



Mental Health and Absences

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The Question

“If you're facing short-term and sporadic absences because of mental health, how do you balance the competing considerations of support to the individual with business needs and HR objectives?”



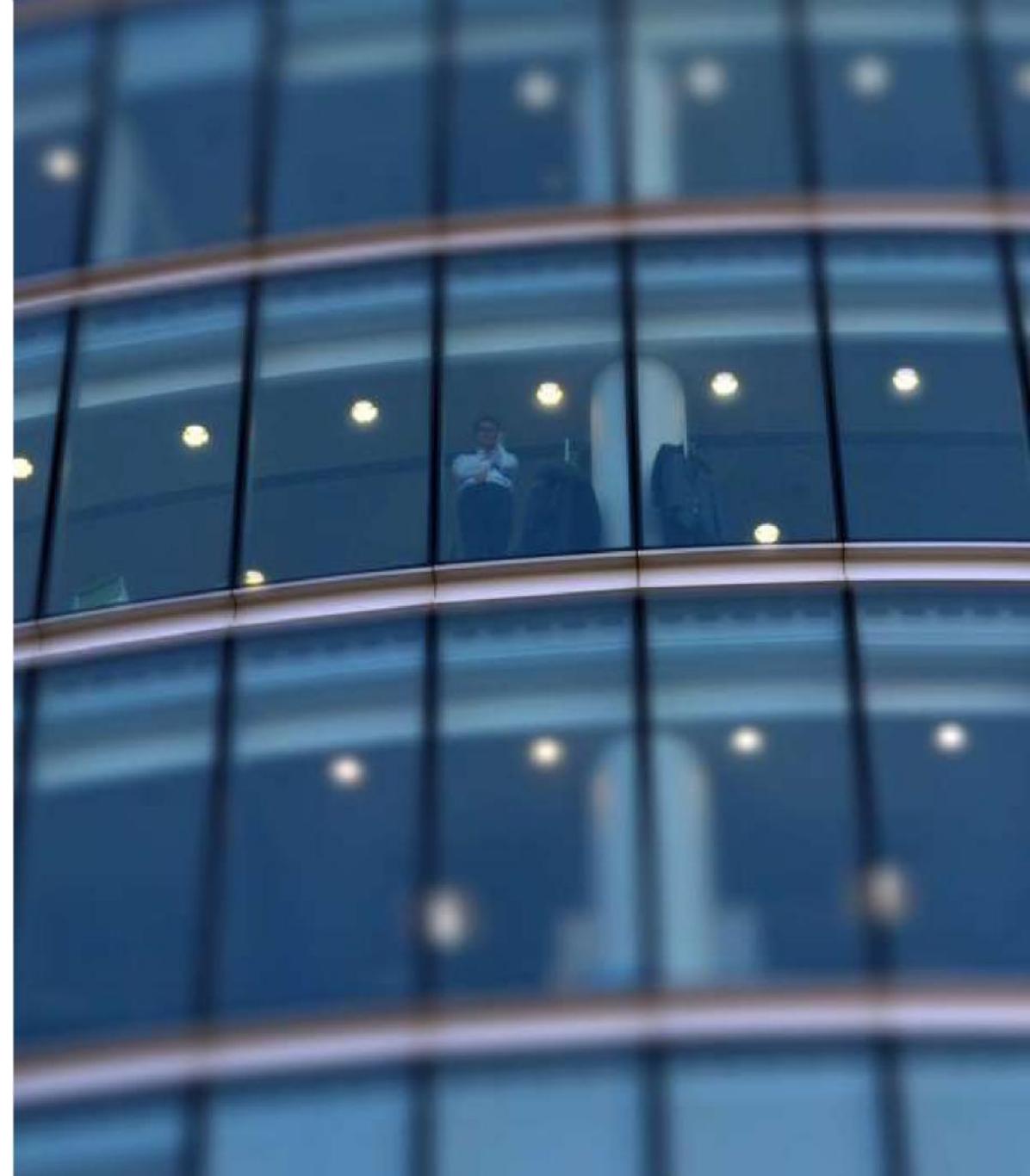
Impact of mental health in the workplace

- Mental illness is the leading cause of workplace absence
- Responsible for 30% more absence than any other reason
- Reduced productivity
- Lower morale – employees carrying extra workload as a result of absences
- Customer satisfaction impacted
- Additional costs – sick pay, temporary cover etc.



