide for employers*. This gave a series of

quite basic messages emphasising that excessive pressure may mean that an employee cannot cope at work. The guide highlighted the importance of job design and effective training to achieve a better 'person–job fit'.

The HSE's evolving stance on stress was also influenced by the on going Whitehall 2 study of 10,000 civil servants, which identified a range of factors that affected their overall well-being, including demand and control at work, social support at work, effort–reward imbalance and organisational change.

A joint guide published by the Council for Civil Service Unions and the Cabinet Office, *Work, Stress and Health* (www.ucl.ac.uk/whitehall11findings/ whitehallbooklet/pdf) – summarising key findings and the policy implications from the Whitehall 2 study – highlighted the importance of autonomy in mitigating against stress at work.

The guide states: 'A way of thinking about stress at work that more closely accords with people's experience is that it results from an imbalance between the psychological demands of work on the one hand and the degree of control over work on the other. Many jobs involve high demands. It is not demands themselves that are the major cause of illness although high demands are independently associated with ill health. It is the combination of high demand and low control.' The research also showed clearly that people with low levels of control at work are more likely to suffer from coronary heart disease.

The Whitehall study and further research by the HSE was followed in 1999 by the publication of an HSE consultation document, *Managing Stress at Work*, which set out a number of possible approaches towards tackling the issue, including proposals for an Approved Code of Practice (ACOP) – a quasi-regulatory approach that requires more formal compliance than adhering to guidance (Mackay et al 2004). Following the consultation, the HSC decided against introducing an ACOP on stress management because of uncertainties about the means of enforcement and disagreements over terminology and theory, as well as a lack of evidence on the effectiveness of interventions. However, the HSC emphasised that it

would keep the need for an ACOP under review in the future.

In 2000, the HSE published its ten-year occupational health strategy, *Securing Health Together*, which identified work-related stress as one of its priority programmes. It also set out ambitious targets to be achieved by 2010:

(a) a 20% reduction in the incidence of work-related ill-health

(b) a 20% reduction in ill-health to members of the public caused by work

(c) a 30% reduction in the number of work days lost due to work-related ill-health.

In 2001 the HSE published its draft standards for the management of work-related stress published in the 2001 HSE guidance *Tackling work-Related Stress*.

The guidance outlined seven causes of work-related stress:

- demands (including such issues as workload, work patterns and the working environment)
- control (how much say the person has in the way they do their work)
- support (which includes the encouragement, sponsorship and resources provided by the organisation, line management and colleagues)
- relationships at work (which includes promoting positive working practices to avoid conflict and dealing with unacceptable behaviour)
- role (whether people understand their role within the organisation and whether the organisation ensures that the person does not have conflicting roles)
- change (how organisational change (large and small) is managed and communicated in the organisation)
- culture (the way in which organisations demonstrate management commitment and have procedures which are fair and open).

The guidance also introduced some basic concepts of risk assessment, using a five-step approach:

- look for the hazards
- decide who might be harmed and how
- evaluate the risks and decide whether existing precautions are adequate
- record your findings, and
- review your assessment and revise if necessary.

Finally in November 2004, the HSE introduced its Management Standards for stress. The Management Standards are based on the six causes of stress outlined in the HSE's 2001 guide *Tackling Work-related Stress*, minus the seventh category 'culture'. Essentially the standards are a step-by-step guide to conducting a risk assessment for work-related stress. They involve conducting an employee survey asking questions related to the HSE's six causes of work-related stress, followed by some focus group discussions with employees in order to drill down and discuss any problems in more detail and identify possible solutions.

The HSE states that the standards are guidance but emphasises that employers have duties 'under the Management of Health and Safety at Work Regulations 1999 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 risk' (www.hse.gov.uk/stress/why.htm).

The HSE stress webpages state that doing a proper risk assessment for stress will help employers avoid prosecution and litigation and that the HSE's Management Standards set out a five-step approach to risk assessment for work-related stress.

