Germany Considers Law on Stress



Surveys in Europe show that workers struggle to stop work encroaching on their private lives.

Several countries including Austria, Denmark and the Netherlands, already have regulations requiring the employer to assess for the risk of psychological stress and governments are considering whether they should do more to protect workers from stress.

Unions have been lobbying the German government and have raised concerns about the impact that smartphones and e-mail have on work life balance. Politicians from the Social Democratic Party, the Greens and the Left Party are supporting their cause. Draft legislation includes a demand that employees be protected from being “permanently reachable by modern means of communication.”

It is not too many years ago in Australia, that employers were required to pay workers for being on-call after hours in many industrial agreements.

Some big employers in Germany such as Volkswagen have already agreed to stop their servers sending e-mails to employees outside of working hours and Daimler has given workers the option to have e-mails deleted while they are on vacation.

Yasmin Fahimi, Secretary General of the Social Democrats is quoted as saying “a reliable end to the working day is a human right.”

Belgium and the Netherlands have moved to list burnout as one of the hazards against which workers must be protected.

Unions in WA and nationally have called upon government to have specific regulations to require employers to manage work related stress and violence but this has been rejected. Their argument is that the general duty of care requirements in the Occupational Safety and Health Act (OSH Act) are sufficient.

What is the law in WA?

Employers have a duty to provide and maintain a working environment, so far as is practicable, in which employers are not exposed to hazards and this includes psychological hazards that might give rise to work related stress [Sec.19, OSH Act].

Employees must also be provided with instruction, supervision and training so that they are not exposed to psychological risk factors.

Employees must take reasonable care to avoid adversely affecting the safety and health of any other person at work. [Sec. 20, OSH Act] This clearly includes refraining from bullying or other inappropriate behaviours that might cause harm to others.

Regulation 3.1 also requires employers to identify all hazards in the workplace and assess the risk of injury and harm that may result from the identified hazards and they must reduce the risk of harm to the lowest practicable level.

The Department's Code of Conduct and Western Australian Public Sector Commission Code of Ethics outline acceptable workplace behaviours. If all employees abided by these codes then work related stress would decrease as bullying and harassment are a common cause of this illness.

Worksafe have recently provided an excellent guidance document to help employers and employees to manage psychological hazards, "Psychologically Safe and Healthy Workplaces: Risk Management Approach Toolkit." It provides risk assessment tools and links to appropriate surveys that can help identify the risks. The document is based on the UK Health and Safety Management Standards which have been used effectively in UK workplaces for some time. You can download the Toolkit for free from the website www.commerce.wa.gov.au/worksafe.

The SSTUWA can assist schools who wish to embark on a process to tackle stress through a whole of school approach.

The Teachers and Administrators General Agreement provides an additional tool for tackling stress in the form of workload advisory committees (WAC). Under clause 42 Principals must establish a WAC at the commencement of each school year. The role of the WAC is to assess workload management and to provide advice to the principal to assist in the management of workload. Guidelines for the establishment and operation of the WAC are contained in Schedule G of the Agreement.

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