



EVIDENCE SEARCH RESULTS

Question/subject of request:	Requirements of an employer in the provision of wellbeing services to colleagues working in the NHS
Date requested:	17 th October 2024
Date completed:	7 th November 2024
Compiled by:	Laetitia Delaleuf

CITING THIS SEARCH

If you reference this search in any paper, publication or presentation, please let us know.

The citation format is:

- Delaleuf, L., (2024). *Requirements wellbeing services provision*, Taunton, UK: Somerset Foundation Trust Knowledge and Library Services.

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The results are presented according to the hierarchy of evidence which is used to rank the relative strength of results obtained from scientific research.

The design of the study and the endpoints measured affect the strength of the evidence.

Evidence hierarchies are often applied in evidence-based practices and are integral to evidence-based medicine.

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Highlights of the search results:

From looking at several regulatory bodies, unions, professional bodies, and the law, I can see that requirements are general and encompass both mental health and physical health for employees. The main requirement is the 'duty of care' which, according to Chong, Y. (2024) (Springhouse law firm), is the 'acknowledgement and addressing potential risks and stressors that can impact employees' mental health, such as workplace harassment, excessive workloads, inadequate support, and discriminatory practices.' Almond, P.; Horton, R. and James, G. (2022) argue that the legal framework was developed 'in an ad hoc manner' and only partially covers the individuals and relies too heavily on the individuals to 'protect their own interests' and perhaps suggest that the solution lies at an individual level.

The Chartered Institute of Personnel and Development (CIPD- 2024) has compiled a list of resources on employers' obligations on stress and wellbeing for their members. The essential points from this are similar to what has been previously mentioned with the added information that 'employees are responsible for their own health, safety and wellbeing' and 'organisations must carry out risk assessments to identify potential hazards at work which includes work-related stress assessments and employers should take action on high turnover to prevent risks of stress.

Outside the UK, Australia (Sellinger, M. 2022) has developed a code of practice to be used at a regional level to promote a proactive approach to wellbeing at work. Finland, Germany, Lithuania, Spain, and the Netherlands (Makarevičienė, A. et al. 2023) have reinforced wellbeing in regulatory bodies. Several of these countries are now recognising burnout as a legitimate medical diagnosis and have published legislation on the right to disconnect.

Finally, The charity Mind has published a [commitment](#) for employers to support mental health at work. There are [six standards](#):

- Standard 1: Prioritise mental health in the workplace by developing and delivering a systematic programme of activity.
- Standard 2: Proactively ensure work design and organisational culture drive positive mental health outcomes.
- Standard 3: Promote an open culture around mental health.





- Standard 4: Increase organisational confidence and capability.
- Standard 5: Provide mental health tools and support.
- Standard 6: Increase transparency and accountability through internal and external reporting.



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These results of this search will only be shared in the repository if you have given your permission to do so (we ask this in the evidence search request form).

Thank you

REQUIREMENTS

1. Health and Safety Executive

[Stress at work: Mental health conditions, work and the workplace](#)

Authors: Health and Safety Executive

Date Retrieved: Nov 7, 2024

Relevant extract: ‘Employers have a legal responsibility to help their employees. Like any other safety or health hazard at work, work-related mental health issues must be assessed to measure the levels of risk to staff. Where a risk is identified, steps must be taken to remove it or reduce it as far as reasonably practicable.’

2. Trade Union Congress

[Work and suicide: a TUC guide to prevention for trade union activists](#)

Authors: Trade Union Congress

Publication Year: 2019

Date Retrieved: Nov 7, 2024

Relevant extract: Employers have a legal duty to provide a safe working environment for their workers. This is wide-ranging and covers all aspects of work under their control. This means that employers must address any issues that may cause a worker to have suicidal thoughts, including workload, stress, bullying etc. Yet despite the link between workplace stress and suicidal feelings there are no known cases in the UK where an employer has been prosecuted after a worker has taken their own life because of the pressure they were under at work. This is despite the Corporate Manslaughter and Corporate Homicide Act and the Health and Safety at Work Act both potentially applying if it can be shown that the suicide was a result of the employers’ actions. There has also only once been a successful claim for damages in the civil court after a suicide.

Employers do not even have to report workplace suicides as the HSE reporting rules specifically exclude suicides from the requirements on employers to report deaths that arise from work.