Enforcement
About 18 months before the HSE published its Management Standards on work-related stress, the issue of work-related stress made national headlines with the news that the HSE had issued an improvement notice against an employer (West Dorset NHS Hospital Trust) for failing to identify and manage stress as required under health and safety legislation (*Independent* 5 August 2003). The HSE conducted an inspection at the site after a former member of staff made a complaint about bullying. The inspector subsequently found that the trust did not have a work-related stress policy and had not conducted a risk

assessment for work-related stress. The improvement notice was deemed to have been complied with in early 2004 after the trust responded positively and used the HSE's draft management standards to conduct a risk assessment for stress and put in place an action plan to resolve the problems identified, which included a bullying culture among consultants and a lack of nursing staff.

Peter Kelly, Higher Occupational Health Psychologist for the HSE, said that going forward the HSE would not shy away from using its statutory powers again but he emphasised that it wanted to give employers a chance to take action to tackle the issue of work-related stress following the publication of the Management Standards.

He said: 'We developed the Management Standards to fit with the existing HSE regulatory framework, which is enforceable and a significant proportion of our inspectors are trained to inspect on work-related stress' (Willmott 2008).

6 Stress at work and the courts

This section sets out the various legal avenues through which employees can make claims against their employer for causing or failing to manage work-related stress.

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Constructive dismissal
Employees can make claims through the employment tribunal system for work-related stress as a result of constructive dismissal. The advantage of this avenue for employees is that they only have to prove that their employer was in breach of contract and do not have to prove that their treatment by their employer led to them suffering a psychiatric injury.

Under section 95(1) of the Employment Rights Act 1995, an employee is constructively dismissed where he terminates the contract under which he is employed, with or without notice, in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct.

In order to succeed in a claim for constructive dismissal, four key elements have to be established, as the Employment Appeal Tribunal ruled in the 2003 case of *France* v *Westminster City Council* (EAT/214/03):

• There must be a breach of contract by the employer.
• The breach must be sufficiently serious to justify the employee's resignation.
• The employee must resign in response to the breach.
• The employee must not delay too long before resigning or he or she may be judged to have affirmed the contract.

Constructive dismissal can be claimed for breach of an express term of the contract, for example requiring an employee to work beyond contracted hours, or it may be for breach of an implied term, such as failing to provide a safe place of work (Jamdar and Byford 2003).

Makinnon LJ in *Shirlaw* v *Southern Foundries Ltd* ([1939] 2 KB 206 at 227) set out the principle of implied contractual terms. He stated: 'Prima facie that which in any contract is left to be implied and need not be expressed is something so obvious that it goes without saying; so that, if while the parties were making their bargain, an officious bystander were to suggest some express provision for it in their agreement, they would testily suppress him with a common "Oh of course".'

For the purposes of claiming constructive dismissal for work-related stress, it is a breach of implied terms such as the duty to provide a safe place of work and the duty of mutual trust and confidence which are most likely to be used.

In *Courtaulds Northern Tiles Limited* v *Andrew* ([1979] IRLR 84) the EAT held that a term is implied into every contract of employment that the employer will not, without reasonable or proper cause, conduct itself in a manner calculated or likely to destroy the relationship of trust between the employer and the employee.

An employee who resigns and claims constructive dismissal can make a claim at an employment tribunal for breach of contract, and if they have met the 12 months' service qualification period, unfair dismissal (Jamdar and Byford 2003).

However, psychiatric injury caused by the manner of an employee's dismissal rather than conduct prior to dismissal cannot be compensated for in damages in common law.

The maximum amount of compensation payable for constructive dismissal is £60,100 under section 124 of the Employment Rights Act 1996.

Disability discrimination

Employees can also potentially make claims against their employer for work-related stress using disability discrimination legislation. The Disability Discrimination Act 2005, which came into force in December 2005, made some significant changes to the Disability Discrimination Act (DDA) 1995, including the removal of the requirement that a 'mental illness' be 'clinically well-recognised'. The definition for a mental disability is now the same as that for a physical disability under section 1(1) of the DDA 1995: 'a physical or mental impairment which has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities'. This change means that it is arguably easier for people suffering from stress to claim they are covered under the DDA.

Employees have to meet significant tests to prove disability discrimination.

