

Employment law and mental health

Myth busters





None of my employees suffer with a mental health condition.

Fact

At least one in four people will experience a mental health problem at some point in their life*, and one in six adults have a mental health problem at any one time**. **8 in 100** people suffer from mixed anxiety and depression***. You will have people within your business who suffer with mental illness.

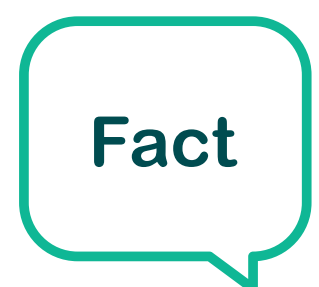


1 in 6

One in six adults have a mental health problem at any one time.



I can't ask my employees questions about their health.



Encouraging employees to speak up about their mental health condition helps to increase awareness and understanding. It influences an open culture where conversations about mental health are routine and normalised.

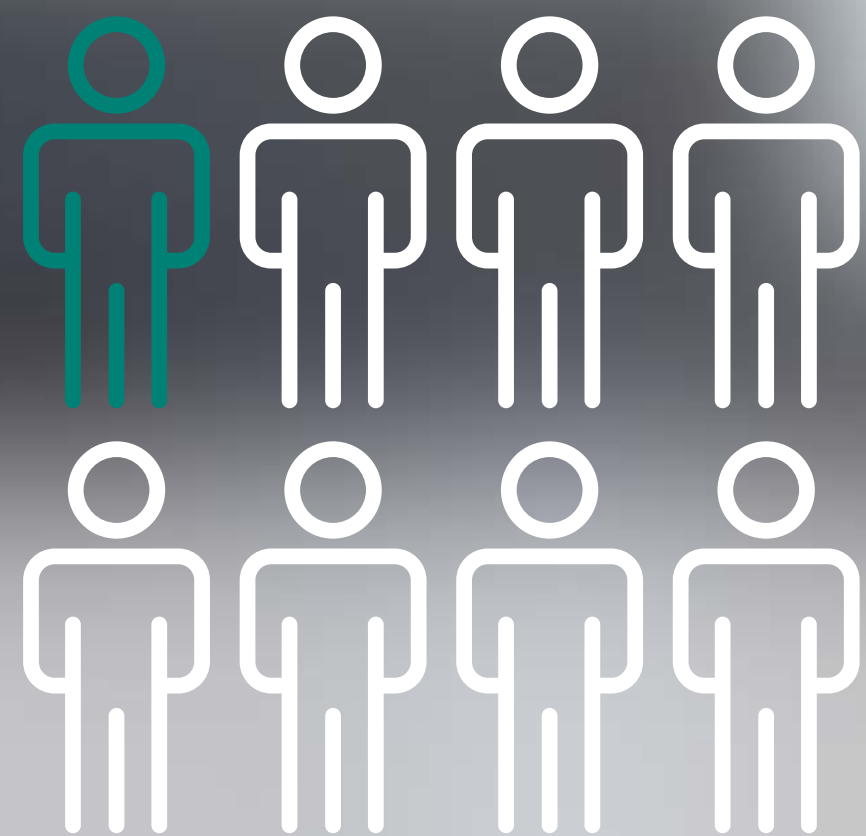
Although an employer should never make assumptions in respect of the mental health of its employees, some changes in behaviour or mood may give an early indication that the employee is not quite themselves, and that perhaps further investigation, (which could simply include an informal chat initially) is necessary.

If an employee phones in sick, an employer can and should ask the reasons for the absence, when the employee is likely to return to work and if there is anything the employer can do to help.

Holding back to work meetings with employees after any period of sickness absence can be an invaluable tool in identifying any ongoing health problems.



1 in 8



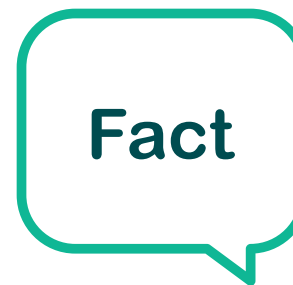
One in eight adults with a mental health problem are currently receiving treatment.

