



Looking after your wellbeing

How to manage fatigue in the Workplace

Whether it is caused by a medical condition, working hours, shift patterns or personal circumstances, fatigue is a health and safety risk that can often be overlooked, but must be controlled by employers.

Fans of the recent television series *Chernobyl* will have been reminded of the devastating consequences of the nuclear explosion in 1986, which was in part found to have been caused by operator error as a result of extreme fatigue. Other well-known major accidents such as the Herald of Free Enterprise (*Zeebrugge* ferry disaster) in 1987, and the Clapham Junction rail crash in 1988 also found that human error played a part, in both cases with operators being required to perform crucial safety-related tasks having worked excessively long hours, fatigued as a result.

Those operating within high hazard industries such as COMAH sites or nuclear installations will be well-versed in the need to risk assess and manage human factors, including the likelihood of fatigue, as these are often an inherent part of the operator's statutory safety case or licence conditions. Those within the aviation and rail sectors have also been subject to their own sets of regulations and guidance on the management of fatigue for some time, given the intense focus required for often repetitive, monotonous – but safety critical – tasks that pilots/drivers/engineers and other workers are required to perform over long shift durations.

Whilst fatigue may be considered a greater risk in such industries, particularly in light of links with past major disasters, it is an issue that should nevertheless be considered and addressed by all employers, in keeping with their duties under the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, the Workplace (Health, Safety and Welfare) Regulations 1992 and the Working Time Regulations 1998 ("WTR"). In combination, these regulations require employers to assess the risks arising from their operations, and the employee workplace, to ensure exposure to fatigue is reduced as far as is reasonably practicable, and that maximum limits are placed on the amount of time employees can work.



Shift workers

In terms of shift work and working hours however, it is possible to opt out of the 48-hour week under WTR, and individuals (particularly those on hours-based pay) may apply for additional overtime in order to boost their earnings. This applies not just to those within the industries mentioned above, but across many other sectors including NHS staff, retail workers, security staff and emergency services workers, to name a few.

The HSE has therefore clarified, in its own guidance on shift work, *HSG256 Managing Shift Work*, that adherence with WTR will not, in itself, be sufficient to ensure adequate protection of workers from fatigue, and more must be done by employers to demonstrate that the risk is controlled.

HSG256 relates to those employers who manage employees on shift work, as fatigue will most often be associated with such workers – according to HSE, there are more than 3.5 million shift workers in the UK, and those workers are thought to be the second highest at risk of road accidents when driving home from shifts¹.

The length of shifts; number of consecutive working days; frequency of changes in the pattern of shifts; and frequency of rest periods all need to be considered by those responsible for organising working patterns, to ensure that employees get sufficient rest and adequate sleep.



Managing medical conditions

Fatigue, as defined, can affect other employees too. It is most commonly described as extreme tiredness resulting from mental or physical exertion or illness – and it can be caused by factors outside of the workplace, as well as within it. It will therefore be relevant to consider employees who may be suffering from fatigue as part of a medical condition, illness, or treatment.

Employees diagnosed with medical conditions such as MS (Multiple Sclerosis), ME (Myalgic Encephalomyelitis)/Chronic Fatigue Syndrome, fibromyalgia, or sleep disorders for example, all include fatigue as a recognised symptom that are likely to impact upon the individual's day to day physical and mental health, and may impact upon their performance. Similarly, employees who are required to take certain medication, or who may be undergoing cancer treatment, for example, may experience extreme fatigue as a side effect, and many mental health conditions such as depression and anxiety can manifest with bouts of sustained stress and sleep deprivation, which in turn result in fatigue.

However, fatigue as a result of a recognised medical condition or medical treatment can be more difficult to manage, as unlike tiredness, it is unlikely to be alleviated by sleep alone; and unlike shift work, it is not simply a case of shift and resource planning to help the individual manage the symptoms.

If made aware of such conditions, employers may need to consider what reasonable adjustments can be made in the workplace, not only to ensure that the employee is treated fairly, but also to ensure that the employee is protected from any further risk to their health or safety and that, whilst in the workplace, the fatigue is managed as well as possible. Such reasonable adjustments might include flexible working patterns; reduced hours or workload; working from home; or frequent rest breaks. It may also be that symptoms are exacerbated by the workplace environment such as poor lighting or temperature control, lack of natural sunlight, or noise levels.