3. ACAS (the Advisory, Conciliation and Arbitration Service)

[Mental health and the law: supporting mental health at work](#)

Authors: ACAS

Publication Year: 2024

Date Retrieved: Nov 7, 2024

Relevant extract: 'The law on mental health: Employers have a 'duty of care'. This means they must do all they reasonably can to support their employees' health, safety and wellbeing. This includes:

- making sure the working environment is safe
- protecting staff from discrimination
- carrying out risk assessments

Employers must treat mental and physical health as equally important.

Discriminating against someone with a disability

By law (Equality Act 2010) someone with poor mental health can be considered to be disabled if:

- it has a 'substantial adverse effect' on their life – for example, they regularly cannot focus on a task, or it takes them longer to complete tasks
- it lasts, or is expected to last, at least 12 months
- it affects their ability to do their normal day-to-day activities – for example, interacting with people, following instructions or keeping to set working times

Poor mental health can be considered a disability even if they do not have symptoms all the time.

If an employee is disabled, employers:

- must not discriminate against them because of their disability
- must make reasonable adjustments

It's a good idea to work with the employee to make the right adjustments for them, even if the issue is not a disability. Often, simple changes to the person's working arrangements or responsibilities could be enough. For example:

- allowing them more rest breaks
- working with them each day to help prioritise their workload'

4. The Chartered Institute of Personnel and Development

[Stress and wellbeing: UK employment law](#)

Authors: CIPD: The Chartered Institute of Personnel and Development

Publication Year: 2024

Abstract: CIPD compiled a resource page on employers' legal obligations to reduce work-related stress. The resources include legislation and case law. The pages are accessible to members only.

5. The law and court cases.

[Supporting mental health in the workplace: a legal framework for employers](#)

Authors: Chong, Y.

Publication Year: 2024

Date Retrieved: Nov 7, 2024

Abstract: Mental health is an increasingly important issue in the workplace, affecting employees' wellbeing, productivity, and overall satisfaction. As more employees speak up



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about their struggles, UK employers must ensure they are providing a supportive environment while adhering to legal responsibilities. The legal framework surrounding mental health in the workplace is clear, but understanding how to apply it practically is key to preventing discrimination and promoting a healthy work culture. With World Mental Health Day on 10th October, now is the perfect time for employers to review their obligations and strategies for supporting mental health in the workplace.

[Duty of care: the legal obligation of UK employers to safeguard employee mental health and well-being](#)

Authors: Kidd, E.

Publication Year: 2023

Date Retrieved: Nov 7, 2024

Abstract: In the realm of employment law, the recognition of mental health and well-being as essential aspects of workplace safety has significantly grown. Employers in the United Kingdom are not only responsible for their employees' physical safety but also have a legal duty to prioritise and protect their mental health. This article delves into the duty of care that UK employers owe to their employees concerning mental health and well-being, exploring the legal implications associated with non-compliance.

[Mental health and wellbeing at work in the UK: current legal approaches](#)

Authors: Almond, Paul; Horton, Rachel and James, Grace

Publication Date: /12 ,2022

Journal: Legal Studies 42(4), pp. 663–679

Abstract: In this paper we outline and critique legal approaches to poor mental health at work in the UK. We argue that the current legal framework is not 'fit for purpose'. Overall, the existing framework promotes a problematic model that is ineffective because each element, individually and as part of the whole, fails to adequately engage with the nuanced realities of the relationship between undertaking paid work and suffering poor mental health. It is, we suggest, disjointed because it has evolved from a patchwork of provisions, each with different foundations, motivations, ambitions and flaws. The need for a re-focus, and what this might entail, is considered, and the capacity of a model centred on addressing workplace mental health as a manifestation of broader notions of vulnerability is explored.

Specific court cases:

[Barber v. Somerset County Council \[2004\] 1 WLR 1089](#) (Accessed: Nov 7, 2024):

Although slightly earlier, this case set a precedent for employer liability in stress-related claims. The House of Lords ruled that the council failed to take reasonable steps to prevent a teacher's work-related stress. Specifically, it failed to adapt the workload of the teacher upon his return to work (should have a phased return with assessment of workload).

[Easton v. B&Q plc \[2015\] EWHC 880 \(QB\)](#) (Accessed: Nov 7, 2024): Despite suffering

from depression the court decided that the employer didn't breach the law and therefore didn't have to pay damage to the employee.

[Walker v Northumberland County Council \[1995\] 1 All ER 737](#) (Accessed: Nov 7, 2024):

Although this an older case, it created a precedent and established mental health aspect in the UK for the first time.