Keeping records of absences, and reasons will help you (the employer) to identify any re-occurring issues or patterns which may prompt further discussions around ill-health and support mechanisms which may be put in place to help the employee and reduce the risk of further absence.






Mental health conditions such as depression and anxiety are not disabilities.



Under the **Equality Act 2010**, disability is defined as ‘a physical or **mental impairment** which has a substantial and long-term adverse effect on [that person’s] ability to carry out normal day-to-day activities’.

Although there is no statutory definition of ‘mental impairment’, it is intended to cover a wide range of impairments relating to mental functioning. It includes any mental health conditions with symptoms such as anxiety, panic attacks, phobias and mental illness, depression and schizophrenia.

‘Substantial’ means ‘more than minor or trivial’ and a condition will be ‘long-term’ if it has lasted for at least 12 months, it is likely to last for at least 12 months or it is likely to last for the rest of the life of the person affected.



A mental impairment may affect an employee's ability to carry out day-to-day activities in a number of ways.

It may affect their ability to concentrate on a particular task, result in fatigue, effect memory problems or have physical manifestations. It is therefore possible for mental health conditions to amount to a legal disability.

Employees who suffer with a disability are awarded protection from discrimination under the Equality Act 2010.

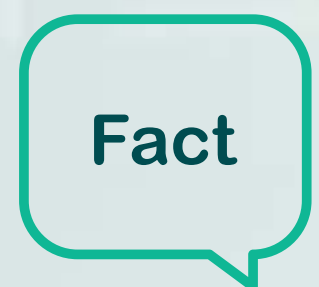
* ACAS <http://www.acas.org.uk/index.aspx?articleid=1900>

** <https://www.mentalhealth.org.uk/statistics/mental-health-statistics-most-commonmental-health-problems>

*** <https://www.mind.org.uk/information-support/types-of-mental-health-problems/statistics-and-facts-about-mental-health/how-common-are-mental-healthproblems/#.XLcIV3IYbIU>



I don't need to take steps to support an employee with a mental illness unless it's caused by work.



All employees are owed a duty of care by their employer. Supporting an employee with a mental illness, however caused, will promote a positive work environment, increase productivity and reduce absence.

Taking steps to support employees with their mental health early may also reduce the risk of the mental illness developing into a long term condition, which could amount to a disability.

There will be cases where a mental illness, however caused, will amount to a legal disability. In such circumstances the employer will be legally required to:

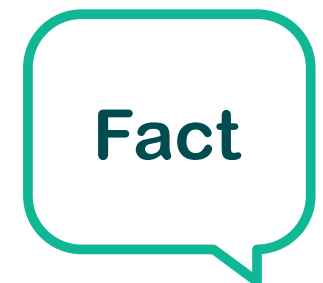
- Ensure that the employee does not suffer from any acts of discrimination 'because of', in 'relation to' or 'arising from' their disability.
- Make reasonable adjustments to make sure disabled workers aren't seriously disadvantaged when doing their jobs.

Employers must take positive steps to make sure disabled people can access and progress in employment. This goes beyond simply avoiding treating disabled workers unfavorably.





There is nothing I can do to prevent mental ill-health at work.



There are a number of steps an employer can and should take to reduce the risk of mental health problems occurring in the workplace.

These could include:

- Holding regular one-to-ones or review meetings to allow the employee the opportunity to discuss any concerns they have in respect of their health.
- Having appropriate procedures and measures in place to prevent and address conduct or practices that could negatively impact upon an employee's mental health.
- Pro-active measures should also be taken to ensure a safe working environment. This involves carrying out workplace risk assessments and continuing to monitor the employees working environment and practices.
- Training so that those in a position of authority feel confident in addressing mental health problems at work, and enforcing the company's policies and procedures in practice.





Raising awareness around mental health at work will leave us open to abuse and false claims.

Fact

By increasing awareness, knowledge and skills, employers can change attitudes and improve support within organisations.

With support, individuals can build resilience and develop the ability to manage high levels of pressure without causing stress and related health problems. Putting appropriate measures in place will help to demonstrate, and evidence, your commitment to your employees and their mental wellbeing.



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