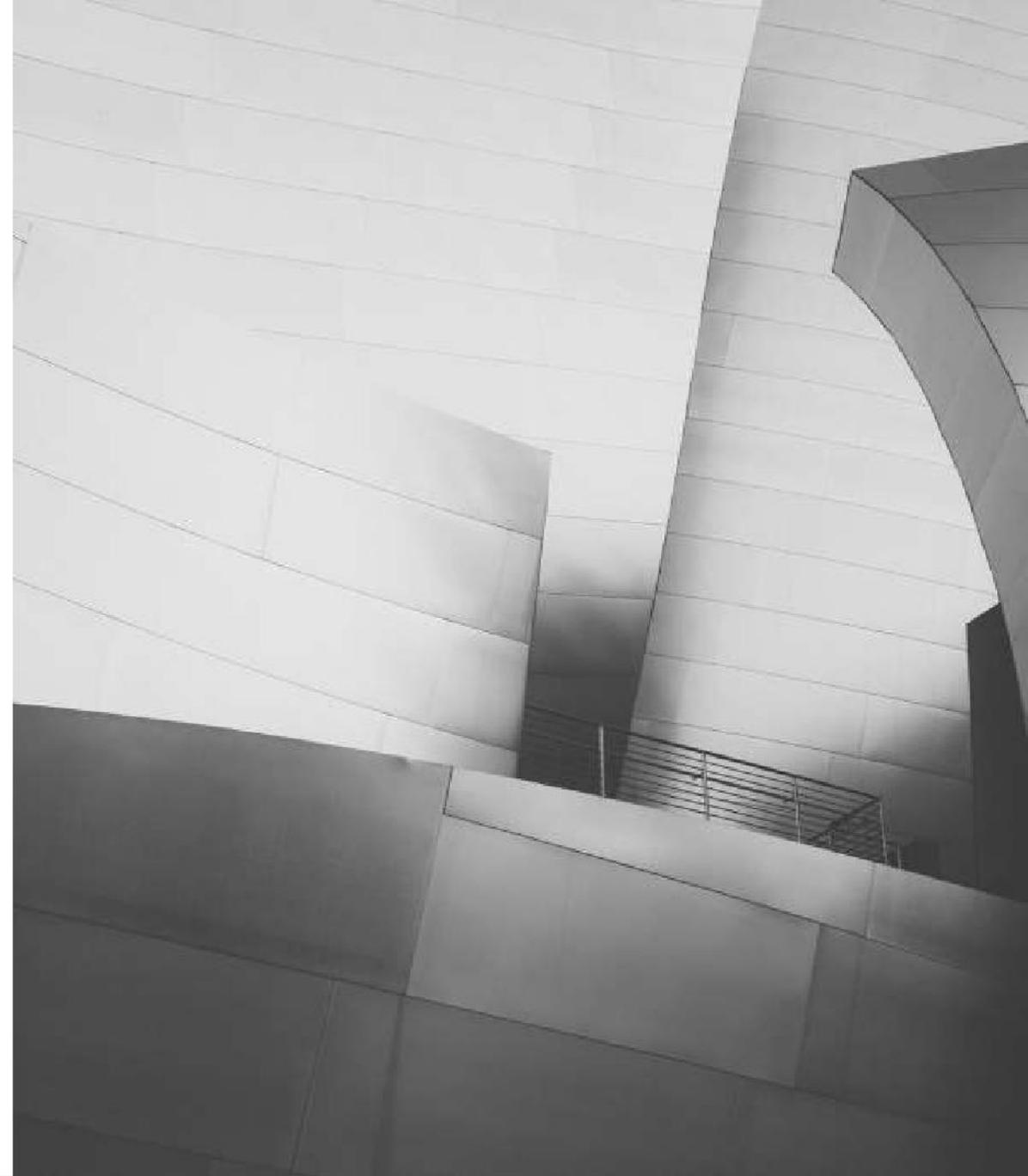
Managing the situation

- Balance needs of individual with business needs
- Watertight procedure
- Occupational health
- EAP
- Reasonable accommodation considerations
- Absence management process



