



See Me in Work Stigma and Discrimination in Mental Health

The Legal, Moral and Business Cases

Why is it important to consider mental health in the workplace? Essentially, this question can be answered using three approaches - the legal case, the moral case and the business case.

The Legal Case

“Doing things right – because you have to.”

There are various areas where the law requires mental health to be considered pro-actively.

The Equality Act 2010 (“the Act”):-

- Requires employers and providers of goods, services and facilities not to discriminate against people who have disabilities, including mental health problems that fall within the description of a disability.
- Requires employers to make “reasonable adjustments” for people with disabilities to enable disadvantages in the workplace to be removed e.g. by making physical adjustments such as providing a quiet space or changing work practices such as allowing more frequent breaks.
- Permits positive action which can help to meet needs and overcome or minimise disadvantage shared by people with a particular disability.

Duty of Care

- Employers have a “duty of care” in the workplace. This means, for example, making sure that the workplace environment is healthy and safe for all employees, and that steps are taken to prevent any foreseeable injury, and to maintain employee wellbeing.
- Employees also have a “duty of care” that means employees should take care of their own health.

Obligations between employers and employees

- Obligations (or duties) between employers and employees exist whether or not they are spelled out in contracts of employment or policies. For example, it is expected that there will be trust and confidence between employers and employees. Creating a culture where it's okay to talk about mental health is one of the ways in which trust can be developed so that an employee feels confident about saying they have mental health problems, and trusts an employer to deal with this fairly. From the employer's perspective, they should be able to trust that an employee will not take advantage of any arrangements made to support them – for example, taking extra time off.
- Employers can reasonably expect an employee to attend work and do their work with proper care, In turn, the employee can expect to be paid.
- If either side doesn't meet their obligations it may result in the end of the work contract. For someone with a mental health problem, there may times when it is difficult to meet all of their obligations. In some cases, where an employee cannot fulfil their obligations – such as being off sick for a very long time - it may be reasonable for the contract to come to an end and for the employee to be dismissed after proper procedures have been followed. This applies even if the employee has a mental health problem.

However, an employer would have to consider and make reasonable adjustments before considering ending a contract or demoting an employee.

Preventing and dealing with stigma and discrimination in mental health contributes to making sure you are complying with legal requirements.



The Moral Case

"Doing the right thing because it's fair."

1 in 4 of the population will experience a mental health problem at some point in their life. It is a normal part of life and many people will experience stress or depression, perhaps when they are in difficult circumstances or because there are particular pressures at work. Most people are able to function well; some do better with a little bit of support while they are dealing with their mental health problem.

For some people, there may be a recurring mental health problem (e.g. episodes of depression), or a pattern such as in a bipolar condition (sometimes known as manic-depression), and some people may have conditions that can have severe effects from time to time, but which may be controllable with medication.

People who experience mental health problems are just people who want to be treated fairly. Stigma and discrimination because of mental health means they are more likely to be treated unfairly unless we learn how to prevent this, and address it when it does happen.

It's fair to make it easier for people to get through a problem period more easily.

It's fair to take an equitable approach to physical health problems and mental health problems – such as being more flexible whilst someone is not feeling well, or treating sick leave as being part of the road to recovery.

It's fair to make sure that people with mental health problems can get support at an early stage, just as we do by providing first aid for people with physical problems.

It's fair to ensure people with mental health problems can contribute their talents, skills and experience in the workplace – and get the benefits from being in work.

"Human rights" are rights that people get just because they are human. They don't have to do anything to deserve them. These rights include the right to be treated with dignity, the right to respect for family life and privacy.

It's fair to make sure that people with mental health problems have their human rights respected. That means keeping information about their problem confidential unless they give explicit permission for you to talk about it, and treating them with dignity in the workplace. Tackling stigma and discrimination ensures that people are not treated unfairly because they have mental health problems.

Treating people fairly is the right thing to do.



The Business Case

"Doing things because they're best for business – for staff, customers and stakeholders/shareholders."

Mental health problems in the workplace, if not dealt with properly, can be costly for an employer.

Costs take many forms. Even obvious costs may have hidden aspects.

Sickness absence is one of the obvious costs. On average, this is around £310 per employee, or £690M per year for Scotland according to The Scottish Association for Mental Health (SAMH) in their 2011 research*.

Another obvious area is the cost of replacing an employee. Taking into account the costs of recruitment, training a new employee, the time without an employee in post and the reduced productivity of a new employee, the cost has been estimated at around £1500 for one employee, and nearly double that for a manager.

One of the less obvious areas is "presenteeism". This is where an employee is at work perhaps because they are working longer hours to demonstrate commitment to an employer when there is a highly competitive environment, or there is an atmosphere of fear about job losses. It may also refer to employees who come to work when they are not well because there are fears about penalties for time off. It can even refer to an employee who turns up for work but has really lost interest in the job. In all of these cases, the employee is likely to be less productive, and being at work may have a negative impact on their health which makes the problem more serious for them and for the employer. The cost of presenteeism is estimated at £560 per employee (or £1240M for Scotland) per year.

Tackling stigma and prejudice around mental health makes it easier to recognise and support people with mental health problems. Having good policies and practices around health and wellbeing, including mental health, means that employees are less likely to be off sick, more likely to return – and return earlier or in a phased way. Dealing with a culture of presenteeism also means a better work-life balance for all employees which contributes to good mental health and more engaged employees.

Reducing costs, having better workplace practices, and more engaged employees is good for business. Tackling mental health is good for employees, customers and stakeholders.

*What's It Worth Now: The social and economic costs of mental health problems in Scotland. Scottish Association for Mental Health, 2011.

