

**'Common sense' priorities for health and safety**

**Stress, sick leave and maternity risks should be top of your agenda, advise Huw Cooke and Nick Pritchett.**

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Lord Young's recent report advocating a rational and proportionate approach to health and safety, rather than trying to eliminate all risk, is a welcome change. But while we wait to see what reforms materialise from it, there are workplace health and safety issues that employers should be on top of now. For example, they need to manage sickness absence promptly and consistently. Recent European Court of Justice decisions (*HM Revenue & Customs v Stringer and others* (2009, IRLR 677 HL) and *Pereda v Madrid Movilidad* (ECJ C-277/08)) mean employees on long-term sick leave accumulate annual leave under the Working Time Regulations 1998.

They should also be assessing risks for pregnant employees and mothers returning to work. This may mean changing a role or suspending an employee on full pay if no alternative can be found. And employers that fail to manage stress correctly leave themselves vulnerable to a variety of claims.

As the law stands, employers should identify risks. This is straightforward enough for physical risks such as workplace ergonomics, but intangible risks, such as mental health issues, are more problematic. The Health and Safety Executive has identified six standards with which employers can measure their organisation to establish whether stress presents a significant risk to the workforce.

They should then decide what steps to take, consult employees and take appropriate action as soon as possible. In cases of workplace stress, this could include setting up a confidential employee helpline or moving an employee affected by stress out of a stressful environment.

Acting to minimise risks is only the first step. Employers should keep accurate records of all risk management processes and employee consultations, and should review working practices regularly. Compliance in this area is essential to avoid costly unfair dismissal, whistle-blowing, disability discrimination and personal injury claims.