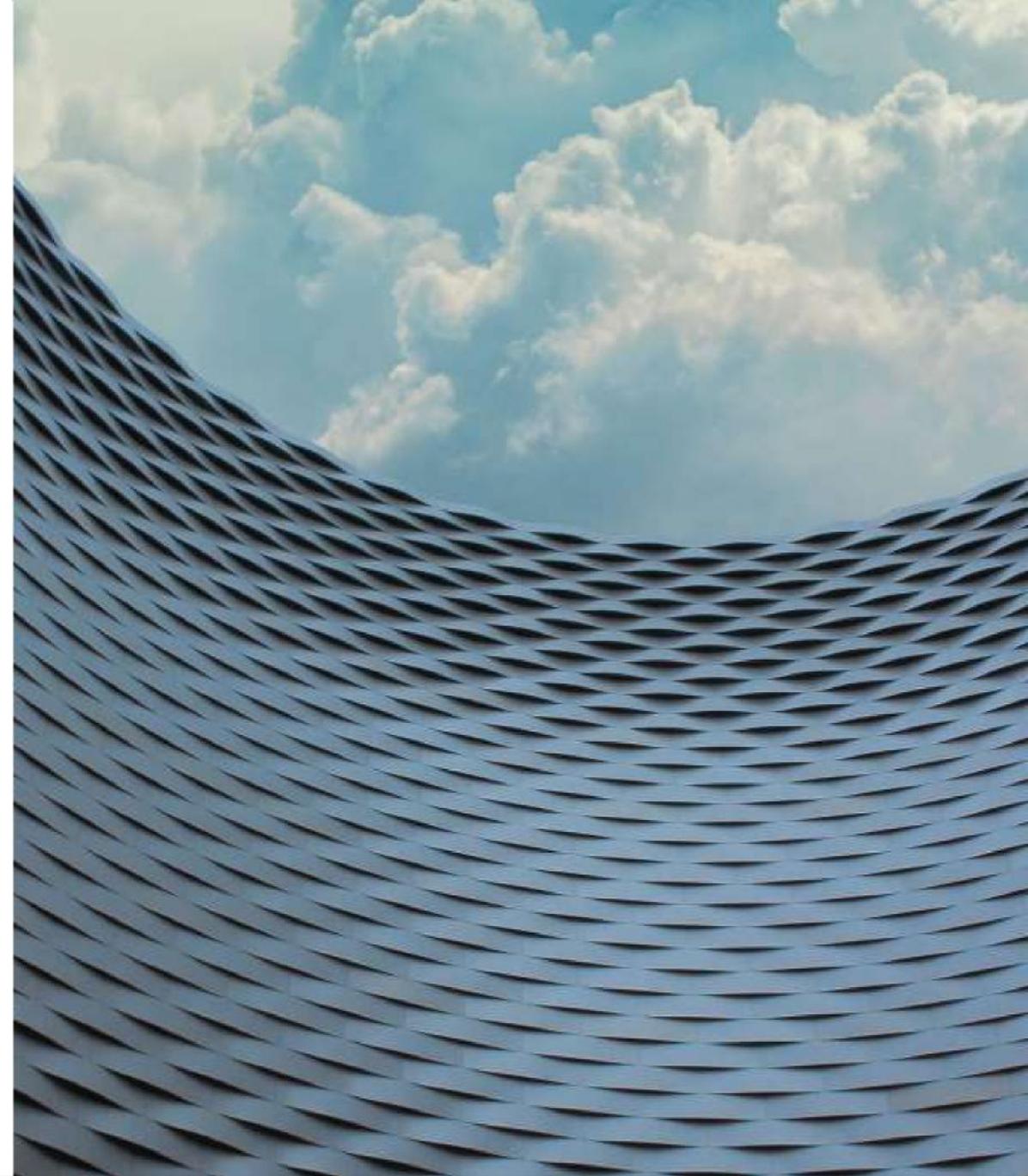
Concerns for the Employer

- Obligation to make reasonable accommodation
- Avoidance of a disability discrimination claim
- Fear of a stress claim
- How to communicate with the employee



