



Guide
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Managing and supporting mental health at work: disclosure tools for managers

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Introduction: purpose of the disclosure tools

*'Now I am working, it feels like no one is interested in me. They think I am well. I have to hide my illness from my employer and when I feel down I have no one to turn to. It is hard to see my GP because I have to take time off work and then questions will be asked. I feel like I am trapped in a vicious circle. I need to work to try to keep well, but can't access the services to help me keep well.'*¹

Awareness of the scale and impact of mental ill health at work is increasing – in 2011, the Chartered Institute of Personnel and Development (CIPD) found that stress is now the biggest cause of long-term sickness absence among all workers, for the first time,² while a poll by Mind revealed work is now the most stressful thing in people's lives, above money worries, marriage or relationship issues.³ Employers have told Mind and the CIPD that they recognise the need to act on mental health – but feel ill equipped to do so.⁴ Disclosure is seen as the biggest barrier, creating a 'vicious circle' for both employees and employers.

Mind found that one in five workers would not disclose stress or mental health issues to their manager for fear of being placed first in line for redundancy.⁵ Many staff are also reluctant to speak up about mental health problems because it could harm their

promotion and career opportunities.⁶ Mental health is still the elephant in the room in most workplaces – employees are reluctant to raise the subject, for fear of discrimination, while managers often shy away from the subject, for fear of making matters worse or provoking legal consequences. This culture of silence means undetected mental health problems can spiral into a crisis, resulting in sickness absence. At the other end of the process, many employers feel uncertain about changes to the law in the Equality Act around using health questionnaires during recruitment.

Mind and the CIPD have jointly developed these disclosure tools to help managers overcome these challenges. During our research with employers to inform this work, there was a clear demand for specific guidance on disclosure to be embedded within general guidance on mental health in the workplace to ensure the tools make practical sense in the wider context.⁷ As such, the tools address the whole lifecycle of employment, from recruitment, through keeping people well and managing a disability or ill health at work, to supporting people to return to work after a period of absence. They contain information, practical advice and templates to help managers facilitate conversations about stress and mental health problems and put in place support so employees can stay well and in work – meaning they perform at their best for the business while the employer retains talent and expertise.

¹ Unless otherwise specified, quotations throughout are from people with experience of mental health problems and employment, who have shared their stories with Mind. Steps have been taken to preserve anonymity.

² CIPD. (2011) *Absence management* survey report.

³ Populus poll for Mind of 2,006 adults in employment in England and Wales from 25–28 February 2011, and 4–6 March 2011.

⁴ This anecdotal evidence is supported by academic research, for example Brohan et al (2010) and Little et al (2011).

⁵ Populus poll for Mind.

⁶ NHS Health and Wellbeing Final Report (2009).

⁷ Mind and the CIPD held focus groups in March 2011 to inform the development of these tools.

Who are the tools for?

We know employers come in all shapes and sizes, with different working practices and environments. These tools are designed to support anyone involved in managing people, from line managers in large organisations to owner-managers of small firms. We also hope they will be a useful professional resource for HR and occupational health teams. Note that the CIPD and Mind are not providing legal advice but practical guidance – employers may also need to obtain their own legal advice on the approach to take in any particular case.

While the contexts will differ, we hope the principles, checklists and practical templates for facilitating conversations about mental health will be useful across the board and easily adaptable for different workplace environments and relationships. The tools can be used both as a handy *aide-mémoire* for individual managers to consult in their day-to-day roles and incorporated into HR policies and practices to be integrated across teams and organisations. So that readers can dip in and out of the sections that are relevant to them, the tools are interactive and can be flicked through in any order with ease.

What is mental health?

'Some employers have understood that having a mental health condition is something that can and does get better. After all, if I had epilepsy, many employers would understand that the fits do stop and they can be triggered by stress. It's just the same with having bipolar disorder: the best employers can see beyond a label or diagnosis to get the best from people.'

Mental health, like physical health, can fluctuate on a spectrum from good to poor. Mental health problems can therefore affect any of us irrespective of age, personality or background. They can appear as a result of experiences in both our personal and working lives – or they can just happen. One in four people will experience a mental health problem in any given year.⁸ Employees may be affected directly or indirectly, if partners, dependants or other family members have mental health problems, which in turn impact on the employee's own health. People can also be affected by friends' and fellow employees' experiences.

Mental health problems can affect the way people think, feel or behave. In some cases this can seriously limit a person's ability to cope with day-to-day life, which can impact on relationships, work and quality of life. However, many people effectively manage their mental health problems alongside the demands of a job and daily life, sometimes with treatment and support. Others may experience symptoms of mental ill health but may never be diagnosed with a condition. **The crucial thing to remember is that everyone's experience of mental health is different – two people with the same condition may have entirely different symptoms and coping mechanisms.** That's why working with people on an individual basis is so important.

What forms can mental health problems take?

Mental health problems take many forms. The terms used to diagnose them are sometimes words that are in everyday use, such as 'depression' or 'anxiety'. This can make them seem easier to understand, but their familiarity can mean underestimating just how severe and incapacitating these conditions may be. For example, employers should be mindful of the difference between clinically diagnosed depression and casual use of the term to describe feeling a bit down.

Below are some commonly diagnosed forms of mental health problems with examples of some of their symptoms. This is not an exhaustive list, as people will react and respond differently, and men and women can respond differently too, so it is important not to dismiss other symptoms. Men are also less likely to have their problems identified early by professionals, seek help or talk to family or friends, so may not have a mental health diagnosis even if they are experiencing problems.⁹ When supporting staff, it is therefore important not to label people by focusing on a diagnosis. Instead, talk to them about how it impacts on their work:

- **Depression** – very low moods; feeling hopeless, worthless, unmotivated or exhausted; loss of appetite; irritability; more prone to physical illness. Depression often goes hand in hand with anxiety. For men in particular, feeling low or anxious can lead to anger and using recreational drugs or alcohol as coping strategies.
- **Anxiety** – constant and unrealistic worry about any aspect of daily life leading to restlessness; sleeping problems; increased heartbeat; stomach upset; muscle tension; trembling. Severe anxiety can be linked to panic attacks, phobias or obsessive compulsive disorder.

⁸Goldberg and Huxley (1992) – further supported by the results of all three Adult Psychiatric Morbidity Surveys, most recently in 2009.

- **Panic attacks** – sudden, unexpected bouts of intense terror leading to difficulty breathing; rapid, pounding heartbeat; choking sensations; chest pain, trembling; feeling faint. The memory of a panic attack can provoke fear and trigger another.
- **Obsessive-compulsive disorder** – lack of control over certain thoughts or ideas that seem to force themselves into consciousness but lead to unbearable anxiety, which can only be relieved by performing a particular ritual to neutralise them, such as repeatedly opening and closing a door, washing hands or counting.
- **Phobias** – an unreasonable fear of a particular situation or object which can cause major disruption to life because it imposes such restrictions on the way people live, for example agoraphobia can cause such paralysing fear that a person may remain isolated in their own home, afraid to go outside.
- **Bipolar disorder (manic depression)** – a mood disorder where during ‘manic’ episodes people tend to be hyperactive, uninhibited, reckless, full of grandiose schemes and scattered ideas. At other times, they may go through long periods of being very depressed. Not everyone experiences both extremes.
- **Schizophrenia** – hearing voices; seeing things that other people can’t; perceptions and physical sensations that are not shared by others (delusions and hallucinations). Schizophrenia can severely interfere with someone’s ability to perform everyday tasks and activities and lead to a person becoming confused and withdrawn.
- **Borderline personality disorder (BPD)** – a controversial diagnosis but may be characterised by poor self-image and insecurity, up and down emotions, feelings of deep emptiness, loneliness and often anger; difficulty with relationships; taking risks; experiencing delusions or hallucinations. BPD can lead to self-harm or suicidal feelings and often goes hand in hand with other mental health problems.
- **Psychosis** – experiences, such as hearing or seeing things, holding unusual beliefs, having disturbed thoughts or flights of ideas, which other people don’t experience or share; sometimes described as ‘waking dreams’, which can be very distressing

Impact of work and non-work factors on mental health

A common assumption is that mental health problems are just caused by home issues, so some employers feel it is not appropriate – or indeed their responsibility – to intervene and support staff. In fact, in most cases people’s mental health problems are a combination of problems they face at work and outside work. The CIPD’s autumn 2011 *Employee Outlook* Focus on mental health at work survey found 65% of people reporting poor mental health said that this is due to a combination of work and non-work factors, 20% said their poor mental health is just down to non-work issues, while 15% said their poor mental health is the result of work alone.

For example, someone experiencing severe anxiety due to a debt problem might find that

the demands of their job, which under normal circumstances are manageable, are now beyond them. Conversely, someone who is under prolonged stress at work might find difficulties developing in their life outside work, due to working excessive hours or drinking as a coping mechanism, which might in turn impact on their family relationships. This then creates a negative feedback loop which further undermines their performance and puts greater pressure on them in the workplace.