If the affected employee is required to operate any heavy machinery or drive as part of their role, details of the side effects of any medication will need to be obtained and a risk assessment carried out to determine whether the fatigue could have a detrimental impact on the safe performance of their tasks.

The impact of fatigue on a person's ability to perform can vary from individual to individual, but commonly it can result in slowed reaction times; an inability to concentrate or maintain focus; impairment of memory, confusion and forgetfulness; heightened emotional state; lack of energy and motivation; irritability; impairment of physical strength; and the inability to communicate and express oneself clearly. Fatigue can not only lead to human error in the workplace, it can also have a severe

¹ *HSG256 para 33: "Sleepiness is thought to be the cause of up to one in five accidents on major roads in the UK, contributing significantly to the approximate 3000 road deaths recorded annually. After young men, shift workers are considered to be the category of drivers most at risk from accidents and, compared to day workers, night workers are more likely to be involved in accidents while driving home from work."*

impact on an individual's personal health and wellbeing. HSG256 acknowledges that chronic fatigue has been associated with a number of long-term health conditions².



What can employers do?

Whilst it predominantly relates to shift work, HSG256 sets out a number of principles and suggested approaches for dealing with fatigue, and how to carry out risk assessments to help inform management tools, that can be translated across all sectors and types of work.

It includes tables outlining how different elements of a shift-work schedule and/or workplace environment might contribute to fatigue, and gives advice as to how such risks can be controlled. It also puts forward a number of good practice guidelines, such as those outlined in the table below. "Shift" can be substituted with "working day", where relevant, to broaden the application of the principles to other work types:

- plan a workload that is appropriate to the length and timing of the shift
- if reasonably practicable, schedule a variety of tasks to be completed during the shift and allow workers some choice about the order they need to be done in
- avoid scheduling demanding, dangerous, monotonous and/or safety-critical work during the night, early morning, towards the end of long shifts and during other periods of low alertness
- where possible, adopt a forward-rotating schedule for rotating shifts rather than a backward-rotating schedule
- in general, limit consecutive working days to a maximum of 5-7 days and make sure there is adequate rest time between successive shifts
- when switching from day to night shifts or vice versa, allow workers a minimum of two nights' full sleep
- consider increasing supervision during key periods of low alertness, eg during the night, early morning, towards the end of long shifts and other periods of low alertness
- make sure supervisors and team members with responsibility for shift-working arrangements are aware of the risks associated with shift work and can recognise shift work-related problems
- control overtime and shift swapping by monitoring and recording hours worked and rest periods. Discourage workers from taking second jobs

Further guidance is also available on how to carry out fatigue risk assessments – such as by using the HSE's own Fatigue and Risk Index Tool³, or a useful approach has been set out by the Energy Institute into how to develop a Fatigue Risk Management Plan⁴. Depending on how great a risk fatigue is to the organisation, it may be worth considering whether such tools should be introduced and utilised to help manage the risk.



² HSG256 para 29.

³ see RR446 for the research behind this and how to adopt the indexing approach:
<http://www.hse.gov.uk/research/rrhtm/rr446.htm>

⁴ Managing Fatigue Using a Fatigue Risk Management Plan (FRMP) – 1 April 2014, Energy Institute.
<https://www.stepchangeinsafety.net/sites/default/files/WEB-VERSION-Guidance-on-managing-fatigue-16.04.14.pdf>

Fatigue is an issue that is already on the radar of specialist regulators such as ORR and ONR, who will carry out human factors assessments and inspections to ensure that shift work and working hours are being managed appropriately. However HSE's Enforcement Register shows that this is under current scrutiny by HSE as well, with recent Improvement Notices being served in this area – albeit to date these have focussed on those within the high hazard industries.

Given the statistics around road safety – with one in five road deaths thought to be due to sleepiness - and the increasing focus on driving for work, there is a clear need for employers to address the risk of fatigue not just for those who drive as part of their job, but for any employees who are at risk of driving to/from work whilst fatigued – and indeed, as discussed above, for any individuals who may suffer from fatigue whilst at work. Employers must proactively address the issue, and keep an eye out for signs of fatigue within the workforce in order to ensure they do “all that is reasonably practicable” to manage the risk.

For more information please contact health and safety lawyer, **Catherine Henney**, Principal Associate at Eversheds Sutherland or click [here](#) to visit our environment, health and safety pages.



Catherine Henney
Principal Associate

T: +44 161 831 8583

M: +44 779 522 3395

catherinehenney@eversheds-sutherland.com



eversheds-sutherland.com

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