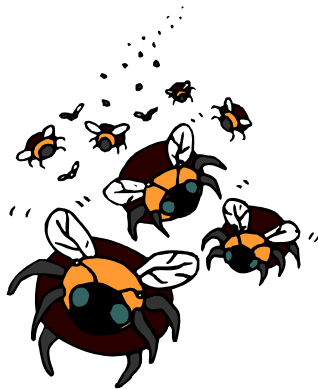




Back to the Beehive



How a Firm or Chambers can Help a Stressed or Depressed Colleague or Employee

Helplines

For Solicitors, Law Students and Legal Executives in England and Wales: 0800 279 6888

For Solicitors, Advocates and Law Students in Scotland, Northern Ireland
and the Isle of Man: 0800 279 6869

For Barristers, Barristers Clerks and Judges in England, Wales and Northern Ireland:
0800 018 4299

For Solicitors in the Republic of Ireland: 0800 018 4299

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Introduction

*"The partners seem to think I'm just a money making machine.
But even machines break down."*

*"She just gives me more and more stuff to do, including things I'm not qualified for,
and when I ask how I am supposed to get through it all she just says "You'll cope".
But I'm not coping."*

*"I can't help thinking that there must be more to life than counting
every six minutes towards an impossible target."*

These are genuine comments from distressed callers to our helpline, two of whom subsequently took extended sick leave due to stress and one of whom has left the profession completely. In each case the caller blamed the firm for the stress they and their colleagues were experiencing.

- In 1997 the government recognised "occupational stress" as one of the most serious health and safety issues facing British employers.
- Stress causes the loss of 6.5 million working days per year, at a cost of £370 million.
- In 1999 Birmingham City Council was forced to pay £67,400 damages to a former employee who had had a breakdown due to the stress she was under at work.
- The average direct cost of sickness absence each year is around £434 per employee.

Has any member of staff or members of chambers ever presented you with a sick note giving stress or depression as the reason for absence? There seems to be a long-hours culture in the legal profession today which is taking its toll on lawyers.

Most lawyers calling LawCare about their alcohol problem say that they began drinking to excess because of stress. Stress also leads to depression, a debilitating mental illness which often kills in the form of suicide, and can lead to heart disease, another killer.

Stress can cause huge problems for firms, from high staff turnover to negligence claims. This document aims to inform Partners and Heads of Chambers about how to deal with this issue, and how to help employees who may already be suffering the effects of stress or depression. However, please remember that prevention is always better than cure.

Note: In this document, when talking about a hypothetical lawyer we have chosen to refer to *He* rather than use *he/she* throughout. In fact, women are twice as likely to suffer from depression and three times more likely to complain of stress. (Men suffer stress just as much, but are less likely to talk about it. Instead, they often turn to alcohol for solace with disastrous effects in later years.)

What is Stress?

Challenge is an essential part of any job, and performance is maximised if there is a certain amount of pressure. Indeed, under-stimulation at work can be as destructive as high levels of stress. But as the pressure grows, the problems begin.

Put simply, a stressful circumstance is one with which the person cannot cope successfully (or believe they cannot cope) and which results in unwanted physical, mental or emotional reactions. **STRESS** is the individual's reaction to the levels of pressure upon him. Short periods of stress are inevitable in any busy environment, but sustained levels of high stress will lead to problems.

Since everyone is different, some people may thrive in a busy and stressful environment while others may find themselves unable to cope. This does not mean that one person is stronger or weaker than another. As an employer, it is important that you allow for the differing abilities and best working practices of your staff.



What Effect does Stress have on Staff?

- ♦ In the first stage the stressed lawyer may find himself feeling overworked, uncertain of his own abilities, and reluctant to take days off.
- ♦ In the second stage he may seem tired, irritated and frustrated, working long hours but seeming to achieve less. He may be skipping meals (look out for someone who is not taking his lunch break or eating at his desk) or "comfort eating".
- ♦ In the third stage he may feel resentful or guilty, will probably be neglecting his family and friends, and will no longer seem to be enjoying work or life.
- ♦ Finally he may withdraw completely, succumb to illness or drug or alcohol abuse, or completely break down emotionally and mentally.