It is therefore impossible to disentangle the impact of various factors on mental health and so is in employers’ interests to actively support staff with mental health problems, whatever the original cause or trigger. The wider knock-on effects for the employer are also significant, as positive employee engagement means staff feel valued and are more likely to go the extra mile for the organisation.

⁹Mind (2010).

and disturbing. Almost anyone can have a brief psychotic episode and stressful or traumatic events make them more likely to occur. Some people may have only one or a few episodes, while others may be diagnosed with a related mental health problem.

More detailed information is available from Mind: www.mind.org.uk/help/diagnoses_and_conditions/mental_illness

Is mental health protected in law?

If someone has a mental impairment that has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities, they have a disability and will be protected from discrimination under the Equality Act 2010. This includes many of the above conditions and can include any condition that has such an impact on day-to-day activities and means employers have duties not to discriminate and to make reasonable adjustments in the workplace. More information is available from DirectGov: www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068

Employers also have duties under health and safety legislation to assess the risk of stress-related ill health arising from work activities and to take measures to control that risk. The Health and Safety Executive's (HSE) Management Standards for Stress are designed to facilitate this: www.hse.gov.uk/stress/standards/

What about stress?

The 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 can help to motivate people and may boost their energy and productivity levels but, when the pressure individuals are under exceeds their ability to cope – and particularly when there is no respite – it can become a negative rather than a positive force – in other words, unmanageable stress. People can respond to emotional stress as if it were a physical threat; muscles will tense, heartbeat and breathing will quicken as the body goes into 'fight or flight' mode and various hormones, including adrenaline, are triggered. Unmanageable stress can have physical, psychological and behavioural symptoms which, if not addressed, can lead to mental health problems.

Stress in itself is not a medical condition but research shows that prolonged exposure to unmanageable 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 found that people with high-stress jobs have twice the risk of developing serious depression or anxiety compared with others in less stressful occupations.¹⁰ Managing stress effectively is therefore a crucial part of a preventative approach to supporting mental health in the workplace.

More detailed information on the signs and symptoms of stress is available from Mind: www.mind.org.uk/help/medical_and_alternative_care/mind_troubleshooters_stress

¹⁰Melchior et al (2007).

Why does mental health matter?

The business case

'When I returned to work on a graduated return, the positive way the company treated me meant that I felt even more engaged and energised than before, which meant I was more productive than ever. I was made to feel valued and given time and support to get back to firing on all cylinders. Even without knowing the figures, this made the business case for investing in staff well-being crystal clear to me.'

Managing and supporting people's mental health at work is a critical and growing challenge for employers. Most people will be affected by mental health problems, either personally or through family and friends, so every organisation in Britain is affected by mental health problems and ill health in the workforce.

Equally important are the positive business reasons for supporting staff mental health. The world of work is changing, with employee engagement, flexible

working, resilience and talent management now common currency. Positively managing mental health underpins these approaches and can reap rewards in terms of staff morale, productivity and loyalty.

Economic climate

Evidence suggests that the current financial crisis and subsequent prolonged economic downturn is worsening the situation, due to increased work pressures and job insecurity.

- Prescriptions for anti-depressant drugs such as Prozac rose by more than 40% between 2006 and 2010.¹³
- Mind found one in ten workers visited a GP for support as a result of recession-related pressures at work.¹⁴
- CIPD research found that employers planning to make redundancies in the next 12 months are significantly more likely to report an increase in mental health problems among staff.¹⁵

Costs of mental ill health at work – key facts

One in six workers experiences depression, anxiety or unmanageable stress at any one time.¹¹

Mental ill health at work costs UK employers £26 billion per year – on average £1,035 per employee. This includes:

- £8.4 billion a year in sickness absence – this adds up to 70 million lost working days a year, including one in seven directly caused by a person's work or working conditions.
- £15.1 billion a year in reduced productivity at work – 'presenteeism' accounts for 1.5 times as much working time lost as absenteeism and costs more to employers because it is more common among higher-paid staff.
- £2.4 billion a year in replacing staff who leave their jobs because of mental ill health.¹²

¹¹ ONS (2009).

¹² Sainsbury Centre for Mental Health (2007).

¹³ www.bbc.co.uk/news/health-12986314

¹⁴ Populus poll for Mind of 2,050 adults in work, in England and Wales, between 18 and 21 March 2010.

¹⁵ CIPD. (2011) *Absence Management* survey report.

While this picture is not surprising, the potential impact on performance and delivery means it is a very real issue for employers in maintaining productivity in a difficult economic climate.

Employee engagement

Attempts to boost employee engagement will be undermined unless employers proactively manage mental health at work:

- CIPD research finds higher stress is associated with lower work satisfaction, lower levels of loyalty to line management and a higher intention to leave the organisation.¹⁶
- If employee well-being is not maintained, employee engagement declines, retention suffers, and motivation and performance are affected.¹⁷
- Evidence shows improving employee engagement correlates with improving performance and profitability, so this is a key business issue.¹⁸

Absence

Stress and other mental health problems are, after musculoskeletal conditions, the biggest cause of absence from work:

- Unless addressed at an early stage, absence due to mental health problems can often be long term, with the average spell of absence for a mental health condition lasting **21 days**, rising to **30 days** for depression.¹⁹
- The CIPD found that stress is now the number one cause of long-term absence (four weeks or longer) for both manual and non-manual workers.²⁰

Presenteeism

The cost to business of mental ill health is not just related to absence, because most people with mental health problems remain at work:

- The annual cost of mental health-related presenteeism (people coming to work and under-performing due to ill health) is £15.1 billion or £605 per employee in the UK.
- CIPD research found that 26% of employees have experienced mental health problems while in employment. While more than half have taken time off work as a result, more than four in ten say they always go to work when experiencing mental ill health and 53% say they sometimes do.²¹

How poor mental health can impact on performance at work

The CIPD *Employee Outlook* survey illustrated how mental ill health can impact on performance and productivity.²² In all, 97% of respondents with poor mental health said it affected their performance as a result of:

- finding it difficult to concentrate (80%)
- taking longer to do tasks (62%)
- finding it more difficult juggling a number of tasks (57%)
- putting off challenging work (42%)
- being less patient with customers or clients (50%)
- having difficulty making decisions (60%)

- being more likely to get into conflict with others (37%)
- finding it more difficult to learn new tasks (33%).

However, it is important to remember that **mental ill health does not automatically equate to poor performance**. Many people with mental health problems perform highly at a range of levels in organisations, some with and others without support or adjustments [See page 26](#).

It also needs to be understood that people's mental health fluctuates in the same way as their physical health. It's normal for people to experience some periods of mental ill health and for performance to dip at times in line with this.

¹⁶ Guest (2004).

¹⁷ Towers Watson (2010).

¹⁸ MacLeod and Clarke (2009).

¹⁹ Spurgeon et al (2007).

²⁰ CIPD. (2011) *Absence Management* survey report.

²¹ CIPD. (2011) *Employee Outlook: autumn*.

²² As above.

This shows why managing and supporting people with mental health problems in the workplace is just as important as managing their absence and supporting their return to work.

Accidents

There is evidence of a link between mental ill health and higher rates of industrial accidents:

- Research by the HSE finds that people who are stressed, anxious or depressed are more likely to be distracted by other thoughts and find it harder to focus on a task.²³
- Depending on the workplace, resulting accidents may be minor or more serious, but either way it is in the best interests of employers to guard against these from both a legal and duty of care perspective.

Staff turnover

Minimising the risk of losing valued employees is another reason to invest in managing mental health at work:

- A 2008 CIPD survey revealed stress of the job or role is a key reason for employee turnover (19% of respondents).²⁴
- Other key drivers are workload (19%), lack of support from line managers (16%) and working hours (14%), which may also be associated with stress or mental ill health.
- The same survey found the average cost of staff turnover per employee is nearly £6,000 – which does not include the investment in training and development which is simply lost when employees leave.

Conflict at work

Stress and mental health problems can lead to costly and time-consuming conflict at work, which may be compounded by higher levels of competition among colleagues in the current economic climate.

- Research shows stress is the second biggest cause of workplace conflict, after personality clashes, and employees spend a day a month dealing with this on average.²⁵

- CIPD research finds that employers spend on average 18 days of management time on every formal disciplinary case and 9 days on each formal grievance case.²⁶
- The impact of conflict at work also tends to be felt beyond the individuals in dispute, with the performance of wider teams potentially affected, for example by employees feeling they are covering for a colleague or if conflict leads to increased absence.

Lower insurance/risk of liability arising out of stress claims

Absence of stress management practices or high stress levels may lead to increased insurance premiums, depending on the provider and type of insurance your organisation has, for example:

- You may find that your premiums are affected by whether stress is an issue in your workplace or not.
- Employer liability insurance premiums may be increased either indirectly, due to higher levels of employment disputes, or directly, such as your insurer penalising 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. For more guidance on stress management go to: <http://www.cipd.co.uk/NR/rdonlyres/F5B27EA2-1A75-4C26-9140-1C9242F7A9C6/0/4654StressmanagementWEB.pdf>

Corporate governance and employer brand

Employers that fail to manage mental health at work effectively risk damaging their employer brand as a result of costly and potentially high-profile litigation through the courts, through common law personal injury claims, unfair dismissal or discrimination claims, or as a result of breach of contract. Conversely, embracing positive management of staff mental well-being can be part of a comprehensive corporate responsibility agenda, as advocated by Business in the Community (BITC), the business-led charity promoting sustainable and responsible employment practices. For more information, see BITC's public reporting guidelines: www.bitc.org.uk/resources/publications/reporting_guidelines.html

²³ Health and Safety Executive (2006).