The case of *Clark* v *TDG Limited Novacold* ([1999] IRLR 318, CA) established four key questions that must be answered before discrimination can be proved. These are:

* Is the employee disabled?
* Is the employee being treated less favourably for a reason related to that disability?
* Are there reasonable adjustments necessary to accommodate the employee?
* Is the proposed course of action in relation to the employee capable of being justified?

There is no statutory limit to compensation for breaches of the DDA; however, any claims must be brought within three months of the alleged discrimination.

Protection from Harassment Act 1997

Employees can also potentially make claims for work-related stress arising out of bullying or harassment at work under the Protection from Harassment Act 1997. Under section 2, harassment is defined as 'a course of conduct; which amounts to harassment of another; which the defendant knows, or ought to know amounts to harassment of another'.

It goes on to state that the test to decide if conduct amounts to harassment is, 'if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other'.

Under section 7 of the Act such harassment must have occurred on at least two occasions. Harassment is not defined, but includes causing alarm or distress, and conduct is defined as including speech.

Section 3 provides that: 'An actual or apprehended breach of section 1 may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.'

Section 3(2) states: 'On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.'

In the case of *Majrowski* v *Guys & St.Thomas's NHS Trust* ([2006] IRLR 695; [2006] 4 All ER 395), Majrowski successfully claimed at the Court of Appeal that he was bullied, intimidated and harassed by his departmental manager and that under section 3 of the Act, his employer was vicariously liable for the actions of the manager.

This case appeared to indicate that the Protection from Harassment Act 1997 might prove a useful route for employees suffering from work-related stress as a result of being bullied or harassed at work.

The Protection from Harassment Act 1997 was used successfully in the case of *Green* v *DB Group Services* ([2006] EWHC 1898 (QB)). In this case the High Court found that Deutsche Bank had breached its duty of care in failing to take action against other employees who had engaged in a constant campaign of bullying

and harassment against Green. The court, which awarded Green more than £800,000 in damages, also found that her employer was vicariously liable for the actions of the other employees under the Protection from Harassment Act 1997.

However, the recent case of *Conn* v *Sunderland City Council* ([2007] EWCA Civ 1492) appears to have reduced the chances of successful claims being made for work-related stress arising out of bullying or harassment at work using this Act. In this case, the claimant alleged harassment under the 1997 Act. At the High Court hearing the trial judge ruled that on two occasions Mr Conn's manager had behaved in a way that was unacceptable and breached the Act.

In overturning the verdict at the Court of Appeal, Gage LJ stated: 'In my judgement, this is the sort of bad-tempered conduct which, although unpleasant, comes well below the line of that which justifies a criminal sanction. It follows that in my judgement the recorder was wrong to find that there were two incidents sufficient to amount to a course of conduct (amounting to harassment under the Act).'

Bullying or harassment

Employees can make claims for work-related stress as a result of bullying or harassment arising out of discrimination on the basis of age, sexual orientation, religion or belief and race. The current definition of harassment – as applied to age, sexual orientation, religion or belief and race and ethnic and national origin is: 'unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment'.

Women can make claims for stress caused as a result of harassment or bullying under the Employment Equality (Sex Discrimination) Regulations 2005.

Work-related stress claims under common law

The most serious cases of work-related stress that lead to psychiatric injury are likely to be prosecuted under the common law. Claims arising out of work-related stress under common law are prosecuted under the tort of negligence. A tort can be defined as a 'civil wrong' and negligence as 'careless conduct injuring another' (Stranks 2005a).

Employers' duties under common law were identified by the House of Lords in the case of *Wilsons & Clyde Coal Co Ltd* v *English* ([1938] AC 57 2 AER 628). In this case it was accepted that employers have a duty under common law to take reasonable care to provide and maintain:

- a safe place of work
- safe appliances and equipment and plant for doing the work
- a safe system for doing the work
- competent and safety-conscious personnel.

These duties apply even if an employee is temporarily hired out to another employer or is working on a third party's premises. The test is who has 'control' over the task that the employee is performing (*Wilsons & Clyde Coal Co Ltd* v *English* [1938] AC 57 2 AER 628).

