

Stress as an industrial injury

Stress-related illness is now the most common reason for absence from work, but such absence is rarely recorded in any official form. Information about the level of harm caused by work-related stress comes from two self-reported sources; the quarterly Labour Force Survey and an HSE survey of GP's. There is no formal or legal requirement on employers to report events that lead to someone going off sick with a stress-related condition. Thus the true extent of stress-related illness caused by work remains officially almost unrecorded, despite 'stress' now being the most common reason for sickness absence.

This factsheet sets out how, under certain circumstances, we might formally record events that lead to illness and harm caused by work-related stress; we might be able to categorise certain incidents as an 'accident', and so formally record it. There is no requirement on an employer to agree to record stress-related injury in the recording system, so if an employer refuses, we can only try to persuade. We need to establish a broader based campaign in the future around recording stress-related illness caused by work.

An accident is defined as an unforeseen event that causes harm, usually taken to mean physical harm (and that is what the HSE say on the RIDDOR pages of their website); a fall resulting in a broken wrist, for example. An 'accident' for state industrial injuries benefit purposes means any unintended happening or incident at work that leads to personal injury.

<https://www.gov.uk/government/publications/industrial-injuries-disablement-benefits-technical-guidance/industrial-injuries-disablement-benefits-technical-guidance#industrial-accidents>

Illness and absence resulting from work-related stress is conventionally regarded as a cumulative process, where pressure builds-up over a period of time before finally reaching the point where the victim succumbs and goes sick. Principal causes of such processes identified by UCU members include excessive workload, long hours, constant change and uncertainty, and bullying by managers.

However, under certain circumstances, an unforeseen event at work that causes stress-related harm and consequent injury may be defined as an 'accident', and where that results in a degree of disability, may mean the injured person is able to claim a state benefit under the Industrial Injury Scheme Benefit (IISB). The Department for Work & Pensions (DWP) recognises that such a specific event at work can be so defined. The victim

has to show that it was the event or even a series of events, not a cumulative process that led to their absence from work.

Events can include being shouted at, abused or unjustly criticised – in private or public; being blackmailed, intimidated or threatened in some way; subjected to foul and abusive language; being unfairly criticised and undermined or otherwise treated with gross disrespect or contempt; being forced to accept large increases in an already excessive workload, undertake additional tasks, etc.

Harm caused can initially make someone break-down in tears, instil fear, cause depression, agoraphobia or panic attacks, undermine confidence, or humiliate and belittle someone to the point where they cannot face colleagues or students. The DWP will want medical evidence of a clinically diagnosable condition such as depression in order to make an accident declaration, a necessary precondition for a benefit claim.

When such events happen, members should be advised to enter the event into the accident book at the workplace, or ask the rep to do it on their behalf. Some employers may try to prevent such entries being made. The law requires the accident book to be available in the workplace for injured persons, or someone acting on their behalf, to record an injury. If it is still not possible to record the accident in the book, victims or their representative should write a letter informing the employer of the incident, and make the point that they were prevented from recording it in the book. Reps should also insist that the employer submit a RIDDOR report after 7 days absence when the injured person remains off work, although if they do, the HSE may not accept this. Unlike DWP, HSE say that stress is always 'process', not 'event'. DWP is the HSE's home department.

If as a result of the incident the victim develops a long-term mental health condition that causes a degree of disability greater than 14%, they may be able to claim Industrial Injury Disablement Benefit or other injury-related benefit.

DWP decision-makers have comprehensive guidance on treating stress as an accident, publicly available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/297640/dmgch66.pdf

Victims must show a direct relationship between the incident and resulting injury, and obtain a clinical diagnosis to support the claim, if they are to persuade the decision-maker to make a work-related accident declaration. An 'accident declaration' by the DWP decision-maker is now only needed when a claim for benefit is made.

Where we can help to ensure there is a record that at least some of these cases were 'accidents', we will have started a process of establishing more formally the extent to which stress and related illness and absence is caused by unacceptable practices by managers and employers.