

Liability Reports in Occupational Stress Cases

Certified Stress Management Consultant, Ches Moulton DHP CHt CSH CSMC can assist legal professionals dealing with claims for conditions alleged to have been caused by occupational stress.

Ches has 25 years' international experience of working with organisations and individuals in the management of occupational stress risks. On the basis of Ches's experience, reports in occupational stress cases assist the Court by:

1. Summarising the **relevant evidence** in relation to the occupational health risks associated with the Claimant's work.
2. Identifying what the Defendant should have known in the context of the evidence: ie identifying the **knowledge** that the employer should have had in the context of the risks to mental health associated with a Claimant's work and relevant legislation, focussing on guidance issued by HSE and authoritative bodies in relation occupational stress risks.
3. Identifying what the Defendant should have done at an **organisational level** prior to manifestation of the alleged condition: i.e. Defining the **standards** that the employer should have achieved to manage mental health risks as defined by HSE:
 - (a) The **demands** of the Claimant's work
 - (b) The **control** that the Claimant had over their work
 - (c) The **support** given to the Claimant
 - (d) The Claimant's **relationships** with others in the organisation
 - (e) The Claimant's understanding of their **role** within the organisation
 - (f) The communication of **change** to the Claimant
4. Identifying what the Defendant should have done at an **individual level** prior to manifestation of the alleged condition: i.e. identifying the actions that should have been taken by the Defendant at the point when they became aware the Claimant was potentially suffering from a stress related condition.
5. Commenting on what the Defendant actually did: i.e. giving opinion on the extent to which the Defendant **acted in accordance with the appropriate standards** as identified.
6. Reaching conclusions as to whether or not the Defendant acted appropriately to control stress risks ie whether the Defendant either did, or did not, comply with the relevant **knowledge and standards** at both an organisational and organisational level.

The cause of any individual's condition will be a matter for the court:

- If the Defendant achieved the relevant standards, then the conclusion would be that no criticism could be made of the Defendant in the context of the Claimant's condition.
- In the event that the Defendant did not achieve the relevant standards, then the conclusions would assist the medical experts and the court to consider the **implications of the gap between the appropriate standards and the standards achieved**.

To discuss an occupational stress case, please contact:

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