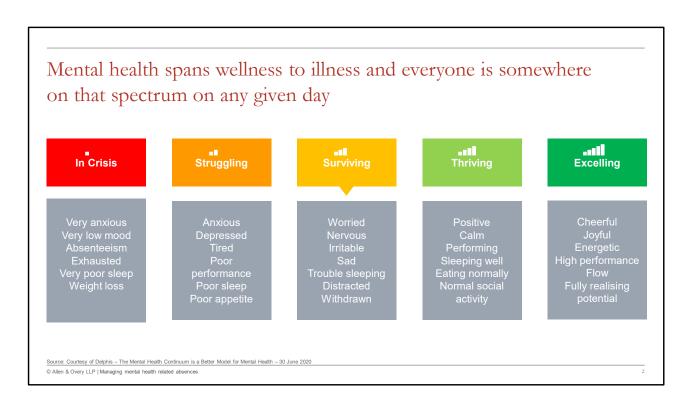




CIPD Health and wellbeing at work 2021: survey report -

https://www.cipd.co.uk/Images/health-wellbeing-work-report-2021\_tcm18-93541.pdf



Delphis - The Mental Health Continuum is a Better Model for Mental Health — 30 June 2020

https://delphis.org.uk/mental-health/continuum-mental-health/

### Workplace mental health legal landscape



#### Common law

- Duty of care to provide a safe place and system of work
- Implied duty on mutual trust and confidence

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#### Health and safety

- Health and Safety at Work Act 1974 and regulations
- Employers must take all reasonable steps to provide a safe and healthy workplace
- Carry out risk assessments
- Enforced by HSE and can include criminal liability



#### **Working Time**

- Limits on working hours
- HolidayRest breaks
- Specific rules for shift workers



# Anti-discrimination measures

- Disability protection includes measures to protect mental as well as physical health
- Reasonable adjustments
- Failure by employer to support partner with mental health issues was discrimination: MJ Taplin v Freeths (ET 2021)



#### Covid-19

Government guidance and regulations linked into health and safety obligations

MJ Taplin v Freeths is a good example but only ET <a href="https://www.legalfutures.co.uk/latest-news/firm-discriminated-against-partner-suffering-mental-health-problems">https://www.legalfutures.co.uk/latest-news/firm-discriminated-against-partner-suffering-mental-health-problems</a>

3

Employers are starting to treat mental wellbeing as a commercial imperative rather than a compliance issue, many having wellness strategies

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People Management Survey 2 March 2021 <a href="https://www.peoplemanagement.co.uk/news/articles/less-than-half-of-uk-employers-have-a-formal-wellbeing-strategy">https://www.peoplemanagement.co.uk/news/articles/less-than-half-of-uk-employers-have-a-formal-wellbeing-strategy</a>

## Mental ill heath tricky problems



#### **Difficult conversations**

- Unless already diagnosed, line managers should be vigilant, unusual number of short-term absences, distracted, excessive drinking etc
- If someone is acting out of character, have a conversation early
- Offer support, referrals, reallocation of workload, time off
- Maintain regular catch ups

Employees who may be a danger to themselves or others

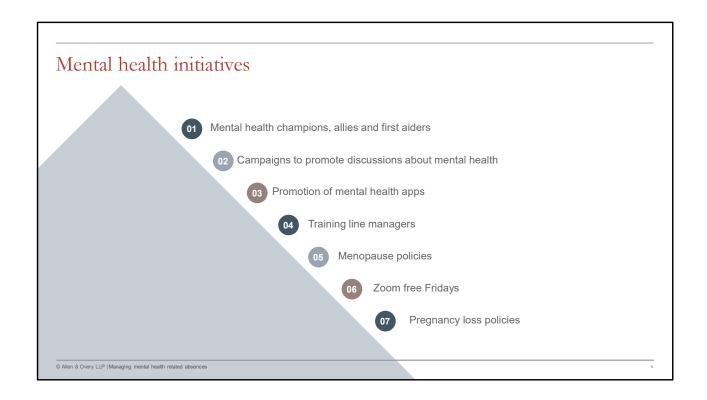
- Most HR professionals will not be equipped to deal with these situations so it is better to escalate
- OH referral or discussion with family member where speed is of the essence
- Some companies have suicide/danger protocols so that external agencies can be notified to assist