Cases involving NHS Trusts:

[Dixon vs Stockport NHS Foundation Trust \[2402163/21\]](#) (Accessed: Nov 7, 2024): This case involved claims of breach of contract and disability discrimination (the employee suffered from irritable bowel syndrome and anxiety). Mrs Dixon won the case and the court highlighted the Trust's failure to make reasonable adjustments for her disability.

[Michalak vs General Medical Council and others \[2017\] UKSC 71](#) (Accessed: Nov 7, 2024): In this famous case, Dr. Michalak was awarded nearly £4.5 million in compensation following a campaign of sex and race discrimination against her.

[Day v Health Education England & Ors \[2017\] EWCA Civ 329](#) (Accessed: Nov 7, 2024): Dr. Day claimed whistleblower detriment after raising concerns about patient safety. The tribunal ruled in his favour.

'Former NHS manager awarded £1m in racial discrimination case'

Item Type: Newspaper Article

Authors: Campbell, D. and correspondent, h.

Publication Date: 01-09- 2012

Publication Details: The Guardian,

Abstract: Mr Browne, a former divisional director, was awarded nearly £1 million for unfair dismissal and race discrimination. The tribunal found that the Trust had not followed fair procedures in his dismissal.

These cases (apart from the first one) are related to the discrimination which is cover by the Equality act (2010).

FROM OTHER COUNTRIES

1. Australia

[Managing psychosocial hazards at work: Employer's guide to the risks you can't see](#)

Authors: Sellinger, M.

Publication Year: 2022

Date Retrieved: Nov 7, 2024

Abstract: Accrued attention to Mental Health factors at work and the regulatory body *Safe Work at Work* has published a code of practice that applies in jurisdictions that have approved it as a code of practice (this is the case for New South Wales). The principle is to minimise psychosocial risks at work and have a proactive approach rather than a reactive approach.

2. Canada

[Mental Health: How to Address and Support](#)

Authors: Government of Canada, Canadian Centre for Occupational Health and Safety

Publication Year: 2024

Date Retrieved: Nov 7, 2024

Abstract: Similar system to the UK, there is an obligation for employers to address mental health in the workplace. However, the Occupational Health and Safety regulator mentioned that 'no one "right way" to create a mentally healthy workplace because every workplace is





different'. This is also addressed at the regional level for healthcare systems. Each region will have specific requirements.

3. European countries

[Minimum health and safety requirements for the protection of mental health in the workplace.](#)

Authors: Makarevičienė, A., Nightingale, M., Skubiejūtė, G., Hutton, E., Gineikytė-Kanclerė, V. and Kazlauskaitė, D.

Publication Date: 2023

Accessed: Nov 7, 2024

Abstract/Extract: [Relevant part: Section 3 National legislation in EU member states from page 50]:

- In the European legislations there are no explicit mention of 'stress' or 'mental health' at work. 'Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (hereafter Framework Directive 89/391/EEC) lays down obligations for employers to ensure all aspects of employees' health and safety in relation to health and safety risks at work'.
- **Finland, Germany, Lithuania, Spain and the Netherlands** have clear legislations that recognise mental health in occupational health and safety acts. The requirements are defined by regulatory bodies. Some examples are the recognition of burnout as a legitimate medical diagnosis and legislation on the right to disconnect.
- In general, European countries are similar to the UK and 'the majority of countries entrust this responsibility solely to employers, stating that employers must protect employees from all hazards, both physical and psychosocial.'

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DATABASES AND INFORMATION SOURCES USED				
	Pubmed		HMIC	BMJ Best Practice
	Medline		Social Policy and Practice	Cochrane Library
	Emcare		CINAHL	TRIP
	Embase		PsycINFO	x Grey Literature
	AMED		UpToDate	x Other: using AI. Copilot Consensus

PURPOSE OF SEARCH		
x	Patient info/health & well being	Clinical decision making (inc. patient care)
	Executive Team support	Research/Education/Professional development



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	Quality Improvement		Primary Care & Neighbourhoods Directorate support
	KM/Management decision making	x	Other

USER CATEGORY OF REQUESTOR			
	Medical students		Patients/public
	Nursing/midwifery students		Physician Associates
	Junior doctors		Public Health (Somerset CC)
	Nurses/Midwives	x	Other: People Services
	Allied Health professionals		

HAS PERMISSION TO SHARE THE RESULTS BEEN OBTAINED FROM THE REQUESTOR?			
x	YES - share		NO – do not share

KEY WORDS/SEARCH STRATEGY INCLUDING MESH HEADINGS	LIMITS USED
requirements Obligations Law Employer Trust Company Business Wellbeing services Health at work Safety at work	English

METADATA (TAGS)