Irritable, moody and overworked staff are not good for any organisation. Prolonged stress can also cause problems such as heart disease, addictions, lowered resistance to infection, breakdown and mental illnesses such as depression.

Depression is a particularly detrimental disease. Typically, the depressed lawyer is completely without motivation and appears apathetic as he is swallowed up by desperation. Or he may appear to be extremely confident and working very hard when in fact he is achieving little or nothing. It may be worth having a word with his secretary or clerk who probably knows more than anyone else.

Look out for these signs if you suspect a member of your staff is depressed:

- He may sit for hours at his desk without doing anything but becomes very defensive when challenged about this.
- He may neglect to open post or make phone calls, sometimes for weeks.
- He may be neglecting his appearance, seeming dishevelled and unkempt.
- He avoids company wherever possible.
- He may state that he feels the firm/chambers - and perhaps his family - wouldn't miss him if he were gone.

If you suspect a colleague is suffering from depression, then it is important that he seeks help from his GP immediately. It is unlikely that he is achieving anything in the office, except worsening his mental illness and making mistakes. It is important that he takes time off and other people are assigned his work, which may have been seriously neglected.

What Problems can Stress Cause for the Firm/Chambers?

Our experience at LawCare seems to show that there are Partners and Heads of Chambers who believe that being authoritarian and piling work and pressure on their staff/members will achieve the best result. Simply put, they are wrong, and are storing up problems for the future. Their employees make mistakes, suffer breakdowns, call us in desperation and finally leave.

Some problems which may result from high stress levels are:-

- High staff turnover
- High recruitment costs
- Recruitment problems
- High levels of sick leave / absenteeism
- Negligent staff
- Low morale
- Lack of loyalty to or respect for firm/chambers
- Negligence claims from clients
- Claims from staff

The Health and Safety at Work Act imposes on employers a duty of care to pay heed to their employees' mental health and well-being.

- ♦ Every employee should have access to friendly, non-judgemental advice and support whenever they are unsure about the work they are doing or need to discuss a personal matter, especially when newly or recently qualified.
- ♦ Even if mistakes are made, these should be dealt with in a supportive, not destructive manner.
- ♦ Employees should also have the space, resources and tools they need to do their job properly.

When Staff are Sick

When it is first brought to your attention that the lawyer is taking time off due to stress or depression, there are a number of steps you should take to establish your care and concern, and interest in his recovery.

Solicitors:

- Reassure the sick solicitor that he may take off all the time he needs, subject to appropriate sick notes, etc. and that he will be welcomed back when he is fully recovered.
- Employ a locum to cover the sick colleague's work. It may be possible to assign it to other members of staff, but bear in mind that a stressed or depressed solicitor may have been very behind in his work, and work may have been poorly done, so there may be a fair amount to do and other staff have their own workloads. Do not assign the entire workload to one person, or you will have another stressed employee! Share the work out evenly and fairly.
- Explain to staff and clients that the lawyer is sick, and that he will return when he is better but you do not yet know when this will be. They do not need to know any more detail than this. Clients will need to be told who is dealing with their matter in his absence (Practice rule 13).
- Explain to him that someone else is dealing with his work, and he should not call in to check on cases or worry about his work in any way. Do not contact him about work unless it is absolutely necessary. He needs to be away from it in order to recover.
- Ask whether his stress was caused by something particular, such as bullying or unreasonable workload, and let him know that you will deal with the issue before he returns. (See following pages). You may like to use the checklist on page 12 to help with this.

Barristers:

- Heads of Chambers should bear in mind that the barrister may well have been a member for many years and have helped to build up the reputation of the chambers. It will be well worth the Chambers supporting him through this difficult time. Offer him reassurance that his place will be kept open, and his boundaries respected, and discuss with him how Chambers can help.
- If there is likely to be a serious financial implication to the barrister being unable to work for some time, give the barrister details of the Barristers Benevolent Association - 020 7242 4761, www.the-bba.com.

