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Employees and Stress

Employers are quite rightly concerned to protect staff against the effects of stress and also to guard against possible claims arising from this.

Liability for damages for personal injury (physical or psychiatric injury) will depend upon whether the employer could reasonably foresee that a psychiatric or physical illness was likely to arise from the stress. This will require employers to keep a record of and watch out for particular signs of vulnerability, frequent or prolonged absence or special stress factors at work. The employer is generally entitled, however, to take what he or she is told by the employee at face value. Taking steps to prevent harm to health is only necessary where it is plain enough for any reasonable employer to realise that he or she should be doing something about it.

A recent High Court case upheld by the Court of Appeal has ruled that once an employee has complained to his/her employer about having too much work placed on him/her, any future personal injury (mental or physical) will be regarded as reasonably foreseeable by the employer, if the employer has not taken steps to improve the situation, even if the employee has not, per se, complained of feeling stressed.

Perhaps most helpfully, where an employer offers a confidential advice service with referral to appropriate counselling or treatment services, he/she is unlikely to be found guilty of a breach of the duty of care owed to the employee.

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