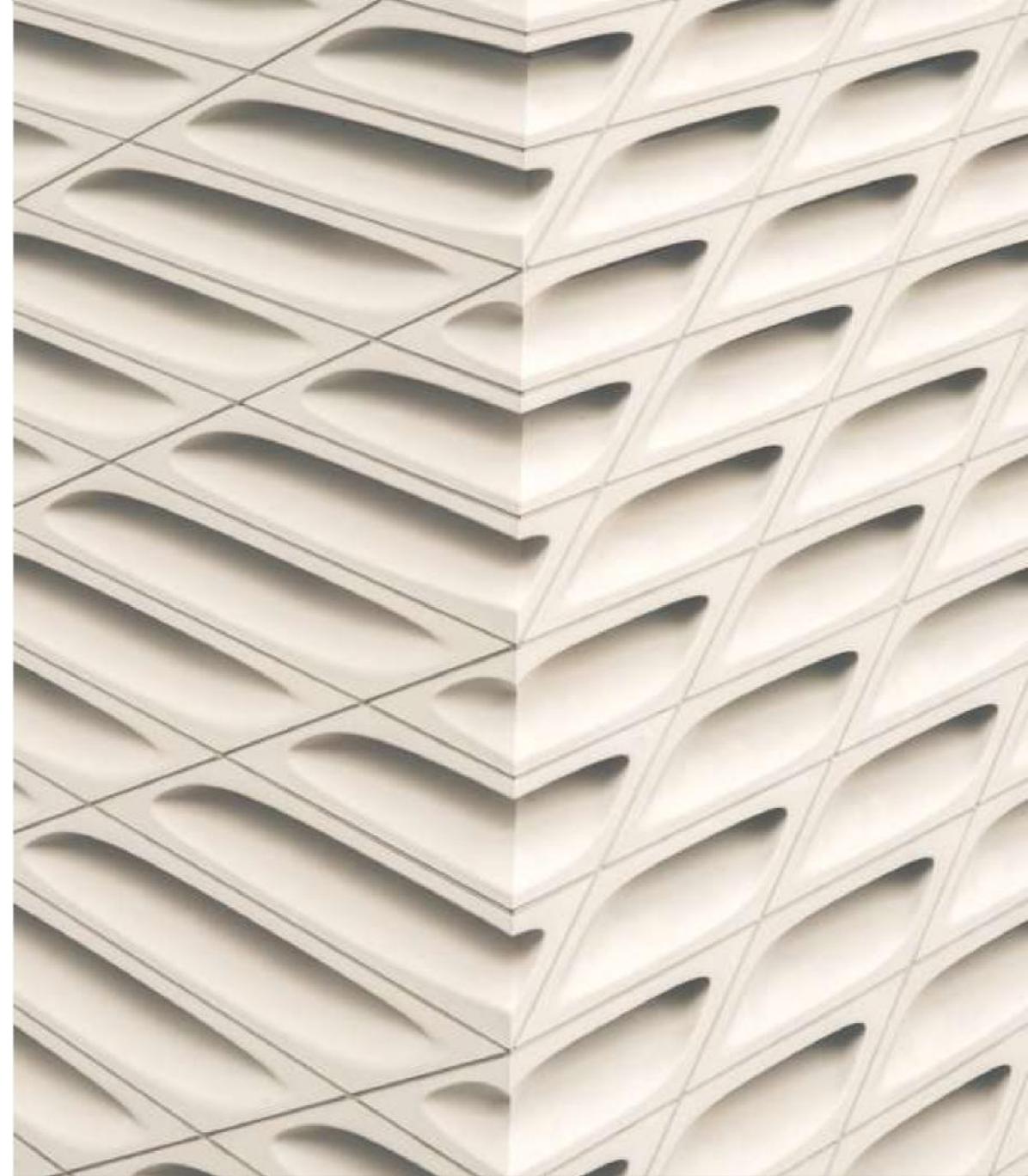
Occupational Health

1. Choose practitioner carefully
2. Carefully drafted questions
3. Right to know symptoms as they impact work



Knowledge of mental health

- Stress at work / personal injury / harassment/ disability discrimination claims
- Indirect discrimination and direct discrimination
- Employer's knowledge – actual, constructive, imputed



A Sales Representative v A Wholesaler

- Medical certificate stated that the complainant was suffering from ‘**stress**’ following one week of sick leave.
- HR manager asked what medication he was on – he said he was prescribed anti-depressant.
- **Not medically assessed on return to work.**
- Lost laptop a few weeks after return and did not immediately report the loss.
- Sales director and HR manager call during which employee breaks down and says he is depressed.
- At the end of the call he is **dismissed**.
- During appeal he said he felt that the company’s attitude towards him changed following his sick leave.
- WRC found that the dismissal, in reality, related to incapacity even though the company did not relate it to that. An individual may suffer discrimination because they are perceived to be less capable or dependable than a person without a disability.
- **“Unconscious or inadvertent discrimination”**