In order for negligence to be proved:

- There must be a duty to take care owed by the defendant to the claimant.
- There must have been a failure to take such care as can reasonably be expected in the circumstances.
- Damage must have been suffered as a result of that failure.

Common law claims for psychiatric injury can be brought under either the tort of negligence or under the law of contract. In practice, the courts rarely make a distinction between the principles of tort and contract because there is little difference in how they apply (Incomes Data Services 2003).

Employers were first alerted that they could be liable for negligence for failing to identify and manage work-related stress by the case of *Johnstone* v *Bloomsbury Health Authority* in 1991 ([1992] QB 333 (CA)). In this case Johnstone, a junior medical officer, sued the authority for causing his mental breakdown as a result of excessive working hours. The case was ultimately settled out of court but was a clear indication that stress-related illness could result in personal injury claims under the common law of negligence.

Four years later in the landmark case of *Walker* v *Northumberland County Council* in 1995 ([1995] IRLR

35), Walker was awarded damages of £175,000 after the council was found in 'breach of its duty of care in failing to take reasonable steps to avoid exposing the employee to a health endangering workload'.

In this case Walker, a social worker, had to deal with a steadily increasing workload during the 1980s and in 1986 he had a nervous breakdown. Walker's psychiatrist advised him that his breakdown had been caused by pressure at work and that he should not return to the same level of responsibility as before. He returned to work in 1987 after being told he would be assisted by another social worker. However, this support did not materialise and he had a further breakdown and was diagnosed as suffering from stress-related anxiety. In February 1988 he was dismissed by the council on the grounds of permanent ill-health and subsequently sued the council for damages, arguing it had been in breach of its duty of care as his employer in failing to take reasonable steps to avoid exposing him to a health-endangering workload.

His counsel argued that the council ought to have appreciated that the workload to which he was exposed might endanger his health, in view of the warnings of excessive workloading, which he had from 1984 to 1987 repeatedly given to his superiors.

It was noted in *Walker* by Lord Justice Colman that 'the law does not impose upon (the employer) a duty of an insurer against all injury or damage caused by him however unlikely or unexpected and whatever the practical difficulties of guarding against it. It calls for no more than a reasonable approach.'

Both *Johnstone* and *Walker* involved matters that had occurred well before the HSE had published any guidance on work-related stress but they show clearly how the courts had started to accept that an employer's duty of care extended to preventing psychiatric as well as physical injury in the workplace.

In *Walker*, Colman LJ said: 'It is clear law that an employer has a duty to provide his employee with a reasonably safe system of work and to take reasonable steps to protect him from risks which are reasonably foreseeable. Whereas the law on the extent of

this duty has developed almost exclusively in cases involving physical injury to the employee as distinct from injury to his mental health, there is no logical reason why risk of psychiatric damage should be excluded from the scope of an employer's duty of care or from the co-extensive implied term in the contract of employment.'

Colman also highlighted the significant challenges that claims arising out of work-related stress were likely to present for the judiciary going forward: 'There can be no doubt that the circumstances in which claims based on such damage are likely to arise will often give rise to extremely difficult evidential problems of foreseeability and causation.'

Earnshaw and Cooper in their 2000 book *Stress and Employer Liability* comment that the increasing knowledge about work-related stress, as well as guidelines produced by the HSE, meant employers could no longer 'shelter behind their failure to acquaint themselves from the facts'.

They state: 'In cases of negligence, the defendant is judged in the light of the expert knowledge available at the time of the alleged breach of that duty. In the past little was known about the psychiatric damage that could be caused by events in the workplace, but increasingly the sources of stress at work and its consequences are being researched. Guidelines from the Health and Safety Executive have now put workplace stress firmly on the map as a health and safety issue' (Earnshaw and Cooper 2000, p62).

