



## **EMPLOYMENT LAW STRATEGY SESSIONS NOTES**

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**RESPONDING TO CLAIMS OF WORK-RELATED STRESS**

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## **1 Dealing with your own stress**

- 1.1 Owner-managers and self-employed people need to learn to identify the signs of their own stress, and take steps to tackle it.
- 1.2 Signs that you might be experiencing stress yourself could include:
- poor judgment
  - indecisiveness
  - difficulty in concentrating
  - lack of assertiveness
  - irritability, aggressiveness, depression or loss of sense of humour
  - physical symptoms such as breathlessness, headaches, chest pains, nausea, sleeplessness, high blood pressure and constant tiredness
- 1.3 Stress can be magnified if you carry out your job alone. Take care not to lose the perspective. This is possible if people feel that they don't have the support of others.
- 1.4 The position can be worse for business owners who have invested significant capital in the business, and have no influence over global conditions.
- 1.5 One way of dealing with this is to network with people running businesses of a similar size to talk through each other's problems. Alternatives include -
- identify and tackle the underlying causes
  - practice relaxation techniques
  - improve your diet and cut back where appropriate on smoking, alcohol and caffeine consumption
  - do regular exercise
  - avoid regularly working long hours if at all possible
  - ensure that you take holidays

## **2 Identifying Stress in Employees**

- 2.1 The individual signs include those mentioned in 1.2 above, and/or -
- increased sick leave
  - poor timekeeping
  - changes in working day patterns - perhaps by staying late or taking work home

## **3 Strategies**

- 3.1 The two main priorities are -
- to protect the business by enhancing performance and reducing potential legal liability
  - to protect managers and employees personally
- 3.2 Stress causes –
- longer-term misery affecting the person, his/her family and his/her employer
  - absences
  - inadequate work performance
  - poor decision-making

- 3.3 There is potential liability to compensation orders in the case of –
- constructive dismissal
  - breach of health & safety provisions
  - disability discrimination
- 3.4 Consider measures which encourage employees to flag their own stress issues with -
- their GP
  - other medical sources
  - external helplines
  - internal or external ombudsman schemes
  - their line manager
  - other managers
- 3.5 If performance is an issue, consider –
- the employee’s contract
  - his/her job description
  - targets
  - prioritisation
  - delegation
  - better or more frequent performance reviews
  - re-evaluating the Disciplinary Procedure
- 3.6 If capability is an issue, consider –
- the matters set out in 3.5 above
  - whether the goalposts have moved
  - whether the time constraints have changed
  - whether methods have changed
  - whether the support elements have changed
  - whether the capability issue is recent
  - the degree of change flexibility needed
  - the degree of change flexibility which is reasonably possible
  - whether the issue is incapacity rather than inability
  - re-evaluating the Capability Procedure
- 3.7 Consider whether changes are required in management style
- re-evaluate the need to deal with any bullying or harassment
  - reconsider whether more consultation and “working in partnership” communication methods might assist
- 3.8 Consider whether the Grievance Procedure should be converted into a “Speak Up Procedure”
- 3.9 Consider whether the business has a role in encouraging employees to achieve a better work-life balance

## 4 Tackling Stress – The Management Standards Approach

- 4.1 The Management Standards Approach has been developed by the HSE to reduce the levels of work-related stress reported by British workers.
- 4.2 They are designed to –
- help simplify risk assessment for stress
  - encourage employers and employees to work in partnership in the matter
  - provide the yardstick by which organisations can gauge their performance in tackling the key causes of stress.
- 4.3 The Management Standards cover six key areas –
- demands (eg workload, work patterns, the work environment)
  - control (eg how much say a person has in the way they carry out their work)
  - support (eg encouragement, sponsorship and resources provided by the organisation, line management and colleagues)
  - relationships (eg promoting positive working to avoid conflict and unacceptable behaviour)
  - role (eg ensuring that people understand their role within the organisation, ensuring that there are no conflicting roles)
  - change (eg how organizational change is managed and communicated within an organisation)
- 4.4 To assess performance against the Management Standards –
- use existing data (eg sickness absences, staff-turnover, grievances)
  - use an HSE survey
  - access the “Indicator tool for work-related stress” at the HSE’s website at [www.hse.gov.uk/stress/standards](http://www.hse.gov.uk/stress/standards)
  - speak with your employees!

These notes are prepared in connection with one or more of our Employment Law Strategy Sessions. They are not intended to be a substitute for specific legal advice.

We would be delighted to help with further information on any of the above matters, and to help with how these might apply in your business according to your specific requirements. Please contact us to discuss further.

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