²⁴ CIPD (2008).

²⁵ OPP (2008).

²⁶ CIPD (2010).

Handling disclosure: recruitment

'I was working when I had depression and I self-harmed. I had to leave my job. When I started applying for work again, I called it "stress" to employers because of mental health stigma, but even then I think they declined to employ me because of the stigma around having stress. [...] Out of nearly 90 jobs that I applied for, I was invited to only one interview, where I didn't get the job. I felt worthless.'

Many job applicants will be fearful of disclosing information relating to their mental health problems in a job application or at interview stage, because misunderstanding and prejudice about mental ill health is still widespread. Since the Equality Act 2010 came into force, it is also unlawful for employers to ask questions about health during recruitment, except in very limited circumstances, in order to prevent surreptitious discrimination. However, there are ways to facilitate disclosure lawfully to ensure people with mental health problems have equal access to job opportunities, are offered any support they need to take up a post, but are not discriminated against in the recruitment process.

Mental health stigma in employment

A survey by the anti-stigma campaign 'Time to Change', led by Mind and Rethink Mental Illness, found 92% of the British public believes that admitting to having a mental health problem would damage someone's career. The survey found that 56% of the 2,000 respondents would not employ someone experiencing depression, even if they were the best candidate for the job.²⁷

Recruitment, selection and assessment

Employing the right people to do the job and getting the staffing right on particular projects is crucial in order to help prevent stress and promote individual resilience. A key source of work-related stress and mental ill health is a misfit between the individual and their work environment: between the individual's skills and abilities and the organisation's demands on them, or between the needs and values of the person and those of the work environment.

Selecting recruits based on competence and/or potential, combined with realistic job previews, is therefore not only important for performance, but also for managing and supporting mental health. Realistic job previews provide potential applicants with information on both positive and negative aspects of the job. Better-informed candidates who continue the application process are more likely to be a good fit with the position and any new employees enter into the contract more aware of what the organisation will provide to them and also what will be expected from them.

As stated earlier, experience of mental ill health is not an indicator of poor performance, so it is equally important that employers do not discriminate against people on the basis of prejudiced and unjustified assumptions regarding the employability of people with mental health problems. This may be direct discrimination under the Equality Act and it also doesn't make good business sense to disregard someone, who may have all of the valuable skills, experience and talent needed for the position, because of fear or lack of understanding of their mental health problems.

Recruitment decisions should be based on whether candidates have the necessary qualifications and competence required for the job, without assumptions

²⁷YouGov poll for Time to Change. Total sample size was 2,082 adults. Fieldwork was undertaken between 31 July and 3 August 2009. The figures have been weighted and are representative of all GB adults (aged 18+).

about health or disability (which may be subconscious) clouding judgements about each candidate's skills and abilities. Any concerns that do arise about whether health or disability may impact on a candidate's ability to do the job must be assessed with reference to employers' positive legal duty to make reasonable adjustments for disabled people. These conversations may increase a candidate's chances of securing a

position, as employers must show they have only deselected candidates if their disability means they will be unable to perform 'intrinsic' functions of the job, even with adjustments in place (see below). For further information on recruitment go to:

[CIPD Recruitment factsheet link](#)

Job and person specifications

Distinguish carefully between essential and desirable requirements for the job to allow for flexibility in making adjustments.

Focus on what is required to get the job done (for example knowledge or experience), not *how* it will be done (for example method of delivery), as this gives flexibility for achieving output in different ways.

Make it clear what mental and emotional elements are required to meet the work schedule attached to the job, but don't overemphasise the need for a certain type of personality, for example:

- State it requires 'someone effective at networking' NOT 'you must be upbeat and sociable' – this relies on personality, not ability.
- State 'there may be a lot of pressure when events are taking place' NOT 'you must be able to work in a stressful environment' – this takes away responsibility from the employer to manage pressure appropriately.

Improving recruitment processes

- Communicate the organisation's commitment to equal opportunities during the recruitment process, including in the job advert.
- Provide guidelines and, where possible, training for staff involved in recruitment to ensure that candidates are not discriminated against at any stage.
- Make it clear in adverts and interviews that the organisation values staff mental health, as this sends a signal that disclosure will not lead to

discrimination. For example, include a statement such as: *'As an employer we are committed to promoting and protecting the physical and mental health of all our staff.'*

- State clearly that reasonable adjustments are available – for the interview and the job itself – so applicants understand why disclosure might be beneficial.
- Ensure people can disclose confidentially and that any information about health or disability is kept separate from the application form, so the recruitment panel does not see it.

Pre-employment health questionnaires

Section 60 of the Equality Act 2010 makes it unlawful to ask questions about disability and health before making a job offer, except in defined circumstances. The purpose is to ensure equal access to job opportunities by preventing disability or health information being used to sift out job applicants without giving them the opportunity to show they

have the skills to do the job. Where these legal requirements have been breached, the Equality and Human Rights Commission can take legal action against employers and it is also easier for job applicants to prove that discrimination has taken place. Under the Equality Act, employers will be assumed to have discriminated, unless they can prove otherwise, if questions are asked before a job offer is made.

Exceptions to the ban on pre-employment health questions

Questions about health and disability can be asked before a job offer only when the law says they are necessary and fall within these narrow exceptions:

- to find out if a job applicant can take part in any assessment to test the ability to do the job, or find out if reasonable adjustments are needed for the recruitment process, including assessments or interviews
- to find out whether a job applicant will be able to carry out a function that is intrinsic (or absolutely fundamental) to that job – ‘intrinsic’ job requirements are narrowly defined and must be objectively justifiable. The EHRC advises: ‘In practice, even if a function is intrinsic to the job, you should ask a question about a disabled person’s ability to do the job with reasonable adjustments in place. There will therefore be very few situations where a question about a person’s health or disability needs to be asked.’ See: www.equalityhumanrights.com/uploaded_files/EqualityAct/employers_recruitment.pdf

- to find out whether a job applicant possesses a particular disability where having that disability is a genuine occupational requirement of the job
- to monitor the diversity of job applicants
- to take positive action in relation to disabled people – for example, to decide if job applicants qualify for measures the employer takes to improve disabled people’s employment rates, such as a guaranteed interview scheme. For more information see: www.acas.org.uk/media/pdf/s/k/Equality_Act_2010_guide_for_employers_JANUARY_2011.pdf

As far as possible, where questions are asked for any of these purposes they should be detached and kept separate from the application form, so any health information is not seen by the selection panel. Where all aspects of the recruitment process are handled by one person, for example in a small organisation, they must take every step to disregard this information in respect of shortlisting and selection to be compliant with section 60 of the Equality Act.

Examples – appropriate and lawful health enquiries pre-job offer

Application form or equal opportunities form:

Please contact us if you need the application form in an alternative format or if you require any reasonable adjustments to the selection process, including the interview (for example physical access, communication support, personal support).

Assessment: *Some of our roles require applicants to complete an online test. Please provide details below of any reasonable adjustments you would need in order to be able to complete these (for example extra time, online access, communication requirements).*

Invitation to interview: *Please respond to confirm your availability to attend at the time allocated and to indicate any reasonable adjustments you may require for the interview.*

Monitoring: *XX is an equal opportunities employer. The following information will be treated confidentially and will assist in monitoring XX’s equal opportunities policy. Your application will not be affected by the information provided in this section, which will not be seen by the selection panel. Do you consider yourself to be disabled? (Yes / No)*

Occupational requirements: *An essential criteria for this project worker post is personal experience of mental health problems. This is an occupational requirement so you will be asked about your mental health history during the recruitment process.*

Health questionnaires post job offer

Some employers do not use health questionnaires at any stage of the recruitment or induction process, instead dealing with any health issues among employees as they arise or using other tools to encourage disclosure, such as Wellness Recovery Action Plans ([see pp. 22–4](#)). However, others find that routinely using health questionnaires following an offer of employment can provide useful information to enable employers to support new employees with any health problems and enable them to do the job they have been recruited for. In this case it is prudent to use questionnaires with all new recruits, rather than singling people out because ill health or disability is suspected, in order to avoid claims of less favourable treatment and/or discrimination. Moreover, if employees do not feel singled out, they are likely to feel less stigmatised and more positive towards the employer.

A job offer might be conditional or unconditional and an employer can make an offer conditional on medical checks and then ask health-related questions without breaking the law, but would need to be able to show that any reasons for withdrawing a job offer are not discriminatory. It is unlawful to discriminate on grounds of mental health, so if an offer is withdrawn at that stage an unsuccessful applicant may be able to make a disability discrimination claim, as the withdrawal itself may be seen as evidence of discrimination.

