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Responding to harmful work- related stress

**Guidance for union representatives on
making complaints to the HSE or Local
Authority enforcement agencies**



Introduction

Employers have a legal duty to remove, or control, risks as far as is reasonably practical. That includes the risk of work-related stress. Failure to do so can make an employer liable to fines and penalties, and even to criminal prosecution.

This means that employers have a duty to actively consider stress within 'risk assessments' and to take action to eliminate and manage it. More about stress can be found on the HSE webpages. The HSE has published Management Standards on how to do this, and there is joint TUC/HSE guidance on how to use the Standards in the workplace. The employer does not have to use the HSE's Management Standards, but if stress in a workplace is an issue, they must seek to eliminate it and be able to demonstrate that there are policies and practices to control, minimise and mitigate work-related stress.

As with all health and safety concerns union reps should seek to deal with work-related stress through 'normal channels', such as a health and safety committee, dialogue with the employer, negotiations, and grievance hearings. Interventions by an enforcement authority should be the next step for a union after other approaches to remedy an issue have failed.

The HSE's amended investigation criteria is published at:

<https://www.hse.gov.uk/stress/reporting-concern.htm>

Current HSE Policy

The HSE now has the following policy on dealing with complaints about work-related stress:

The HSE will consider investigating concerns about work-related stress where there is evidence that several staff are currently experiencing work-related stress or stress-related ill health. (It will potentially look at collective issues, where there is evidence of a structural problem.)

The HSE will not investigate individual cases of stress, or individual cases of bullying or harassment, but may consider bullying and harassment as part of a wider organisational failing.

The HSE will expect concerns about work-related stress to have been raised with the employer, and for the employer to have been given enough time to respond effectively.

Any HSE intervention will focus on the organisational arrangements in place and will not address individual cases.

The HSE has also given guidance to Local Authorities, suggesting they use the same criteria for investigations.

How to make a complaint

If you believe that there are grounds for making a complaint to a regulator, and have already tried, and failed, to get the employer to act, you should seek to get a dossier of evidence together. That should include the following elements:

Evidence of the Problem

This could be diaries kept by workers, 'body-mapping' collated by health and safety reps, sickness records, survey results, reports from an occupational health specialist or 'employee assistance plan' provider, or anything else that shows that there is a shared hazard or problem that is affecting a number of staff. As a union health and safety representative you are entitled to ask for any information that your employer might have relating to the issue, for example, the finding of a staff survey, or of an external consultant who was brought in to explore the issue.

Evidence of the efforts that have been made to resolve the problem with the employer

This might include letters, reports, emails, or minutes of meetings. It is important to keep a note of pertinent conversations and probably useful to confirm key points in writing. If the employer has introduced a 'change at work', such as an organisational change, or a change in responsibilities, or a reduction in workforce numbers without a reduction of workload, or new technologies, and you believe it was not successful, and it

was the cause of unnecessary work-related stress, then you would need to document that.

Before formally raising the issue with the HSE, or Local Authority, we recommend that you inform your union, either your full-time officer, national health and safety officer or national health and safety committee within your company/organisation, if you have one, about the collective issue. And that you seek their advice about whether there are any other steps that can be taken to resolve the issue, or other good ideas for evidence gathering.

But if you are unable to resolve the issue by any normal means 'trade union health and safety reps' can contact the HSE by completing the [Concerns and Advice form for safety representatives](#). You can only do this if you are a recognised health and safety representative. Alternatively you can to use the HSE [online form](#) which is intended for general complaints.

If your employer is overseen, and enforced, by a Local Authority, then you should contact the section dealing with health and safety enforcement. It might be the 'environmental health department', but some Local Authorities use different names.

When might the HSE or Local Authority investigate allegations of workplace stress?

- When a union rep can provide significant evidence of stressors in the workplace, evidence that these have caused actual ill-health, evidence that the issue has been raised with the employer and evidence the employer has failed to act reasonably.
- When there is evidence of stress hazards that are shared, that harmful work-related stress that has caused ill-health, that the employer has been informed, the employer has made some effort to eliminate or control the stress, but the union rep can show that the employer's response has failed and hence was inadequate.

The HSE is unlikely to act:

- If there is significant evidence of stress and actual ill-health, but the union has not raised the issue with management.
- If there is significant evidence of work-related stress, but no evidence of ill-health to several people as a result.
- If the employer has taken reasonable efforts to eliminate and prevent stress, such as the following the stress management standards diligently.
- If there is complaint of harmful work-related stress by an individual, but not a group of workers with a 'shared experience'.
- If the HSE believes that another enforcement agency has a more appropriate enforcement role. For example, if the shared harmful work-related stress derives from harassment poor management/discrimination and a protected characteristic under the

Equalities Act 2010, then the EHRC is believed to be in a better position to act.

- In severe cases; for example, systemic sexual abuse or violence in the workplace, it can be appropriate to report the issue to the Police as a matter of priority.

Most importantly, if a worker believes they are suffering ill-health due to excessive work-related stress they should visit their GP, or access other NHS services. Those needing immediate help should seek immediate help, advice and support, including clinical services, if that is appropriate. Workplace reps are not trained clinicians, and so colleagues with possible complaints about excessive work-related stress should be advised to seek clinical help if ill-health is being suffered. Additionally, visiting the GP provides evidence of ill-health, which is likely to be useful.

The process of 'going through normal channels' at work and collecting evidence might take some time. A colleague in immediate need of support and possibly treatment should not defer visiting their GP whilst this time elapses. Indeed, quite the opposite. Speaking to a GP can only be helpful.

Find out more

For more information about stress in the workplace, go to:

<https://www.tuc.org.uk/stress>

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