In 2002, the Court of Appeal considered four cases in which all the employees had successfully won claims for work-related stress at the original court hearing. The cases were *Hatton* v *Sutherland* ([2002] All ER 1), *Barber* v *Somerset Council, Jones v Sandwell* and *Bishop* v *Baker Refractories*. The Court of Appeal overturned all of the first instance decisions except for one (*Jones* v *Sandwell*) and set out 16 key propositions or guidelines to assist the courts in making good decisions on claims arising out of work-related stress. It is important to consider this case in some detail as it remains the legal benchmark for work-related stress cases.

Hale LJ summarised the difficulties employers face in identifying work-related stress. She asserted that the 'threshold question is whether this kind of harm to this particular employee was reasonably foreseeable'.

She goes on to state: 'Unless he knows of some particular problem or vulnerability, an employer is usually entitled to assume that his employee is up to the normal pressures of the job. It is only if there is something specific about the job or the employee or the combination of the two that he has to think harder.'

Hale LJ then contended that having established that the risk of harm as result of stresses in the workplace was foreseeable, it still had to be considered if the employer was in breach of their duty of care in failing to prevent that harm. She stated: 'In every case it is necessary to consider what the employer not only could have done but should have done. We are not concerned here with such comparatively simple things such as gloves, goggles, earmuffs or non-slip flooring. Many steps might be suggested: giving the employee a sabbatical; transferring him to other work; redistributing the work; giving him some extra help for a while; arranging treatment or counselling; providing buddying or mentoring schemes to encourage confidence; and much more. But in all these suggestions it will be necessary to consider how reasonable it is to expect the employer to do this, either in general or particular: the size and scope of its operation will be relevant to this, as will its resources, whether in the public or private sector and the other demands placed upon it.'

Hale LJ then turned to the issue of causation, explaining that 'having shown a breach of duty, it is still necessary to show that the particular breach of duty found caused the harm'. She observed that because of the nature of stress-related illness, which often has a number of different causes, claimants may have difficulty proving that the employer's fault was one of the causes. However she went on to say that the employee only has to show that the breach by the employer of their duty of care has made a 'material contribution' to his ill-health, citing the case of *Bonnington Castings* v *Wardlaw* ([1956] AC 613).

The 16 propositions set out by Hale LJ are:

1   There are no special control mechanisms applying to claims for psychiatric (or physical) illness or injury arising from the stress of doing the work… The ordinary principles of employer's liability apply.
2   The threshold question is whether this kind of harm to this particular employee was reasonably foreseeable; this has two components: (a) an injury to health (as distinct from occupational stress) which (b) is attributable to stress at work (as distinct from other factors).
3   Foreseeability depends upon what the employer knows (or ought reasonably to know) about the individual employee. Because of the nature of mental disorder, it is harder to foresee than physical injury, but may be easier to foresee in a known individual than in the population at large. An employer is usually entitled to assume that the employee can withstand the normal pressures of the job unless he knows of some particular problem or vulnerability.
4   The test is the same whatever the employment: there are no occupations which should be regarded as intrinsically dangerous to mental health (para 24).
5   Factors likely to be relevant in answering the threshold question include:
    a) the nature and extent of the work done by the employee…and;
    b) signs from the employee of impending harm to health.
6   The employer is generally entitled to take what he is told by his employee at face value, unless he has good reason to think to the contrary.
7   To trigger a duty to take steps, the indications of impending harm to health arising from stress at work must be plain enough for any reasonable employer to realise that he should do something about it.
8   The employer is only in breach of duty if he has failed to take the steps which are reasonable in the circumstances…
9   The size and scope of the employer's operation, its resources and the demands it faces are relevant in deciding what is reasonable.
10 An employer can only reasonably be expected to take steps which are likely to do some good.

11 An employer who offers a confidential advice service… is unlikely to be found in breach of duty.

12 If the only reasonable and effective step would have been to dismiss or demote the employee, the employer will not be in breach of duty in allowing a willing employee to continue in the job.

13 In all cases, therefore, it is necessary to identify the steps which the employer both could and should have taken before finding him in breach of his duty of care.

14 The claimant must show that that breach of duty has caused or materially contributed to the harm suffered.

15 Where the harm suffered has more than one cause, the employer should only pay for that proportion of the harm suffered which is attributable to his wrongdoing.