#### Fair dismissals

- Fair dismissals are possibleWhere there is a significant
- Where there is a significant impact on the individual's role or performance
- The method of termination may be different with more concessions
- Has the individual capacity to sign settlement terms or should a lawyer/third party warrant their capacity

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BITC suicide prevention toolkit <a href="https://www.bitc.org.uk/toolkit/crisis-management-in-the-event-of-a-suicide-a-postvention-toolkit-for-employers/">https://www.bitc.org.uk/toolkit/crisis-management-in-the-event-of-a-suicide-a-postvention-toolkit-for-employers/</a>



Mental health champions, allies and first aiders
Campaigns to promote discussions about mental health
<a href="https://bectu.org.uk/news/government-must-make-good-on-its-promise-to-workers/">https://bectu.org.uk/news/government-must-make-good-on-its-promise-to-workers/</a>

Promotion of mental health apps

Training line managers

Menopause policies

Zoom free Fridays: <a href="https://www.theguardian.com/society/2021/apr/13/ministers-urged-to-give-uk-home-workers-a-right-to-disconnect">https://www.theguardian.com/society/2021/apr/13/ministers-urged-to-give-uk-home-workers-a-right-to-disconnect</a>

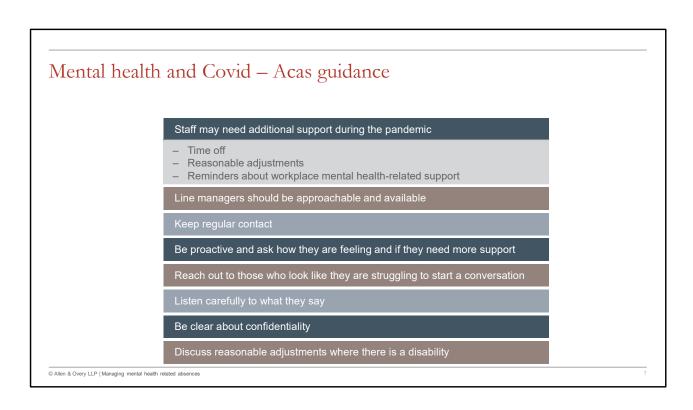
https://www.personneltoday.com/hr/give-remote-workers-right-to-disconnect-urges-union/

https://www.thetimes.co.uk/article/right-to-disconnect-is-vital-for-future-health-of-home-workers-mkpcvj66t

https://www.thetimes.co.uk/article/right-to-disconnect-is-vital-for-future-health-of-home-workers-mkpcvj66t

https://www.theguardian.com/technology/2021/may/08/work-can-virtual-meeting-spaces-save-us-all-from-zoom-fatigue

Pregnancy loss policies: <a href="https://www.bbc.co.uk/news/business-57063143">https://www.bbc.co.uk/news/business-57063143</a>



Acas Guidance on Covid and mental health <a href="https://www.acas.org.uk/coronavirus-mental-health/supporting-staff-mental-health">https://www.acas.org.uk/coronavirus-mental-health/supporting-staff-mental-health</a>

### Mental health horizon

#### Employment Bill was expected but not mentioned in Queen's speech:

- Flexible working as a day one right
- Unions calling for the right to disengage

Burnout has been classified by WHO as chronic workplace stress that has not been successfully managec

#### Right to disconnect is receiving attention in Europe

- European Parliament has asked the EU Commission to create a right to disconnect from work-related tasks, activities and electronic communication during non-work hours without consequences
- Establish minimum standards for remote working

Although the UK will not be subject to any new EC rules, it is likely to set standards in global businesses and likely that the practice will catch on outside the EU

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Right to disengage <a href="https://www.theguardian.com/society/2021/apr/13/ministers-urged-to-give-uk-home-workers-a-right-to-disconnect">https://www.theguardian.com/society/2021/apr/13/ministers-urged-to-give-uk-home-workers-a-right-to-disconnect</a>

Ireland's code of practice: <a href="https://www.pinsentmasons.com/out-law/news/ireland-publishes-code-of-practice-on-right-to-">https://www.pinsentmasons.com/out-law/news/ireland-publishes-code-of-practice-on-right-to-</a>

disconnect#:~:text=The%20code%20introduces%20three%20main,another%20person's%20right%20to%20disconnect

### Discussion on EC new right to disconnect:

 $\frac{https://www.lexology.com/library/detail.aspx?g=ac5a9ed4-6289-4c85-8369-72cf6d428596}{72cf6d428596}$ 

## Questions?

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