



Weightmans

White Paper Conferences Ltd

Stress and Performance

21 November 2017

Mark Landon

Employment Partner & National Head of Training

0207-822-1905

mark.landon@weightmans.com

Weightmans

Questions

Stress and Performance:

- How do you manage an employee whose stress is driven by underperformance?
- What if the stress is causing frequent short-term absences?
- Are you expected to tolerate the underperformance so as not to exacerbate the illness?

Questions

Three issues to consider:

- What is stress?
- From a legal and practical viewpoint...
 - What should a manager do if the stress is being driven by under-performance?
 - What should a manager do if the stress is generating frequent short-term absences?

Breaking the vicious circle

- Addressing the causes of the under-performance...
 - ...should help address the stress...
 - ...which in turn should improve attendance

What is stress?

- HSE : “The adverse reaction people have to excessive pressures or other types of demand placed on them”
- Stress is not normally an illness in itself, although if it persists then it is likely to result in physical or mental illnesses
- Stress is unlike normal, healthy feelings of anticipation, nervousness and pressure that can contribute to effective performance
- ‘Kitchen table’

Legal considerations

- ‘Safe place of work’ legal obligations...
 - Breach of contract
 - Health & Safety legislation
 - Personal injury – common law duty of care
 - Working Time Regulations

Legal considerations

- Capability-related legal obligations...
 - Unfair dismissal
 - Equality Act – disability and other forms of discrimination
 - Protection from Harassment Act

What is causing the underperformance?

- Due to work-related factors alone..?
 - Nature and/or volume of the work?
 - Working hours and/or failure to take breaks or holidays
 - Fears created by a restructure/redundancy programme?
 - Workplace environment factors?
 - Bullying or harassment by colleagues?

What is causing the underperformance?

- Due to non-work factors, either alone or in combination with work issues..?
 - Personal health worries / Serious illness or bereavement in the family?
 - Breakdown of a personal relationship/childcare issues?
 - Bullying or harassment by third parties?
 - Financial problems?

How can management help address causes?

- Management should work in partnership with the employee
- Can workplace adjustments be implemented to help tackle both work-related and non-work-related issues?
- Referral for expert OH and/or welfare support and/or other external support?
- Are there contributory factors on management's part which need to be addressed?

How can management help address causes?

- Put in place an agreed personal improvement plan
- In liaison with OH, put in place an agreed personal health plan, linked to the PIP
- Both the PIP and the PHP must...
 - Be measurable
 - Be realistic;
 - Involve a sensible timeframe

Possible outcomes...

- Improved performance...less stressed employee...improved attendance
 - ...Resolution achieved – but maintain ongoing support
- What if...
 - ...performance fails to improve...or...
 - ...performance improves but stress/absences continue?
 - ...performance and stress improves but absences don't?

Possible outcomes...

- There will always come a point at which management are entitled to say that ‘enough is enough’...
- If management have worked in partnership with the employee but a solution has not been found then there’s more chance that the employee will reach the same conclusion
- Maintain a robust paper trail!

Q & A

- Any questions?

The logo for Weightmans, featuring the word "Weightmans" in white text on a dark teal, wavy rectangular background.

Contact Details

Mark Landon – mark.landon@weightmans.com

Follow the Weightmans Employment Team on Social Media:



[@Weightmans_Empl](https://twitter.com/Weightmans_Empl)



[Weightmans Employment](https://www.linkedin.com/company/weightmans-employment)