16 The assessment of damages will take account of any pre-existing disorder or vulnerability and of the chance that the claimant would have succumbed to a stress-related disorder in any event.

Before setting out the propositions LJ Hale emphasised the challenges that the relatively new area of liability for psychiatric illness had presented the courts.

She acknowledged that awareness and understanding relating to ill-health arising out of work-related stress was at an early stage and suggested that in the future statutory regulation might be needed. She commented: 'If knowledge advances to such an extent as to justify the imposition of obligations upon [employers]… to protect their employees from stress-related harm, this is better done by way of regulation imposing specific statutory duties.'

The Hatton guidelines remain useful pointers for employers that want to avoid litigation, but more recent cases highlight that the courts' perspective on work-related stress claims is still evolving.

Tom Cox et al (2006), in their report *Defining a Case of Work-related Stress* for the HSE, said that the Court of Appeal guidelines were only of limited help going forward. They note: 'These practical propositions generated much controversy and have been interpreted variously by the courts subsequently.'

An early example of this difference in interpretation was in the case of *Barber* v *Somerset County Council* ([2004] UKHL 13) in 2004. This was one of the four cases heard with *Hatton* v *Sutherland* but then referred to the House of Lords. The House of Lords approved the guidelines provided by the Court of Appeal but emphasised that employers have a duty to be proactive and to take the initiative rather than adopting the wait-and-see position advocated by the Court of Appeal in *Hatton*. Lord Walker, in his detailed opinion on the *Barber* case, highlighted that the original trial judge had attached importance to the Health and Safety Commission's 1990 guide *Managing Occupational Stress: A guide for managers and teachers in the schools sector*, which emphasised the need for schools to be sensitive to stress in teaching staff. Lord Walker also cited the comments of Swanwick J in the case of *Stokes* v *Guest* ([1969] 1 WLR 1776) as the best statement of general principle regarding employers' duty of care: 'The overall test is still the conduct of the reasonable and prudent employer taking positive thought for the safety of his workers in the light of what he knows or ought to know. Where there is recognised and general practice which has been followed for a substantial period in similar circumstances without mishap, he is entitled to follow it, unless in the light of common sense or newer knowledge it is clearly bad, but where there is developing knowledge he must keep reasonably abreast of it and not be too slow to apply it.'

Lord Walker's comments suggest that if employers' knowledge and understanding of stress at work and stress management grows, for example as a result of the HSE's promotion of the stress management standards, then what is expected of the reasonable and prudent employer in terms of its conduct is likely to increase.

Walker also observed that while the 16 propositions laid down in *Hatton* provided useful practical guidance, they had nothing like statutory force and that every case would depend on its own facts.

This was underlined by the case of *Hone* v *Six Continents Retail Ltd* ([2005] EWCA Civ 922), where Hone, a pub manager, successfully claimed for damages even though he had not complained of any

concerns about his health prior to his breakdown. Proposition seven set out by LJ Hale in *Hatton* states: 'To trigger a duty to take steps, the indications of impending harm to health arising from stress at work must be plain enough for any reasonable employer to realise that he should do something about it.' In the case of *Hone*, Dyson LJ said the fact that Hone was working a 90-hour week should have been seen as a 'cry for help' by his employer before his breakdown from stress. Dyson LJ also noted that the fact that Hone had refused to sign the opt-out under the Working Time Regulations was relevant to the issue of foreseeability. This appears to raise the possibility of an employer's failure to conduct a risk assessment, as required under health and safety law being seen by the judiciary as relevant to foreseeability – although in this case the judgment does not refer to health and safety legislation or the HSE Management Standards.

The changing legal perspective on stress-related personal injury claims was also underlined by the February 2007 case of *Daw* v *Intel Corporation* ([2007] EWCA Civ 70) where Daw was awarded £134,000 in damages after a breakdown from work-related stress resulted in her suffering depression, despite the company having a counselling service – one of Hale LJ's key propositions in *Hatton*. Daw had made numerous complaints to management about her workload prior to her breakdown. Pill LJ, noting Lord Walker's comments in *Barber* that 'every case will depend on its own facts', said that the presence of a counselling service was not a panacea 'by which employers can discharge their duty of care in all cases'. This case underlines that the principles regarding work-related stress personal injury claims are still evolving. Daw's counsel, Roderick Moore, told *Solicitors Journal* (8 February 2007) following the decision: 'My feeling is that courts are lowering the bar for employees.'