If employers do use health questionnaires, it should be emphasised to candidates that the purpose is to see whether new staff have any health issues that, without support, could affect their ability to fulfil the duties of their new role or place them at any risk in the workplace, with a view to ensuring any health needs are met. It should also be explicit that the questionnaire will help the employer to identify reasonable adjustments [See page 26](#) or assistance to enable the new employee to do the job without it compromising their health. Framing the use of the information in a positive way may be more likely to encourage disclosure and properly reflects the ethos of such screening, which should be to provide better support to the employee. The questionnaire should also specify who will see the information.

The CIPD and Mind have developed a template health questionnaire to help ensure that, if employers choose to use health questionnaires, they don't ask unnecessarily intrusive questions that might discourage new employees from disclosing important information about their mental health. Our recommended questions are deliberately:

- **limited** to health information in relation to the work/job role – all other details are personal, sensitive and of no concern to the employer
- **open**, to enable new employees to describe their health in their own words and give only as much information as they feel comfortable with
- **non-prescriptive**, so people are not forced to disclose a particular condition or detail symptoms and treatments.

Of course, for some specialist roles, specific health questions may be relevant – for example, people working with chemicals may need to disclose any skin conditions – and this would be lawful under the exception which permits questions relating to 'intrinsic' job functions. Employers in these sectors will be best placed to determine the types of questions they need to ask, so we limit ourselves to general questions employers may choose to ask about health following a job offer.

Template health questionnaire – post job offer

Your answers to this questionnaire will be **CONFIDENTIAL** to [HR/occupational health / your manager] and will not be given to anyone else without your written permission. **Our aim is to support and maintain the physical and mental health of all people at work.** The purpose of the questionnaire is to see whether you have any health problems that could affect your ability to undertake the duties of the post you have been offered or place you at any risk in the workplace. In consultation with you, we may recommend adjustments or assistance as a result of this assessment to enable you to do the job.

Do you have any (physical and/or mental) health condition(s) or disability which may affect your work in this role (based on what you know from the job description, interview and any previous experience)?

Would you like to tell us about any past examples of (physical and/or mental) health condition(s) or disability that were caused or made worse by your work, so that we can explore any support you may need?

Do you think you may need any adjustments or assistance to help you to do the job? If so, please give suggestions.

Intrusive or inappropriate questions to avoid:

- Is there any history in your family of mental health problems?
- Do you suffer from, or have you ever experienced, any of the following? [With an exhaustive tick box list of conditions, for example depression, anxiety, bipolar disorder...]
- Are you taking any tablets or medications? If yes, please give details.
- Have you consulted a doctor in the last two years?
- Are you having or waiting for treatment (including medication) or investigations at present? If yes, please provide details of the condition, treatment and dates.

Prevention: keeping people well and managing stress

*'You don't create a positive workplace culture just by saying so – you have to nurture it by treating your people well, promoting their health and well-being and also by being there to support them when things get them down. Helping people to deal with the pressures in their lives is one of the best investments an employer can make.'*²⁸

Some of the costs associated with mental ill health at work occur because undetected problems are left unchecked and spiral into a crisis. Good communication and people management skills go a long way to preventing stress and mental health problems among employees – often it's about a common-sense approach.

Induction

A good induction programme is important for all new, promoted or redeployed employees, as starting a new role can be a stressful and unsettling experience. A negative first few days in the job, in which people are given insufficient guidance about expectations and processes, can undermine people's confidence and could trigger problems or exacerbate existing symptoms.

An effective induction for all employees contains the following elements:

- one-to-one meeting(s) between the new starter and their line manager
- orientation (physical) – describing where the facilities are
- orientation (organisational) – showing how the employee fits into the team and how their role fits with the organisation's strategy and goals

- an awareness of other functions within the organisation and how the employee fits within that
- meeting with key senior employees (either face to face or through the use of technology)
- health and safety information – this is a legal requirement
- explanation of terms and conditions
- details of the organisation's history, its products and services, its culture and values
- a clear outline of the job/role requirements and expectations
- details of any health and well-being initiatives provided by the employer
- information about ways of working, for example flexitime, homeworking.

Managing people

How people are treated and managed on a day-to-day basis is central to their mental well-being and engagement. The behaviours of line managers will, to a large degree, determine the extent to which employees will go the extra mile in their jobs, are resilient under pressure and remain loyal to their organisation. Good line management can be crucial in supporting well-being, spotting early signs of mental health problems and initiating early intervention, while poor line management may exacerbate or even cause mental health problems through an unhelpful approach or behaviour.

*'[Creating mentally healthy workplaces] is just about good management. There isn't any magic to it; it's the things you'd expect: managers who have common sense, a degree of empathy, recognise that individuals want to be part of something – all those straightforward things.'*²⁹

²⁸ AXA PPP Healthcare psychological support expert Eugene Farrell, quoted in Mind press release May 2011.

²⁹ Employer speaking at Mind's business summit, May 2011.

Positive management culture from top to bottom

CIPD research consistently identifies good-quality people management, particularly by line managers, as one of the core drivers of employee engagement and well-being.³⁰ However, good line management cannot exist in a vacuum. Only support and strategic leadership from the top will create organisational cultures where management styles based on openness and mutual respect can flourish. The senior management team will influence how managers throughout an organisation see their jobs and the extent to which they place a priority on people management.

Line managers need a clear understanding of the link between the strategic objectives of their organisation, their departmental or team objectives and their day-to-day people management in areas such as:

communication and consultation; training and development; performance and absence (attendance) management and workplace pressure, stress or conflict. They also need clearly communicated HR policies to provide a framework for consistent people management practice across the organisation. In addition, line managers should be given the opportunity to learn the key people management skills needed for their role. Line managers supporting people with mental health problems may also need extra support themselves, as they might be experiencing additional strain as a result.

To create a positive management culture, a zero-tolerance approach to bullying is also required. Mind's *Taking care of business* guide for employers has further information on a comprehensive approach to supporting a positive and open workplace culture: www.mind.org.uk/assets/0000/8310/EMPLOYERS_guide.pdf

Joint research and guidance by the CIPD and the HSE highlights the core management behaviours needed by line managers to prevent and mitigate the effect of stress at work. The guidance highlights four areas of competence:

- managing and communicating existing and future work
- managing emotions and having integrity
- managing difficult situations
- managing the individual within the team.

³⁰Purcell and Hutchinson (2003).

Line management behaviour to prevent stress at work

The CIPD and HSE guidance emphasises the importance of managers:

- communicating objectives and expectations clearly
- monitoring and reviewing individual and team workloads
- coaching/mentoring their staff to develop them
- providing the right level of autonomy and control to their team
- being personally accessible and providing regular opportunities to speak to people one to one
- finding out what motivates staff at work
- taking a consistent approach to management and treating all staff with equal respect
- following up problems on behalf of their team, as soon as they arise
- acting as an objective mediator in conflict situations.

Often it is about common sense. Managers who regularly ask staff how they are and take an interest in their team's lives outside work are more likely to build trust and therefore effectively prevent and manage stress at work. Conversely, managers who assume staff are okay, are indecisive and inconsistent, give mostly negative feedback and create unrealistic deadlines are likely to exacerbate stress. A common-sense approach extends to flexing your management style as appropriate to each employee – so being aware that some people will be less comfortable sharing details of their personal life than others.

For more information see the CIPD and HSE guidance: www.cipd.co.uk/binaries/stress_at_work_framework_line_managers.pdf

Building resilience

Employers can help employees cope with pressure and adversity in the workplace by focusing on building resilience or coping techniques, as the EDF Energy example below shows. Resilience can be defined as the ability to recover or bounce back in the face of adverse conditions, change or pressure. Successful approaches focus on building individual, team and organisational resilience, which are all interconnected. A focus on building resilience can help employees understand how they can manage and withstand pressure more effectively and also ensure that employers are taking steps to identify and prevent stress effectively. The CIPD's guide on *Developing Resilience* (www.cipd.co.uk/hr-resources/guides/developing-resilience-evidence-guide.aspx) sets out some practical interventions, such as:

Individual resilience

- Lead by example to promote simple steps for managing health (see www.neweconomics.org/projects/five-ways-well-being) and ensure the workplace environment facilitates well-being (see the Mind guide: www.mind.org.uk/assets/0000/8310/EMPLOYERS_guide.pdf).

Team resilience

- Review and support the emotional well-being of the whole team (see Business in the Community's practical tool for managers on team resilience: www.managingemployeewellbeing.com/bitc/index.html).

Organisational resilience

- Conduct stress risk assessments using employee surveys or other tools (see the HSE's management standards, which provide useful step-by-step guidance on this: www.hse.gov.uk/stress/standards/).

Case study: EDF Energy – ‘Being mentally fit’

A workplace audit showed that EDF Energy was losing around £1.4 million in productivity each year as a result of mental ill health among its employees. They introduced a comprehensive employee support programme which underpins their proactive and reactive ‘Being mentally fit’ work. One element of this is psychological support (cognitive behavioural therapy) available for any employee who needs it.

