

Personal problems impacting capability & attendance

Ciara McLoughlin, Partner, DLA Piper Ireland



Content

“The legal and practical options where personal issues impact on capability and attendance”

1. Signs common to all
2. Spotlight on particular personal problems
3. Policies
4. Steps to take following disclosure
5. The role of Occupational Health
6. Typical Employer concerns
7. Performance
8. Absence
9. Wellbeing
10. Key Takeaways

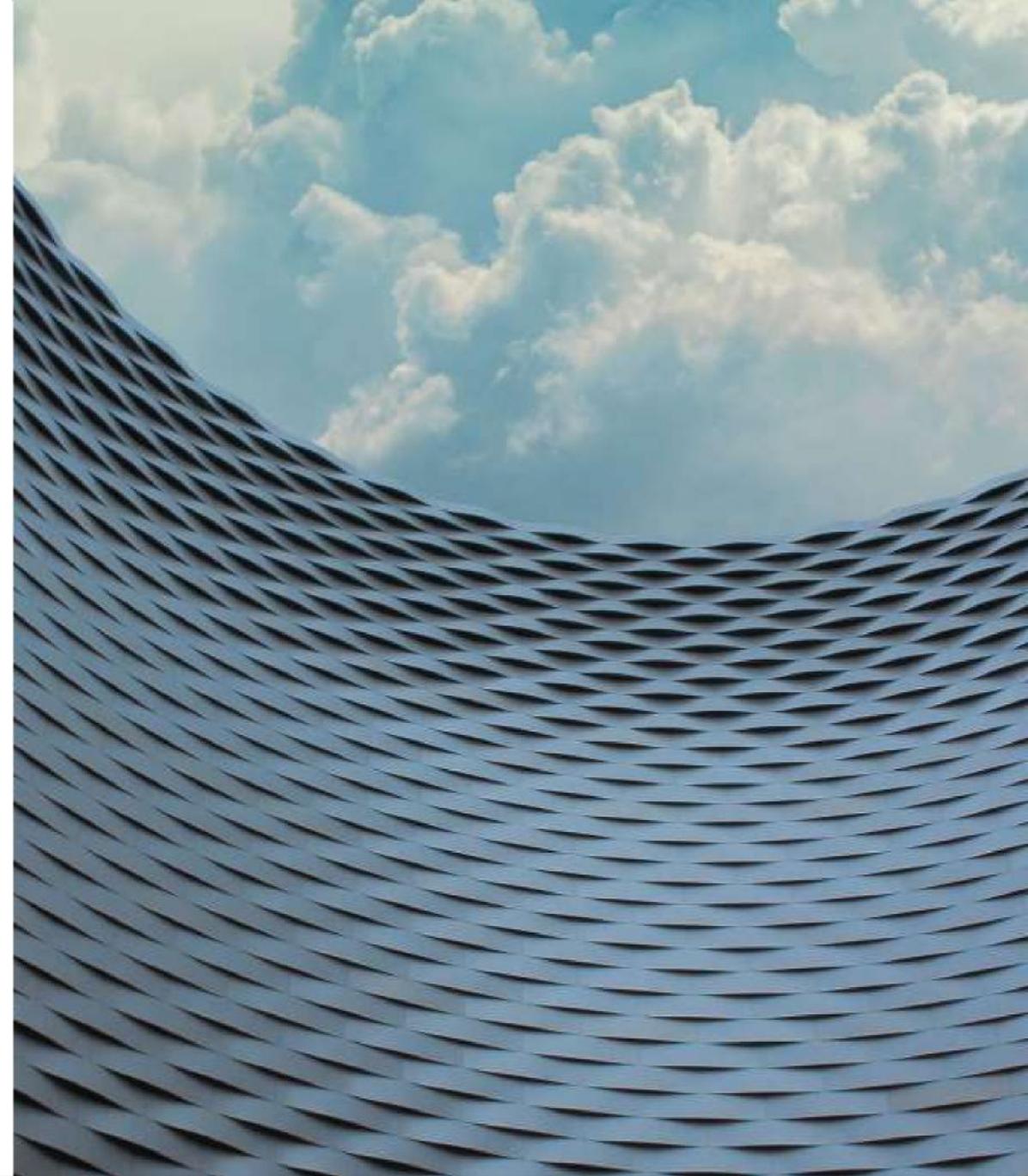
Signs:

- Frequent absences from work without explanation
- Behavioural changes e.g. personal conduct issues, aggression, irritability, inappropriate behaviour
- Repeated patterns of depression, or fatigue from sleeplessness
- Unexplained productivity dip and performance issues
- Higher than normal accident rate



Personal Issues

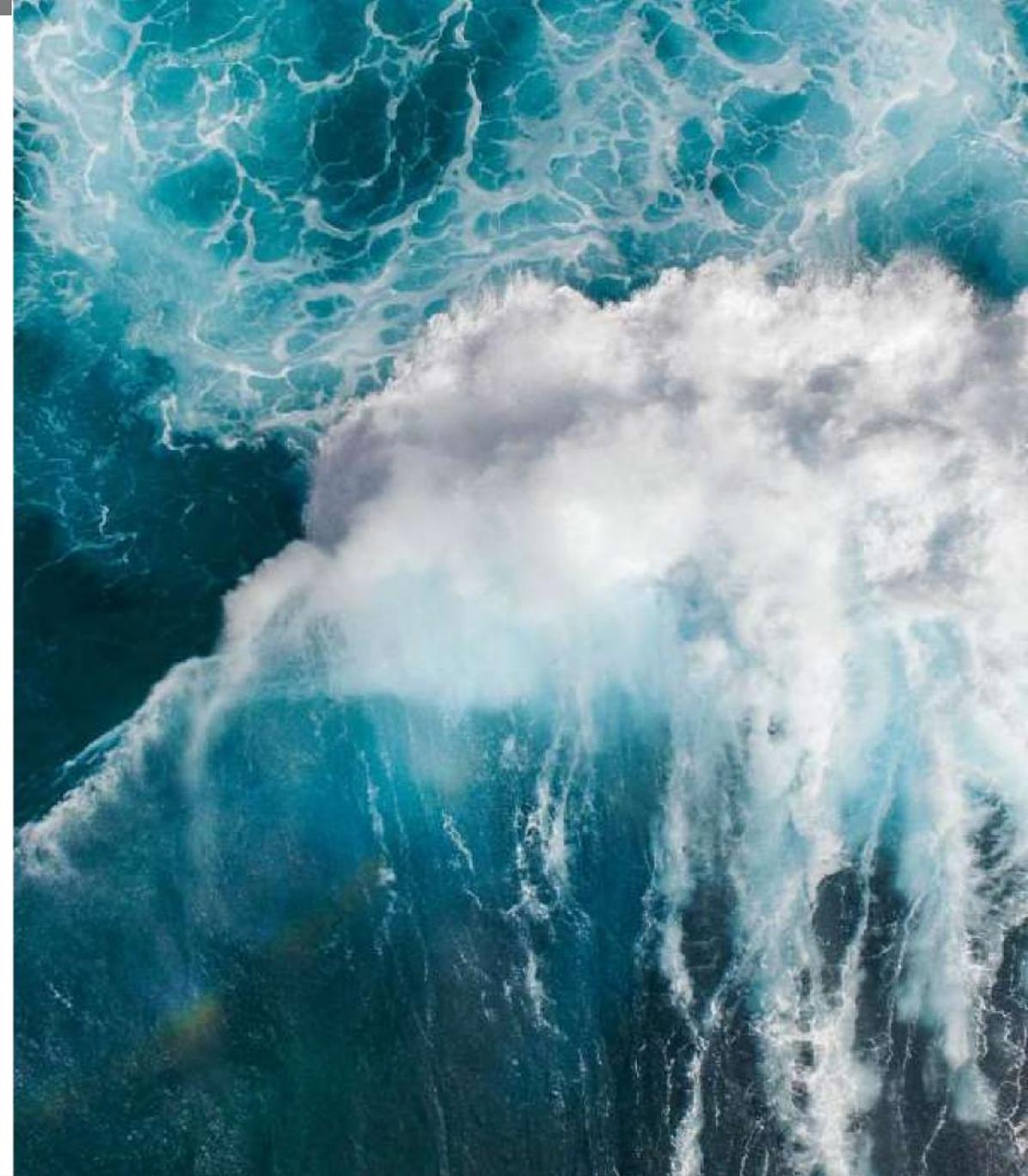
- Addiction
- Vulnerable family members
- Domestic abuse
- Menopause
- Policies



Steps for Employer

A supportive approach. A plan can be discussed that may involve:

- a. Consultation with the company's occupational health physician or the employee's GP
- b. Referral to treatment centres
- c. Support groups / EAP
- d. A reasonable timeframe in which the issue can be reviewed
- e. Adequate time off to attend rehab/counselling etc if required – this may need to be structured around the individual as a response to recovery differs in each person and so to will their ability to return to work.
- f. Working from home?