This lowering of the bar seems to have been continued by the case of *Dickens* v *O2 plc*. In this Court of Appeal case the court ruled the employer liable to its former employee Susan Dickens for psychiatric injury negligently caused by excessive stress during 2001 and 2002.

The court found that her psychiatric injury was reasonably foreseeable, as she had previously complained about the stress of her job, had been coming into work late on a regular basis and had told her line manager she did not know how long she could carry on before she became ill.

The court ruled that the employer was in breach of duty by failing to send her home and refer her to occupational health even in circumstances where she had not been signed off sick by her GP. The court held that the suggestion by her line manager that she contact the company's counselling service was not an adequate response in the circumstances.

In addition the court held that the failure by O2 to adequately respond to the claimant's stress at work had materially contributed to her illness even though it was recognised that she had prior psychological vulnerability and had problems in her personal life, including relationship tensions with her partner and a flood in her home.

Finally the court ruled that, because it was scientifically impossible to assess the extent to which work-related stress, for which her employer was responsible, contributed to the claimant's illness compared to other causes, there should be no across-the-board percentage reduction of damages to ensure that 'the employer only pay for that proportion of the harm suffered which is attributable to his wrongdoing'.

Workplace stress and breach of a statutory duty
A key development in relation to the law and claims arising out of work-related stress was the amendment in 2003 of the Management of Health and Safety at Work Regulations (MHSWR), which removed the exclusion of civil liability for breach of the regulations. Andrew Buchan (no date) cites the explanatory memorandum to the Management of Health and Safety at Work (Amendment) Regulations 2006 No 438, which states at 3.2: 'The civil liability provisions of the 1999 Regulations were amended in 2003, in response to concerns raised by the EC Commission, to enable employees to claim damages from their employer in a civil action where they suffer injury or illness as a result of the employer being in breach of those regulations.' Jeremy Stranks (2005b) also highlights this as a critical development. He writes: 'The implications of this amendment to the MHSWR

are significant in that, in future employees suffering stress-related ill-health may be in a position to sue their employer with the tort of breach of statutory duty, based on the employer's duties under the MHSWR with respect to undertaking risk assessments (and the), implementation of preventative and protective measures arising from the risk assessment process.'

Jamdar and Byford (2003) agree, observing that a claim for breach of duty under health and safety legislation 'could be a fruitful area for employees who have developed psychiatric injuries and whose employers have taken no steps to comply with the regulations'.

The likely impact of the HSE Management Standards on decisions by the courts

To date there have been no cases brought before the courts where the circumstances surrounding a claim for work-related stress happened after November 2004 when the Health and Safety Executive published its stress management standards. It will be interesting to see if the judiciary will take into account this non-statutory guidance as part of the evidence in stress-related personal injury claims in future cases.

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Health and Safety Executive (HSE): www.hse.gov.uk/stress

Investors in People (IIP): www.investorsinpeople.co.uk/Standard/Tools/Pages/HealthAndWellbeingatWork.aspx

Trades Union Congress (TUC): www.tuc.org.uk/h_and_s/index.cfm?mins=37

Business in the Community (BITC): www.bitc.org.uk/take_action/in_the_workplace/business_action_on_health/

Work Positive: www.healthscotland.org.uk/workpositive/

Advisory, Conciliation and Arbitration Service (Acas): www.acas.org.uk

Business Link (small business advice): www.businesslink.gov.uk

SHIFT Line Manager's Resource: www.shift.org.uk

Mental Health Foundation: www.mentalhealth.org.uk

Mind: www.mind.org.uk

The Shaw Trust: www.tacklementalhealth.org.uk

International Stress Management Association (ISMA): www.isma.org.uk/site/isma/content-folder/home

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