Resilience is a core part of the company’s proactive work. Their resilience index and resilience enhancement programme enables employees to assess in just a few minutes their own levels of pressure and performance and the strength of their five key resilience ‘building blocks’ – physiology, balance, support, control and attitudes – which are coded red, amber and green for ease of understanding. This leads directly into five self-development modules.

This self-assessment and development is complemented by stress and resilience awareness training for managers, which covers what stress is and how to spot the signs, where to find support and how to increase resilience and coping mechanisms. 1,400 managers have been trained so far and 80% say they are now more able to recognise the early signs of stress in themselves and others.

EDF Energy’s programme has resulted in an improvement in productivity, saving the organisation approximately £228,000 per year. Job satisfaction has risen from 36% to 68%.

Early intervention: spotting the signs of stress and mental ill health

'I've been fortunate to work in a team where the managers were attentive, proactive and sensitive enough to notice when things were going wrong. It's normal behaviour for me to withdraw from everyone when I'm going through a bad patch, which inevitably ends up as a crisis. Having a manager who makes a point of looking out for everyone has changed my life.'

No matter how well employees are managed, some people will experience mental health problems in the workplace. Spotting the signs of stress or mental ill health at an early stage means managers can nip problems in the bud before they escalate into a crisis or sickness absence and the pointers below give ideas of what to look out for.

Workplace triggers

Everyone has mental health and, like physical health, it fluctuates along a spectrum from good to poor. Work can have a huge impact – it can promote well-being or trigger problems.

Consequently, the causes of unmanageable stress and mental health problems are often complex. CIPD research found that about 70% of employee mental health problems are either directly caused by work or by a combination of work and home. A management approach which solely views mental ill health as a medical problem is therefore unlikely to succeed.

A key part of spotting the signs is managers being alert to the potential workplace triggers for distress, such as:

- long hours and no breaks
- unrealistic expectations or deadlines
- high-pressure environments

- poor working environment
- unmanageable workloads or lack of control over work
- negative relationships or poor communication
- workplace culture or lack of management support
- job insecurity or change management
- high-risk roles
- lone working.

More information on a proactive approach to mitigating such triggers is in Mind's *Taking care of business* guide for employers: www.mind.org.uk/assets/0000/8310/EMPLOYERS_guide.pdf

Early signs of mental ill health

Line managers who know their staff and regularly hold catch-ups or supervision meetings to monitor work and well-being are well placed to spot any signs of stress or mental ill health at an early stage. Often the key is a change in typical behaviour.

Symptoms will vary, as each person's experience of mental ill health is different, but there are some potential indicators to look out for. The table overleaf is not exhaustive but offers some useful pointers.

However, if one or more of these signs is observed, this does not automatically mean the employee has a mental health problem – it could be a sign of another health issue or something else entirely. Always take care not to make assumptions or listen to third party gossip and to talk to the person directly.

Physical	Psychological	Behavioural
<ul style="list-style-type: none"> • fatigue • indigestion or upset stomach • headaches • appetite and weight changes • joint and back pain • changes in sleep patterns • visible tension or trembling • nervous trembling speech • chest or throat pain • sweating • constantly feeling cold 	<ul style="list-style-type: none"> • anxiety or distress • tearfulness • feeling low • mood changes • indecision • loss of motivation • loss of humour • increased sensitivity • distraction or confusion • difficulty relaxing • lapses in memory • illogical or irrational thought processes • difficulty taking information in • responding to experiences, sensations or people not observable by others • increased suicidal thoughts 	<ul style="list-style-type: none"> • increased smoking and drinking • using recreational drugs • withdrawal • resigned attitude • irritability, anger or aggression • over-excitement or euphoria • restlessness • lateness, leaving early or extended lunches • working far longer hours • intense or obsessive activity • repetitive speech or activity • impaired or inconsistent performance • uncharacteristic errors • increased sickness absence • uncharacteristic problems with colleagues • apparent over-reaction to problems • risk-taking • disruptive or anti-social behaviour

Encouraging disclosure: supporting staff to stay well and in work

'What made a huge difference was being asked if I was okay – simple as that. I don't seek out people to tell, it's not in my introspective nature. Without being too dramatic about it, I would have left work by now without her support, and wouldn't be going back to anything, and probably would be self-destructing right now.'

If mental ill health is suspected or disclosed, it is crucial that line managers facilitate an early conversation about the person's needs, to identify and implement appropriate support or adjustments. Basic good people management and the use of empathy and common sense by managers lie at the heart of effective management of mental health in the workplace. Managers need to ensure they are seen as approachable and listen when staff ask for help. Managers should also be mindful of whether the workplace culture is conducive to disclosure.

Broaching the subject

While mental ill health is a sensitive and personal issue – like any health problem – most people prefer honest and open enquiries over reluctance to address the issue. Shying away from the subject can perpetuate fear of stigma and increase feelings of anxiety. Often employees will not feel confident in speaking up, so a manager making the first move to open up a dialogue can be key. Mind has information that may be a useful starting point for these conversations, for both employers and employees (though employers should not make any assumptions based on this): www.mind.org.uk/help/information_and_advice

Regular catch-ups or supervisions are an opportunity to start the conversation, which should always be in a private, confidential setting where the employee feels equal and at ease. Questions should be simple, open and non-judgemental to give the employee ample opportunity to explain in their own words. If there are specific grounds for concern, such as impaired performance, it is important to address these at an early stage, but in all cases, people should be treated in the same way as someone with physical health problems – a good starting point is asking how they are.

Conversation checklist

- Avoid interruptions – switch off phones, ensure colleagues can't walk in and interrupt.
- Ask simple, open, non-judgemental questions.
- Avoid judgemental or patronising responses.
- Speak calmly.
- Maintain good eye contact.
- Listen actively and carefully.
- Encourage the employee to talk.
- Show empathy and understanding.
- Be prepared for some silences and be patient.
- Focus on the person, not the problem.
- Avoid making assumptions or being prescriptive.
- Follow up in writing, especially agreed actions or support.

Questions to ask	Questions to avoid
<ul style="list-style-type: none"> • How are you doing at the moment? • You seem to be a bit down/upset/under pressure/frustrated/angry. Is everything okay? • I've noticed you've been arriving late recently and I wondered if you're okay? • I've noticed the reports are late when they usually are not. Is everything okay? • Is there anything I can do to help? • What would you like to happen? How? • What support do you think might help? • Have you spoken to your GP or looked for help anywhere else? 	<ul style="list-style-type: none"> • You're clearly struggling. What's up? • Why can't you just get your act together? • What do you expect me to do about it? • Your performance is really unacceptable right now – what's going on? • Everyone else is in the same boat and they're okay. Why aren't you? • Who do you expect to pick up all the work that you can't manage?

Managers should explore with employees reporting mental health problems how to address any difficulties which are work-related, which might in turn help the employee to cope with any problems in other areas of their lives ([see page 3](#)). Managers should also encourage employees to see their GP as a first step and ensure employees are aware of any support available either from their employer, for example a confidential employee assistance helpline, or from other sources, such as Mind's telephone helplines or Saneline. Discussing relevant Mind information with

the employee could also be helpful, for example: www.mind.org.uk/help/medical_and_alternative_care/mind_guide_to_surviving_working_life

Employers need to communicate clearly through policies on stress management or mental health that people with issues will be supported and outline what help is available, as well as being clear with employees about relevant ill health and capability procedures.

Case study: Deloitte – mental health champions

Professional services firm Deloitte has seven mental health champions at partner level. Employees can approach them confidentially, outside of line management structures, if they have a mental health problem or concern. All of the champions have had awareness training to give them a basic understanding of mental health, as well as the support that is available through the firm. The partners are also available to give advice to managers about facilitating conversations with staff who they suspect are experiencing mental health problems.

Running this scheme through leaders within the business sends a clear signal from the top that employees can be open about their mental health and access support at an early stage. Some 40 people across the firm have sought help from the champions so far.

Responding to disclosure

Handling mental health disclosures is often viewed with fear by line managers, but it need not be awkward or taxing. Remember that the aim is to create an honest and open dialogue that will lead to a system of support and understanding between employers and employees.

Generally a common-sense approach based on open communication and good people management is all that is required. The rules of thumb are:

1 Avoid making assumptions

- It can be difficult for people to disclose information relating to their mental health, so make it easier by keeping an open mind and giving them space to talk it out.
- Avoid trying to guess what symptoms an employee might have and how these might affect their ability to do their job.
- Remember, many people are able to manage their condition and perform their role to a high standard.

2 Embed confidentiality

- People can be understandably anxious about disclosing, so be prepared to assume responsibility for some confidential and sensitive information.
- Create strict policies about who is made aware of disclosures. As a rule, they should involve as few people as possible.
- Reassure them that any private information they disclose will not be leaked to their colleagues.
- Discuss with the individual any information they would like to be shared with team colleagues and how, as this can be very supportive for some people.

3 Encourage people to talk

- It is important to have an open dialogue with employees when discussing their mental health.
- Remember, everyone's experience of mental ill health is different and how you deal with a disclosure should be entirely dependent on the individual.
- Explore how the condition manifests itself, what the implications are and what support they need.