Monitoring

In many organisations staff are cared for when they are present, but when they are away it seems to be "out of sight, out of mind." When the illness is stress or depression caused by work then it becomes all the more important to monitor the absence and establish the reason for it in order to avoid the consequences:

- The sick lawyer may come to see a clear distinction between the safe and happy environment of home and the stressful apparently uncaring world of the office/chambers.
- Worry about work, or about what others in the firm might be thinking or saying, may delay his recovery.
- It may appear that the firm/chambers not only neglected their duty of care and caused the illness in the first place, but do not care about him now that he has taken time off. Resentment may lead to litigation.
- Absence from the office or chambers may cause the lawyer to magnify the problems he experienced there.
- The sick lawyer is a highly trained professional and cannot easily (or cheaply) be replaced should he decide not to return.

Regular, friendly non-threatening contact with the absent employee/member can prevent many of these situations arising. In addition, if he is considering leaving altogether then he may mention this possibility before he makes any official announcement, thus allowing the firm a chance to make contingency plans.

Find out who is the sick lawyer's best friend in the office/chambers and assign them the task of phoning or visiting the lawyer each week to see how he is. It should be made clear that they are not pressuring him to come back, just showing friendly concern.

Again, it is important that he is reassured that his work is being dealt with, and is discouraged from asking about specific cases. The friend might also encourage him to contact LawCare.

Dealing with the Problem

Once you are aware of the problem which caused the employee to become ill with stress or depression, it is vital that you take appropriate steps to deal with it before he returns.

- Review his workload. Was he trying to do too much? Ensure that this is kept to reasonable levels in future.
- Was he being unnecessarily thorough, or making work for himself which he did not need to do? Speak to him about what is considered necessary and unnecessary in the firm, and perhaps consider additional training for him on basic solicitor skills.
- Was he working towards an impossible target? Set it to a more reasonable level.
- Was he being bullied, or were there personality clashes in the department? Take action to deal with the bully, or move staff around in order to reduce the problem.

Stress may be caused by many things, including matters which you consider trivial. However, if they have been serious enough to require time off work, then you need to address them. Be flexible.

The lists on pages 10 and 11 may also help you review causes of stress in your firm.

Returning to Work

The Return to Work Interview

Assuming the firm actually want the impaired lawyer to return, they should be aware that this will be a difficult time for him, and prepare appropriately.

- When the sick employee indicates to his monitoring "best friend" that he is ready to return, arrange for a partner or senior member of staff to meet him in a neutral environment - away from the office - for a "return to work interview". Make it clear that this interview is non-judgemental and non-blaming.
- At this interview, the cause of his illness should be discussed and he should be made aware of what the firm has done to prevent the problem arising again.
- If at all possible, he should be offered the option of returning part time at first, gradually building up his hours. Would he be able to work from home to begin with? He may work better away from the stressful office environment.
- He should be made aware of who, if anyone, has been told about his illness, and who has been handling his work. If this was a locum he may find it reassuring to have the locum's phone number in case he has any questions.
- He should be given a copy of LawCare's Stress/Depression information pack (if he does not already have one) and Anti-Stress Desk Workbook.
- Enquiries should be made about ongoing treatment. Will he be attending regular counselling sessions, and does he need time off for these?
- Finally, the sick employee should be asked how he feels about returning, and encouraged to speak to someone immediately should the problem arise again.



The Welcome Back

The aim, in caring for your stressed or depressed employee, is that he should return to effective and productive work in the firm. It will help if you recognise that returning to work, particularly after a lengthy absence, may be traumatic for him. If it was the stress of work (rather than stress caused by personal issues) which led to his absence, then the office/chambers will have unpleasant associations for him and he will need reassurance that things have changed.

Solicitors:

- About a week before the solicitor's scheduled return, those solicitors (or locum) who were assigned the pending matters should prepare brief status reports on what was done in the solicitor's absence.
- The appropriate person (Senior Partner, Head of Department) should give some thought to the work which the solicitor will be doing on his return. It may be unrealistic to expect him to undertake a full workload from day one. A controlled increase in the work level may be highly desirable. If he can begin part time, or work from home occasionally, then this may also be helpful.
- Check out the solicitor's office and make sure that you return it so far as possible to pre-absence condition, especially if others have been working there. You could also make it a more pleasant working environment for him, making sure that there is plenty of light and perhaps giving it a fresh coat of paint or putting in some flowers or plants. Studies have shown that shades of green are particularly effective at reducing stress levels.
- Some kind of activity to make the member of staff feel that his return is welcome may be desirable, although personalities have to be taken into account. A "Welcome Back " message or card on their desk is a nice touch.
- It is important not to neglect the other staff in the firm. Some of them will have a right, and a need, to have some information about the return to work. There may also be some resentment that he has had so much time off when he outwardly appeared healthy. Staff who have covered for their absent colleague should be thanked for their contribution and assured that the same care would be extended to them if needed.