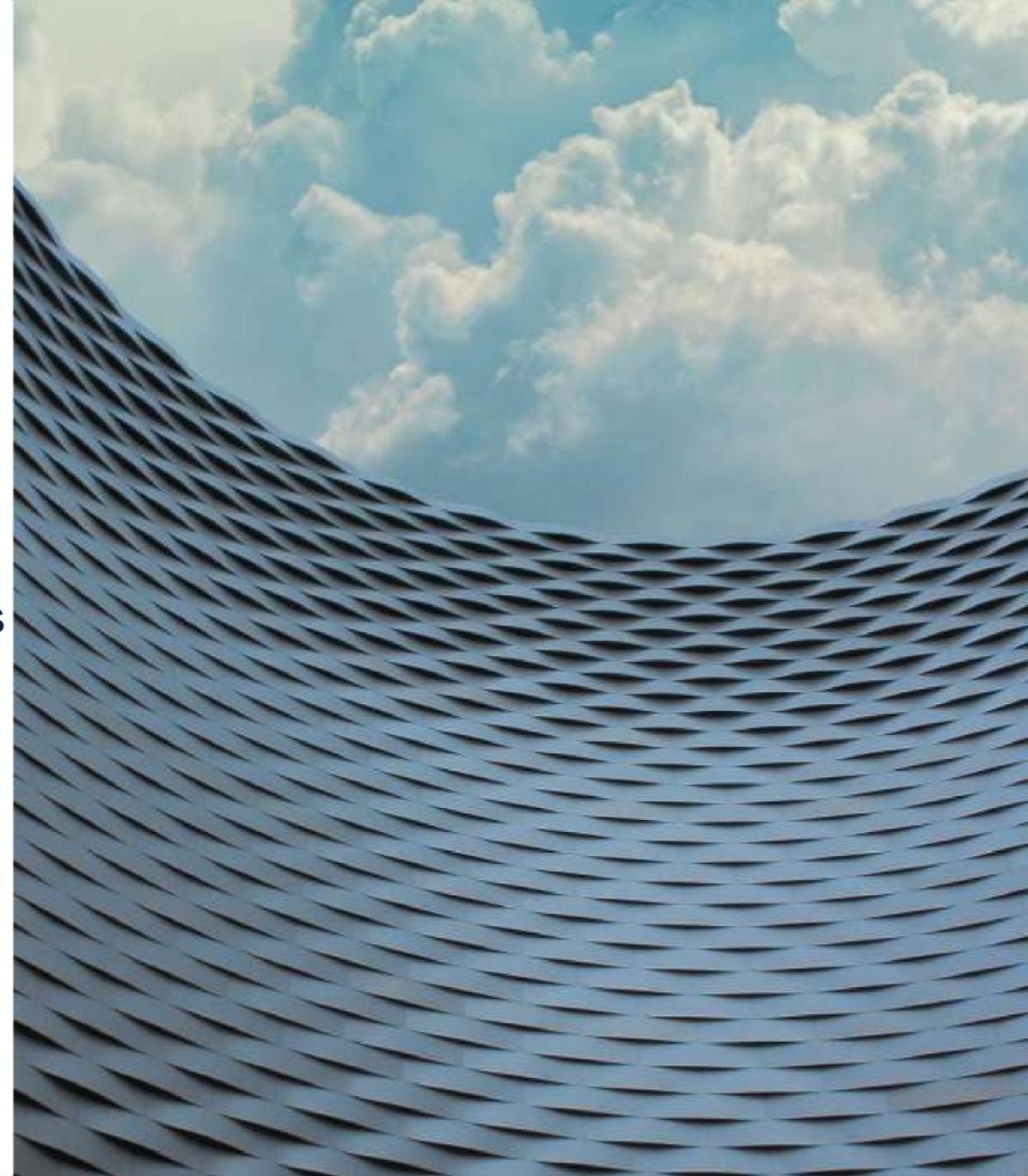
Occupational Health

Choose practitioner carefully

Carefully drafted questions

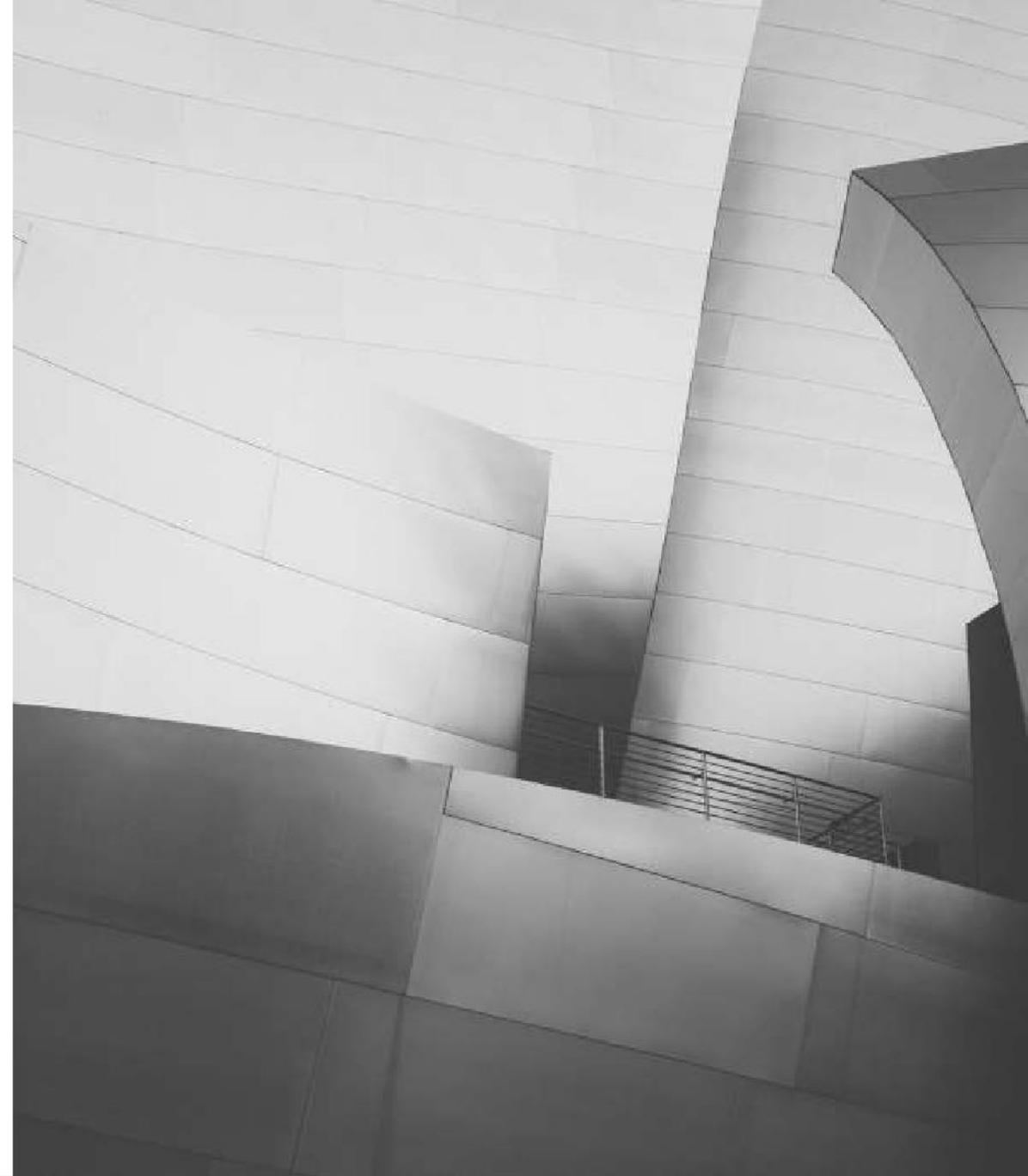
Right to know symptoms as they impact work

Reasonable accommodation to allow the process to continue



Concerns for the Employer

- Obligation to make reasonable accommodation
- Avoidance of a disability/ sex/ age/ family status discrimination claim
- Fear of a stress claim
- How to communicate with the employee