4 Respond flexibly

- Mental health problems affect people in different ways and at different times in their lives, so be prepared to adapt your support to suit the individual.
- If it works for both of you, work with your employee to develop an individual Wellness Recovery Action Plan (WRAP), as explained overleaf.
- Remember, workplace adjustments for mental ill health need not be costly nor require huge changes – they can be simple, as shown below.
- Be aware of the steps to take if you're concerned the employee may be having suicidal feelings – guide them to seek help from their GP or the Samaritans and consult Mind's advice on how to support people: www.mind.org.uk/help/medical_and_alternative_care/how_to_help_someone_who_is_suicidal

5 Seek advice if you need to

- If you're still unsure, the person lacks insight or an issue is particularly complex, seek advice from expert organisations such as the CIPD, Mind, Centre for Mental Health, Mindful Employer or your local Mind or GP – encourage your employee to do so too. If available, employee assistance programmes can also help line managers and employees.
- Where workplace relationships are strained or confrontational, consider using workplace mediation to help resolve issues.
- Larger employers may find involving occupational health colleagues useful, as they can support both employees and managers to negotiate issues around disclosure.

Remember that once aware of health or disability information, the employer also has legal duties to consider making reasonable adjustments as well as a general duty of care and responsibility for employee health and preventing personal injury.

Case study: Disclosure

Anna works for a local authority and was pleasantly surprised by the positive response from her manager when she disclosed her depression and borderline personality disorder.

'I really wasn't sure about being honest at work as I've had previous poor experiences – such as being told that "people like you can't help other people".'

With her manager, Anna explored various options for staying in her existing team, such as part-time, compressed hours, a period of time off or completing a stress at work assessment. She felt her manager did everything possible to support her to stay in her existing role. However, in the end, they agreed she would take a healthier career step into a less front-line position, which she felt suited her circumstances.

'It doesn't feel like I've been punished for being depressed; it almost feels like I've been rewarded for being honest.'

Wellness Recovery Action Plans

A useful tool to facilitate constructive and supportive conversations about managing mental ill health is a Wellness Recovery Action Plan (WRAP). The WRAP is originally a healthcare tool which identifies the individual's specific symptoms, triggers and support needs, giving the patient control over their treatment. Given mental ill health fluctuates and affects no two people the same, this person-centred approach leads to more effective support.

In the employment context, this model enables the line manager and employee to have a dialogue leading to practical, mutually agreed steps that will be taken. It would usually be drafted by the employee, in some cases with support from a health professional, and then discussed and agreed with the manager. A WRAP should cover:

- the signs and symptoms of their mental health problem(s)
- any triggers for distress
- what support can help
- who should be contacted in the event of a mental health crisis.

The WRAP can be used to identify and agree any adjustments that may be needed, in writing, so the employee feels confident of the steps that will be taken following disclosure. This can then form part of regular monitoring and reviews in supervisions or other one-to-one meetings to ensure the agreed

adjustments are working. This is a collaborative process so it is important to ensure both manager and employee are comfortable with using a WRAP for it to work effectively – the tool shouldn't be imposed on unwilling employees, as it is a positive rather than a negative management tool.

The model can similarly be used to enable staff to identify any stress triggers their line manager should be aware of. Feedback shows it can be a useful tool whether employees have a mental health diagnosis or not, as part of a proactive approach to stress management and supporting all staff. We recommend that employers make clear that this option exists and that it can be either requested by employees or suggested by managers in response to a disclosure. This sends a strong message that the mental well-being of staff is valued, which in turn encourages early disclosure.

WRAPs are simply one of the tools in a manager's toolbox – the model is not designed to be a burdensome process, but rather a simple method of facilitating conversations about mental health which are constructive and lead to agreed practical support. We hope managers at any level and in organisations of any size or shape will be able to adapt the principles to their needs, to make mental health disclosures easier to handle. WRAPs can help employers strike the right balance between supporting employees' mental health needs and ensuring they still undertake the key functions of their jobs, in the context of the legal duty to make reasonable adjustments.

WRAP template

This is a document drawn up between your manager, on behalf of [organisation], and you, as an employee, to outline steps we can take to support you and your health at work. This information will be held confidentially and regularly reviewed, in partnership with you. You only need to tell us details about your health in relation to your role and the workplace and as far as you feel comfortable. The WRAP is not legally binding but will help us to agree, together, how to practically support you in your role and address any health needs.

In your own words, how does your mental health problem affect you? How might your symptoms impact on your work?

Can you describe in your own words any triggers for mental ill health and early warning signs that we might notice?

What support or adjustments could we put in place to minimise triggers or support you to manage your symptoms at work? Is there anything we should try to avoid doing?

If your health deteriorates, or we feel we have noticed early warning signs of distress, what should we do? Who can we contact?

Please include contact names and numbers and account for scenarios when your health changes in a minor way and you are still able to get into work.

What steps can you take? Is there anything we need to do to facilitate them?

Signed: _____ Employer

Signed: _____ Employee

Workplace adjustments

'Reasonable adjustments' for people with disabilities or health needs are commonly perceived as adaptations to the physical environment, such as wheelchair ramps, or communication assistance, such as sign language interpreters. In relation to mental health, more often the obstacles are less tangible and relate to negotiating the social world, rather than the physical world, of work. Effective adjustments can be simple, low cost and are generally changes in practice or requirements, such as flexible working hours or increasing one-to-one supervision.

The key thing to remember is that everyone's experience of mental ill health is different – so two people with a diagnosis of depression may have very different symptoms and need different adjustments. This may seem complex, but often the person will be the expert on their condition and know their own support needs. It simply comes down to managing the person as an individual, in the same way that you flex your general management style.

Following a WRAP approach and having a dialogue with the employee about what adjustments might help is a straightforward way to identify what support line managers need to put in place. Often this can be very simple: for example, one person with anxiety requested that her manager remembered to say thank you after she completed a piece of work to prevent self-esteem and paranoia issues spiralling into distress.

What is 'reasonable'?

'Reasonable adjustments' are defined in the Equality Act and one test of reasonableness is that if the cost of making adjustments is anything up to the cost of recruiting and training a new employee, this is reasonable. For further information on reasonable adjustments, go to: www.equalityhumanrights.com/advice-and-guidance/your-rights/disability/disability-in-employment/examples-of-reasonable-adjustments-in-the-workplace/

It can be useful for managers to discuss with the employee the practical implications of any reasonable adjustment request, including what has been done before, the ease/difficulty of accommodation, any service delivery and team implications, as well as any other relevant issues. Both the employee and manager need to be clear about the considerations that will be taken into account in reviewing whether an adjustment is reasonable and practicable to implement. Potential adjustments should be considered on a case-by-

case basis, but factors which may be helpful to consider include:

- the effectiveness of the adjustment in preventing the disadvantage
- the practicability of making the adjustment
- the extent to which making the adjustment would impact on service delivery
- financial and other costs – and any financial assistance, for example Access to Work scheme ([see page 27](#))
- potential impact on colleagues.

However, Mind and the CIPD recommend that employers do not follow a rigid approach to 'reasonable adjustments'. Adjustments for mental health are often simple and it is best practice to offer support to all staff, whether or not they have a formal diagnosis or a disability according to the legal definition. Allowing staff flexibility in how and when they perform their role, where possible in line with business needs, can reap rewards in terms of loyalty, increased productivity and reduced absence, and can help normalise mental health and disability in the workplace.

Access to Work

The Access to Work scheme is designed to provide advice and financial support for people with health problems or disabilities that impact on their job. It might provide expert advice for employers and employees or pay towards a support worker or equipment the employee needs at work.

Access to Work can be highly effective for people with mental health problems, but its use for mental health needs is particularly low – only 390 people with mental health problems were helped last year, just 1% of the total.³¹ Encouraging employees to apply for Access to Work support can help employers to manage the potential costs of reasonable adjustments. For more information, see: www.direct.gov.uk/en/DisabledPeople/EmploymentSupport/WorkSchemesAndProgrammes/DG_4000347

Case study: Preventative adjustments

Chloe, a charity worker in her 20s, was experiencing depression. Her boss had noticed her performance had slipped but, with no information on Chloe's health, put more pressure on her to perform. Chloe disclosed her condition and her boss did everything he could to support her, ranging from weekly catch-ups to prioritise her workload, flexible working hours and afternoon naps to cope with the side effects of medication. This aided Chloe's speedy recovery and ability to stay in work.

Case study: Adjustments to aid recovery

Nicky, a teacher, has bipolar disorder and post-traumatic stress disorder, which led to a period of sickness absence while she was in hospital. Under the 'reasonable adjustments' clause in the Equality Act, her previous employer put in place several things to help her to return to and remain in work, such as:

- **changes to her working hours** so she could start and finish early and work additional days in the school holidays
- **changes to her job role** so she could teach fewer regular lessons and supplement this with small group work with pupils and computer development at her desk
- **a personal mentor** that she met with every couple of weeks to check informally on her health and monitor her workload and support needs
- **the option to take 'time out'** in the staff room or sick room if she needed to rest between lessons.

'These all helped me to manage my condition, stay well and continue to perform my job. I felt work were being pretty good with me. They didn't always fully understand but they did try.'