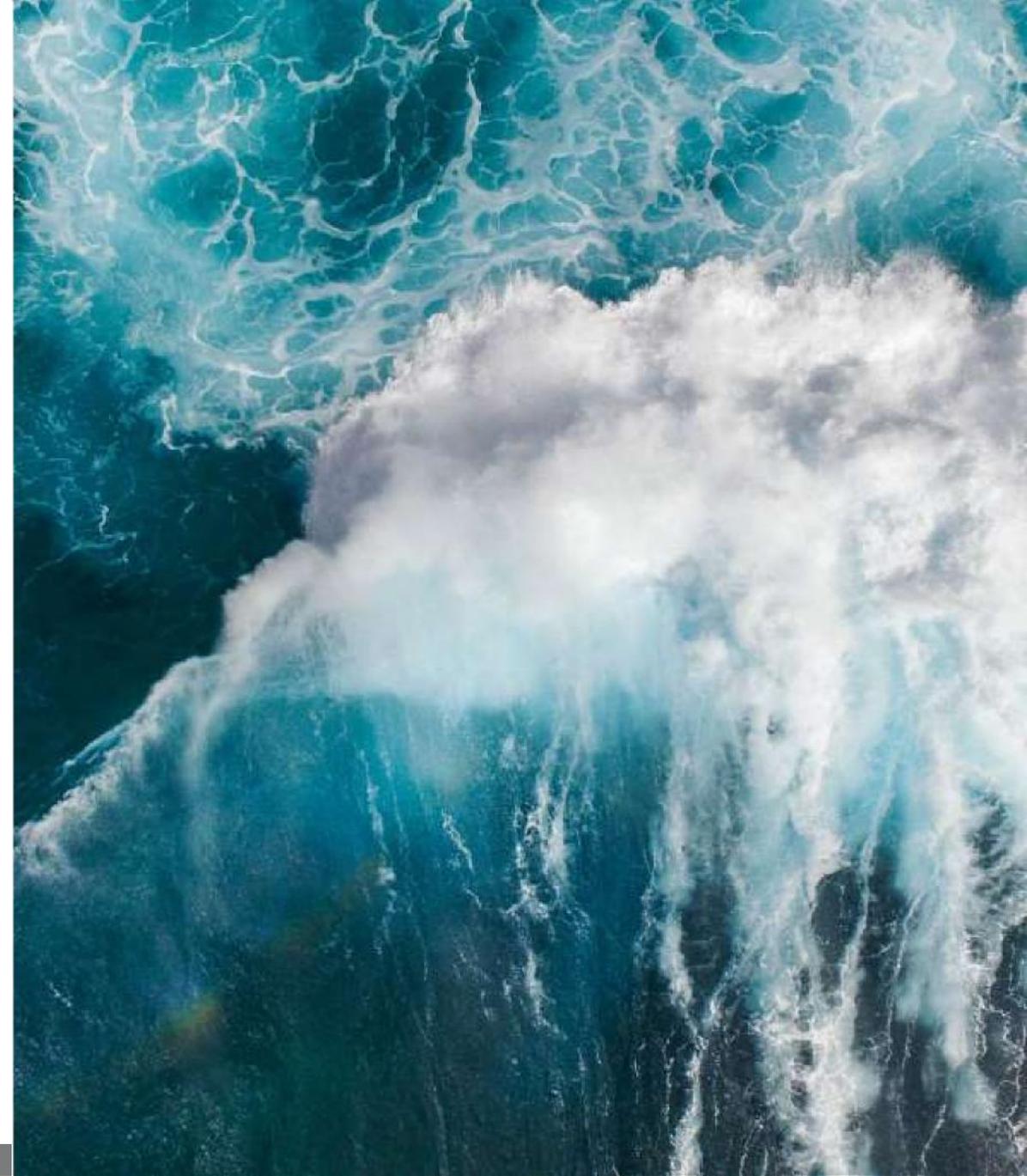
Stress Claim

- The employer obligation is to put in place systems of work which protect employees from hazards which could lead to mental or physical ill-health.
- Psychiatric injury claim:
 - Damage – not ordinary occupational stress
 - Causation
 - Foreseeability – knew or ought to have known
- Counselling - EAP