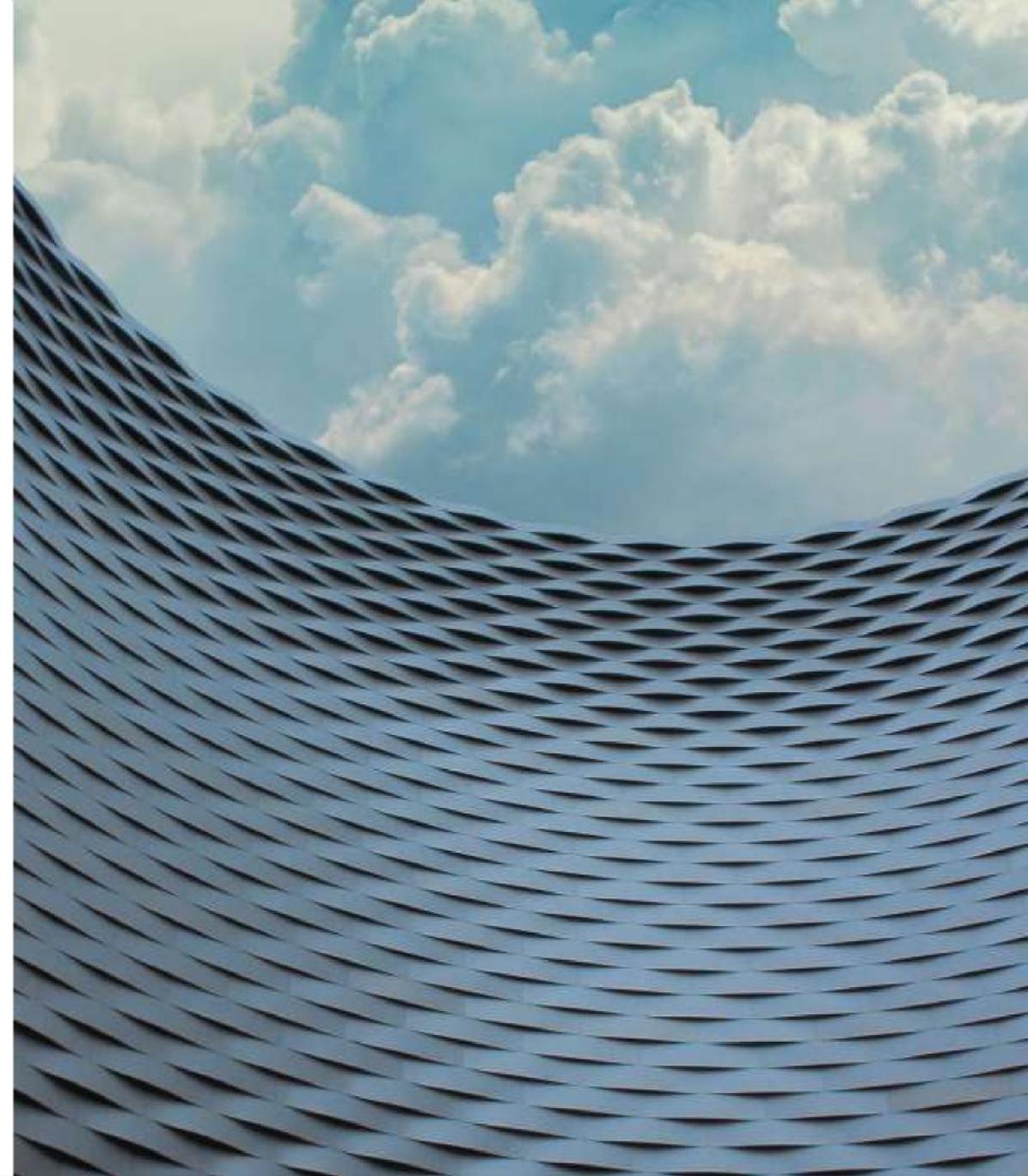
Performance Improvement Plans

Any review of performance should be

- Objective
- Fair
- Transparent
- Relate to real work

- Agree a plan with ongoing review dates

- Extend or disciplinary procedure



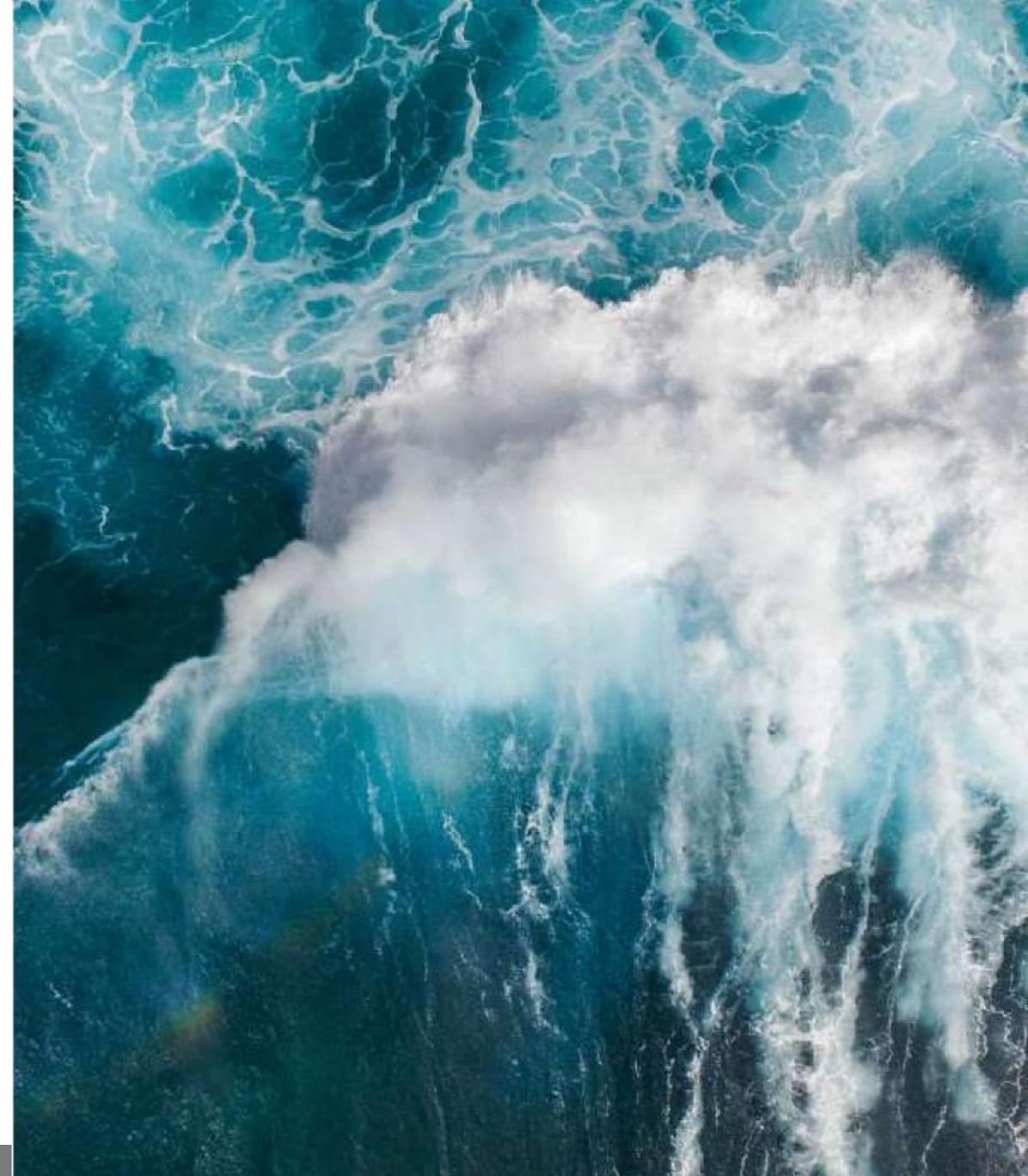
Absence management

- Absence Policy
 - Dealing with long term absence
 - Dealing with sporadic short-term absence
 - Reasonable Accommodation
 - Disciplinary
-
- Would increased working from home or a temporary reduction to part-time hours make a difference?



Workplace wellbeing programmes

- Absences and staff turnover
- Risk assessments
- Training and assistance for managers



Key Takeaways

- Thoughtful policies
- Trained line managers
- Proceed with care
- Consider obtaining medical report
- Reasonable accommodations advisable
- EAP
- Wellbeing programmes
- The Reasonable Employer



Thank you