³¹ Department for Work and Pensions (2010).

Below are some types of adjustments that may help mitigate mental health symptoms and the impact on the employee's performance at work. They are not prescriptive but employees with mental health problems have found some or all of these useful in their

experience. It is important to always be guided by what the person with mental health problems says – this list could act as prompts for line managers and employees exploring symptoms and support needs together.

Possible adjustments

- changes to start and finish times
- change of workspace – quieter, less busy, dividing screens
- changes to role (temporary or permanent)
- equal amount of break time, but in shorter, more frequent chunks
- extra training or coaching (during work hours)
- flexible hours
- increased supervision or support with managing workload
- lightbox or seat with more natural light
- mediation if there are difficulties between colleagues
- mentor or 'buddy' systems (formal or informal)
- phased return to work – reduced hours gradually building back up
- provision of quiet rooms
- redeployment to a more suitable role
- relaxing absence rules and limits for those with disability-related sickness absence
- temporary reallocation of some tasks
- time off for appointments, at short notice if needed
- working from home

Rehabilitation: supporting people to return to work

'My manager was in touch when I was off and reassured me that my job was safe. He let me know that I was "part of the team" and that I was wanted back. I came back gradually, building my hours up as I went along. It was crucial that there was that amount of flexibility at the heart of the support plan.'

Proactive management of absence is central to the effective management of mental health problems – and again the role of the line manager is critical.

Return-to-work interviews are consistently identified by the CIPD's *Absence Management* survey as the most effective intervention for managing short-term absence. However, in order for them to be effective, managers must understand how to conduct return-to-work interviews in a way that will build trust and engagement. Managers should also advise employees in advance to expect a return-to-work interview and make clear that this is a supportive process to help them make a successful and lasting return to the workplace and address any ongoing health needs.

The return-to-work interview is the ideal means to try to encourage the individual to disclose and explore any underlying problems that might be contributing to their absence. Effective return-to-work interviews can ensure mental health problems are identified at an early stage before they escalate.

Access to **occupational health services** is identified as the most effective intervention for long-term absence. For smaller employers, the government-funded Health for Work Adviceline provides early and easy access to high-quality occupational health advice, tailored to their needs. NHS-funded 'Improving Access to Psychological Therapies' (IAPT) services – offering cognitive behavioural therapy, counselling and employment advice – may also benefit employees,

Return-to-work interview – tips for line managers

- Tell people how they were missed – ask how you could have helped them come back earlier.
- Use open questions that require more than just a 'yes' or 'no'.
- Listen and try to empathise with the employee.
- Ask the employee about their feelings and tell them yours.
- Ask if there are any problems at work that might be causing them stress.
- Ask if there are difficulties outside work that might be contributing to their absence.
- Discuss possible solutions and ensure you are aware of the sources of support available.

with referral usually through their GP. Employers of any size can also build links with and encourage employees to access support through third sector organisations such as local Minds, the Shaw Trust or the Richmond Fellowship, many of whom offer a range of mental health and employment or vocational support services. There is also a wealth of guidance online (see [Useful contacts](#) at the end).

Whatever support is used, again early intervention is important. Many employers, for example Royal Mail and BT, refer employees with mental health problems to occupational health on the first day of absence, recognising that these problems are likely to be recurrent or long term if not addressed promptly. By the time someone has been off sick for a month, the chance of a successful return to work are reduced as they are likely to have lost confidence and become alienated from the workplace. For further information on how to manage absence effectively, go to: [CIPD absence management factsheet link](#)

Case study: Phased return and support

David has experienced depression and anxiety for a number of years. In his first job, he disclosed his mental health problems at the start, and a year in he experienced a severe episode of mental ill health resulting in absence from work. The employer supported David when he was ready to come back to work, providing a phased return to his job and assigning mentors to help him cope with his workload and to ensure he always had someone to talk to if needed. This enabled David to progress well and continue to succeed within his job. In the last couple of years he has been signed off for another three-month period. His manager has been a constant support. The occupational health team helped with his return to work and they meet with him on a regular basis to ensure they are providing the best support possible.

Return to work

An important time in managing and supporting someone with a mental health problem is when they are off sick for periods of two weeks or longer. During this time it is important that the line manager agrees with the employee how often and how they communicate, for example by telephone, email or home visit. It is useful to set out the importance of this contact in the absence management policy so managers and employees are clear about the need to maintain contact. Employers should also be consistent regardless of reason for absence, whether it is a physical or mental health problem. In the event that the manager is the source of the individual's distress, another member of staff or someone in HR should be the person that maintains contact.

The manager also needs to be proactive during the first few weeks of the individual's return to work to provide support. Always work on the assumption that the employee wants to return to work – that way the interaction will be more positive.

Return-to-work checklist

While the employee is off sick

Managers should:

- regularly communicate with the individual via telephone or email, while being mindful not to place undue pressure on the employee to return earlier than appropriate (the approach for all staff must be made clear in sickness procedures)
- consider visiting the employee at home, but only with their consent
- communicate work issues with the individual to keep them in the loop
- focus conversations more on the individual's well-being
- be in touch with the individual's close colleagues with regards to their health (only with the individual's consent)
- encourage work colleagues and other members of the organisation to keep in touch with the individual
- make it clear that the individual should not rush back to work
- make it clear that the company will support the individual during their absence
- reassure the individual that their job will be there for them when they return
- prevent the individual from pushing themselves too much to return to work.

The initial return to work

Managers should:

- consider giving the individual lighter duties/ different jobs during their initial return to work
- incorporate a phased return to work for the individual, if appropriate
- remain objective when discussing return-to-work adaptations for the individual

- explain the return-to-work process/procedures to the individual before they return
- explain any changes to the individual's role, responsibilities and work practices
- meet the individual on their first day back
- make the individual's first weeks back at work as low-stress as possible
- keep in regular contact with the returning employee and regularly ask if they are doing okay.

Managing the team

Managers should:

- ask the individual about what ongoing information should be shared with colleagues
- make the individual feel like they were missed by the organisation
- encourage colleagues to help in the individual's rehabilitation process
- promote a positive team spirit
- regularly communicate with HR/occupational health (if this is available) and keep the individual informed.

General behaviour

Managers should:

- be proactive in arranging regular meetings to discuss the individual's condition and the possible impact on their work
- communicate openly
- listen to the individual's concerns
- understand that, despite looking fine, the individual may still be ill
- appreciate the individual's wishes
- have an open-door policy so the individual can always approach them with any concerns.

For more information, see: www.cipd.co.uk/binaries/5244_Return_to_work_guide.pdf

Mental health and poor performance	
FEAR	REALITY
40% of employers view workers with mental health problems as a 'significant risk' ³²	85% of employers who did employ someone with a mental health problem stated they had no regrets in doing so ³³
23% of employers feel workers with mental health problems are unreliable ³⁴	More than 70% of people with a mental health problem fully recover and assume normal duties and responsibilities ³⁵

Managing underperformance and sickness absence

In some cases, sickness absence may be linked to underperformance issues. Often reasons for poor performance are not properly explored, even where a mental health problem is suspected, so the approach from managers or HR is only performance-based, when it should also recognise any health factors. This is sometimes driven by misunderstanding and sometimes by prejudice, as mental ill health can be viewed as an 'excuse'.

Most employers will have policies and procedures in place for performance management, but where there are suspected or known health problems these should also be explored, preferably prior to any formal processes. If the root causes of poor performance are not addressed, any solutions are unlikely to fully resolve the issue, so problems can spiral into sickness absence. Mind and the CIPD's guidance on [page 33](#) may help mitigate this, but it is not legal advice – any employer dealing with performance or disciplinary issues will need to obtain their own legal advice on the approach they should take in any particular case.

It is important to ensure employees are given the opportunity to disclose any health condition that might be contributing to underperformance and, in turn, their absence. Discussions or meetings about performance should concentrate on their work and how it is being impacted, but asking simple questions about how the employee is and whether anything is affecting their performance can encourage people to talk about any health issues. It is also useful to

explore any other workplace issues, such as negative relationships with colleagues, which may be impacting on the employee's well-being and, in turn, their performance. **Managers should not force someone to disclose or suggest they are ill, but using the conversation tips on [page 33](#) can help explore this potential in a way that is not intrusive or judgemental.**

Informal performance management can be used positively to address the issues, identify any extra support or coaching the person may benefit from and then to set deadlines for improvements or tasks to be completed. If a mental health problem is disclosed, reasonable adjustments should be considered and implemented. If these do not help the individual to perform their role to the level required, it can be treated formally as a performance or capability issue. When going down a formal performance management or capability route, it is important to give the staff member every opportunity throughout the process to discuss any health issues that may be impacting on their performance.

³² Shaw Trust (2010).

³³ Health and Safety Executive (2004).

³⁴ Shaw Trust (2010).

³⁵ British Psychological Society (2000).