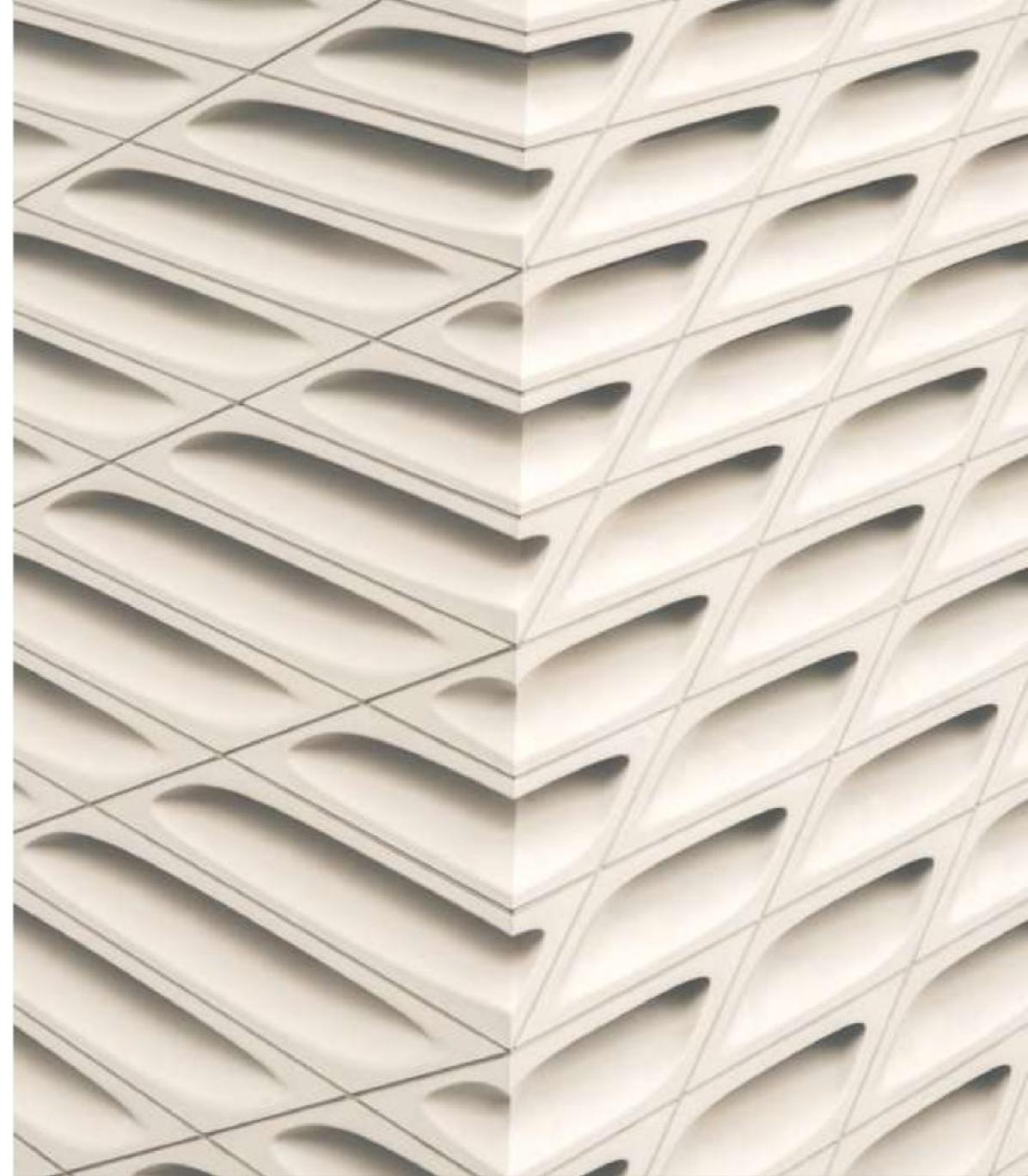


Workplace wellbeing programmes

- Impact of COVID-19
- Financial costs for businesses
- Adverse impact on business
- Absences and staff turnover
- Risk assessments
- Training and assistance for managers
- Prevention



52% of companies are
engaging in mental health
awareness and/or stigma
reducing activities in the
workplace



Key Takeaways

- Proceed with care
- Consider obtaining medical report
- Reasonable accommodations advisable
- EAP
- Wellbeing programmes
- The Reasonable Employer



Thank you

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