Barristers:

- Some kind of message of support on his return will help reassure him that others are concerned for him and pleased that he is back.
- Fellow barristers could take time to update him on any relevant developments in Chambers, or with regard to his work.

The Future

At LawCare, we hear about particular causes of stress again and again. We have compiled this checklist, based on the most common causes of stress, to help you review stress levels at your firm.

- Are there any members of staff in your firm/members of chambers who were promised a particular working environment/system/department at interview, but have not found this promise kept?
- Are there any trainees/junior staff/pupils at your firm/chambers who are not properly supervised and supported, or for whom the person responsible for this is not accessible or inclined to help whenever necessary?
- Are there any employees in your firm/members of chambers who are working in a field which does not interest them, or in which they have no knowledge or experience, or are not properly qualified?
- Is there a "long hours culture" in your firm/chambers? Are lawyers admired or praised for working until late at night? Are others frowned upon for taking holiday or sick leave?
- Is there any bullying or harassment in your firm/chambers?
- Are fee targets unrealistic, or is too much emphasis placed on achieving them?
- Is there inadequate secretarial support?
- Are you requiring staff to do anything which they might feel is inappropriate in relation to their professional standards?
- Are senior partners/Heads of Chambers unavailable or unwilling to hear from employees with questions, problems or who require guidance? In larger firms/chambers, is there an HR department with someone to whom employees can go for advice without fear or favour?
- Do employers forget good manners - saying please and thank you, praising employees for good work, and respecting the privacy and professionalism of their staff?
- Are staff requested to do more and more work when they are incapable of achieving everything?

The boxes you have ticked show where attention is required, but this is not an exhaustive list.

Minimising the Risk in Future

There are some very basic and simple steps you can take to anticipate, and deal promptly with, the problems of stress in your firm.

- Make staff/members aware of LawCare - give them the LawCare Anti-Stress Workbook and put the helpline number on the office noticeboard. This helps to show that you care about the well-being of your colleagues.
- Be open to suggestions, complaints and comments - anonymously if necessary. Consider having a suggestions box. If you do, let the staff/members know that you do take note of their suggestions. If you implement suggestions let the individual and the staff know.
- Encourage staff/members to take their full holiday entitlements, lunch breaks, etc. and dissuade them from working long hours or taking work home. People are more productive when they are less stressed. Do you **know** when people last took a holiday?
- Have someone in the firm/chambers who is responsible for employee welfare, and ensure that they are available for confidential interviews when needed.
- Monitor staff workloads, targets and training/supervision to ensure that staff are not overworked and are properly supported.
- Respect, trust and encourage your staff/members in order to create a pleasant office environment and firm loyalty. A friendly environment is a productive environment.

Asking the Staff

You know your firm/chambers best. Ask yourself whether you would want to work there. Asking the staff/members - perhaps inviting them to make comments or suggestions anonymously - may also reveal some potential problem areas.

Employees always want to be valued and respected for their contribution to the organisation. When they leave a firm for apparently greener pastures the motivation may not be a pay rise but dissatisfaction with the current working relationship with their supervisor. Buckingham and Coffman, in their study entitled "First, Break the Rules: What the World's Greatest Managers Do Differently," came to the conclusion that people leave managers, not firms.

Their research found that employees are more interested in the quality of relationships at work because they want to feel valued and cared for in much the same way as they would within a family. It seems that apart from the size of the pay packet the primary needs are emotional. Employees look for approval and self-esteem at work as much as for a pay and career path. Those who achieve this are less likely to be stressed.

The research found that the most effective managers in an organisation treated employees as individuals and focussed on developing existing talents rather than spending excessive time on things that they were not so good at. Buckingham and Coffman claim that most employers are not even playing the right game with their employees: -

"Most companies treat everyone the same. They play checkers with them. The best managers play chess with their people, knowing that each person is different."

Which game are you playing?