Tips for managing underperformance and sickness absence

Each employee will need to be managed on a case-by-case basis, but the general rules of thumb are:

- Focus on the person, not the problem – don't assume how mental health affects performance.
- Avoid making assumptions about whether sickness absence is 'genuine'.
- Ask simple, open and non-judgemental questions.
- Consider health-related solutions, not just performance-based approaches.
- Put in place support or adjustments before following formal performance management processes.
- Allow the employee to be supported in discussions or meetings, for example by an advocate or someone who understands their condition.
- Use mediation to resolve conflict if necessary.

Handling stress or mental ill health alongside disciplinary issues

A challenging problem for an employer is how to respond reasonably when an employee takes time off work with stress or another mental health problem if they are being disciplined or having their performance managed. This is not an easy situation for employer or employee and is less likely to occur in an environment where the manager and employee have regular conversations about work and any concerns about performance/behaviour are addressed informally at an early stage through clarity over objectives, effective feedback and coaching/training.

However, if this situation does occur, the employer should adopt a **twin-track approach**, with the disciplinary process or performance management procedure conducted concurrently with a separate focus on managing the individual's absence, addressing any health needs and supporting their return to work.

Employers should be clear in policies up front about the procedures that will be followed, so employees know what to expect.

The employee should be treated sympathetically and their reported ill health taken at face value – it is unhelpful to regard them with suspicion as this will make interactions more difficult. It can be useful to have an informal chat with them as soon as possible and someone not involved in the capability or disciplinary issue may need to do this. This conversation should explain that the disciplinary or performance management procedure will need to proceed as soon as they are well enough to attend a meeting to discuss the issue. To facilitate this, the employee should have the right to be represented or accompanied by someone – a trade union representative, mental health advocate, colleague or other person who understands their condition – at any important meetings or capability hearings. It will also be useful to reassure employees that alongside the formal process there will be opportunities to address any health needs.

If the employer thinks the employee's continuing absence for stress is itself due to the forthcoming disciplinary hearing, they should seek to rearrange the date of the meeting to accommodate this. If the employee repeatedly fails to attend rearranged hearings, the employer needs to consider all the facts and come to a reasonable decision on how to proceed, in line with legal advice. Considerations may include:

- any rules they have for dealing with failure to attend disciplinary meetings
- the seriousness of the disciplinary/performance issue under consideration
- the employee's general work record and length of service
- medical opinion on whether the employee is fit to attend – this might include obtaining a second medical opinion other than the individual's GP
- how the employer has dealt with similar cases in the past.

The following scenarios demonstrate how tricky situations involving performance, mental ill health and sickness absence can be appropriately handled.

Scenario: capability, grievance and work-related stress

Alex was made redundant from her existing role in the accounts department of a financial services company and redeployed into a new credit control role at another office. She has struggled to cope with some of her new responsibilities and her line manager, Brenda, has initiated performance monitoring, culminating in a written capability warning. In response, Alex raised a long grievance which included a statement that Alex had experienced considerable stress since her redeployment.

A thorough grievance investigation by an independent manager stated that the material findings of under-performance and the resulting objectives and performance monitoring were appropriate in the circumstances. Soon after receiving the grievance outcome, Alex went off sick with GP-diagnosed 'work-related stress and depression'. Alex has appealed against the grievance outcome in general terms via her solicitor, but will not attend a grievance appeal meeting as she is said to be 'too ill'. During her absence, Alex has been receiving full pay (for six months) and could receive half pay for another six months before sick pay finally runs out.

Recommended response

Key issues

- Actions have focused solely on performance and health needs have not been addressed.
- The assumption appears to be that Alex is taking advantage of the situation, rather than that her under-performance and the capability procedure could have triggered genuine health problems.
- No one seems to have advocated for Alex or attempted to mediate the situation for a few months.

It may have been possible to avoid the escalation of this situation to the point where the employee is off sick. Following the grievance investigation, given that Alex had said that she had been under considerable stress, the employer should have taken steps to explore her health needs. The outcome of the investigation focused solely on the performance management procedures, failing to recognise the potential links between performance and health. If, as seems likely, the employee's under-performance is linked to or has triggered ill health, the solution, at least in part, should be health focused.

Now the situation has reached this point, it may be necessary to bring in third-party mediation. A third party - either from HR or from an external organisation like a local Mind - could help the two sides to explore the issues and identify solutions to move forward, rather than focusing on blame and perceived past failings on either sides.

There are three options:

- 1) To call Alex and ask her some simple questions. How is she feeling? What would Alex like to happen? How would she like this to happen? What support might she need to manage her health needs alongside her role? If the employer works from the basis that Alex would like to come back to work, then the interaction will be more positive and it is more likely that Alex will return to work to attend her appeal hearing.
- 2) If empowering Alex to return to work is not effective, if possible external mediation should be tried.
- 3) Finally, the employer may need to proceed with their performance management and capability procedures, even if Alex is still on sick leave. It will be important to consider any legal advice alongside the employer's own policies in this regard and potentially a second opinion about the employee's health, before deciding next steps.

Scenario: sickness absence and under performance

A small furniture-design company recruited a highly qualified design engineer, Denzil. They decided to accept his assertion following the job offer that a three-month gap in his employment history was due to a temporary stress-related depressive condition that was caused by family, not work, circumstances. His other credentials were impressive. The company did not obtain a full pre-employment medical assessment, but after a number of four-day absences in his first few weeks of employment, a return-to-work interview was held and Denzil reported feeling isolated by colleagues and not being properly inducted or trained in his new role, which had led to him feeling extremely stressed.

Ewan, the HR lead, had lingering concerns about the stress issue and obtained an occupational health report about the reasons for Denzil's absences. This revealed that Denzil was experiencing long-term clinical depression, has been diagnosed with schizophrenia and that both conditions were under control by medication. It concluded that he had gone through a bad patch but should be able to attend work. The report did not specify any measures or adjustments that the company should make. Due to the significant periods of absence during the initial three-month probationary period, Ewan decided to extend Denzil's probationary period by another three months, expiring soon. While Denzil now appears to be attending more regularly, performance concerns have arisen which would normally result in failure of probation and dismissal.

Recommended response

Key issues

- The employee did not disclose long-term health conditions but nor was he asked to by the employer.

- No support measures have been put in place, even after the employee disclosed he was experiencing extreme stress.
- There are question marks over whether the employee was properly inducted.

Action should have been taken from the beginning, as with any new employee, to support Denzil into his new role. Immediately following the recruitment, given Denzil disclosed a previous temporary stress-related condition, it would have been helpful for the employer to work with Denzil to draw up a wellness recovery action plan (WRAP). Even if a WRAP was not drawn up from the outset, following the employee's reports that he felt unsupported and not properly inducted to the role, leading to stress, the employer should have offered to resolve the issues through informal grievance processes and explored possible support with him at this stage, to prevent further sickness absence. Rather than just extending the probationary period, Denzil and his line manager should have worked together to decide on what adjustments would help to address his health needs during this period.

Given the situation has reached this point, Ewan should explain the position that he is in and discuss the issues with Denzil constructively, working together to identify solutions to get the best out of Denzil. The priority should be to produce a WRAP, with Denzil's agreement, in order to stabilise his health and performance. Any initial reasonable adjustments should be made, but this and any other agreement needs to be clear and time limited. If both Denzil and Ewan work together during another extended probationary period to improve both Denzil's health and performance, and these efforts do not succeed, Ewan can feel more confident he has done all he can and is not discriminating or acting unethically before taking further steps.

Further scenarios and advice are available from Mind:
www.mind.org.uk/work/employers/mind_business_summit/scenario_one

Useful contacts

Online advice and resources for employers

- Business in the Community – www.bitc.org.uk/workplace/health_and_wellbeing
- Centre for Mental Health – www.centreformentalhealth.org.uk/employment
- Chartered Institute of Personnel and Development – www.cipd.co.uk
- Equality and Human Rights Commission
England – www.equalityhumanrights.com/advice-and-guidance/here-for-business
Wales – www.equalityhumanrights.com/wales/projects/your-business-workplace-policies-on-domestic-abuse-and-mental-health/mental-health-is-your-business
- Health and Safety Executive – www.hse.gov.uk/stress
- Mind (online information and advice) – www.mind.org.uk/help/information_and_advice
- Mindful Employer – www.mindfulemployer.net

Helplines, services and training

- Health for Work Adviceline – free occupational health advice for small businesses: 0800 077 8844, www.health4work.nhs.uk
- Mind Workplace – consultancy and training – www.mind.org.uk/workplace
- Richmond Fellowship – employment and job retention services (England only) – www.richmondfellowship.org.uk
- Shaw Trust – vocational rehabilitation and absence management services (UK-wide) – www.shaw-trust.org.uk/servicesforbusiness

Information and advice for employees

- Mind infoline – 0300 123 3393, info@mind.org.uk
- Mind's Legal Advice Service – 0300 466 6463, legal@mind.org.uk
- Samaritans – 08457 90 90 90, jo@samaritans.org
- Saneline – 0845 767 8000, www.sane.org.uk

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Mind, 15–19 Broadway, London E15 4BQ

T: 020 8215 2122

w: www.mind.org.uk

For details of your nearest Mind and local services, ring Mind infoline on 0300 123 3393 or email info@mind.org.uk

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