



BRIEFING FOR EMPLOYERS

The Duty You Already Have

Psychosocial risk across the United Kingdom, Europe and the wider world, and what changes before 2028

Peter J Kelly

MSc, BSc, MBPsS · Founder and Director, Being Real

Member of the ISO 45003 drafting panel · Expert convenor, BS 30480

Twenty years at the Health and Safety Executive

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WHY I HAVE WRITTEN THIS

Psychosocial risk is treated in a great many organisations as something that is coming. It is not coming. In the United Kingdom the duty to assess it has existed since 1999, and across most of Europe there is now a named legal obligation with a named method attached to it. What is genuinely coming is the point at which an employer is asked to show its working.

This briefing sets out where the law actually stands, in the United Kingdom, across Europe and in the jurisdictions that have gone furthest. It is deliberately evidenced. Every figure carries its source and its reporting year, and where something is contested or unconfirmed I have said so on the page rather than smooth it over. I have spent twenty years at the Health and Safety Executive and I sit on the panels that write these standards, so I would rather give you the honest version than the comfortable one.

It is written for the people who carry this in practice: heads of occupational health, health and safety and environment, health and wellbeing leads, and the human resources directors who end up holding it when nobody else does.

In short

The United Kingdom has a real duty to assess psychosocial risk, assembled from general provisions rather than stated in any statute that names it.

It has never once been prosecuted. The strongest enforcement action to date is a written finding of material breach against a university in December 2025, triggered by a union complaint.

Three things change before 2028: harassment duties under the Employment Rights Act 2025, a British Standard for workplace health now being drafted, and the revision of ISO 45001.

Across Europe the picture is not one market but three, and a multinational employer cannot assume that one approach satisfies all of them.

Where the duty is hardest and oldest, compliance is still a minority activity. Having the obligation does not produce the assessment.

1. The duty in the United Kingdom

No United Kingdom statute names psychosocial risk. The duty is built from two general provisions, and it is none the weaker for it.

Where it comes from

- **Health and Safety at Work etc. Act 1974, section 2.** A duty on every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees. The load bearing word is health, which has been read to include mental health since *Walker v Northumberland County Council*.
- **Management of Health and Safety at Work Regulations 1999, regulation 3.** A suitable and sufficient assessment of the risks to health and safety to which employees are exposed at work, reviewed when there is reason to suspect it is no longer valid or there has been a significant change, and recorded where there are five or more employees.

The chain is straightforward. Regulation 3 requires assessment of risks to health, health includes mental health, therefore psychosocial hazards must be assessed. The Health and Safety Executive states it in terms on its own website: employers have a legal duty to protect workers from stress at work by doing a risk assessment and acting on it.

Note what is missing, because it matters. No method is mandated, and the standard is reasonable practicability rather than a strict requirement. That is a materially softer instrument than the ones now operating in Brazil, Australia and much of continental Europe.

The Health and Safety Executive Management Standards

The Management Standards give six hazard domains. Following the approach properly will be suitable and sufficient for regulation 3 purposes, which makes it a safe harbour rather than a mandate. An employer may reach compliance another way, but it will have to argue for it.

Domain	What it covers
Demands	Workload, work patterns and the working environment.
Control	How much say a person has over the way they do their work.
Support	Encouragement, sponsorship and resources from the organisation, line management and colleagues.
Relationships	Conflict at work, and dealing with unacceptable behaviour.
Role	Whether people understand their role and are not given conflicting expectations.
Change	How organisational change is managed and communicated.

Source: Health and Safety Executive, *Management Standards for work-related stress*.

2. What the numbers say

These are the current published figures. The reporting year matters on every one of them, and I have given it in each case.

Figure	What it measures	Source and year
22.1 million	Working days lost to work-related stress, depression or anxiety in Great Britain.	Health and Safety Executive, 2024/25
964,000	Total cases, of which 409,000 were new in the year.	Health and Safety Executive, 2024/25
52 per cent	Share of all work-related ill health. Stress, depression and anxiety also account for 62 per cent of working days lost to work-related ill health.	Health and Safety Executive, 2024/25
9.4 days	Sickness absence per employee, the highest recorded in over fifteen years and up from 5.8 days before the pandemic.	CIPD Health and Wellbeing at Work, 2025
41 per cent	Employers naming mental ill health as the leading cause of long-term absence. It is also the second most common cause of short-term absence.	CIPD Health and Wellbeing at Work, 2025
29 per cent	Employers who train line managers to support mental health. Where they do, manager confidence in holding a sensitive conversation rises from 57 to 73 per cent.	CIPD Health and Wellbeing at Work, 2025
£51 billion	Annual cost of poor mental health to United Kingdom employers, of which £24 billion is presenteeism.	Deloitte, published 2024 on 2023 data

The next Health and Safety Executive annual release covers 2025/26 and is scheduled for 19 November 2026.

Two cautions on the figures above

The 62 per cent is the share of days lost to work-related ill health, not of all working days lost. Measured against the total it is 55 per cent. It is worth getting right, because an occupational health audience will notice.

The Deloitte series runs £45 billion in 2019, £55 billion in 2021 and £51 billion in 2023. The cost is elevated well above pre-pandemic levels, and it is not rising. Anyone quoting it as a rising cost is misreading the series. The accompanying return of £4.70 for every £1 spent is a modelled average drawn from a literature review of twenty-six sources, which makes it a credible direction of travel and an indefensible precision.

The figure worth sitting with is the 29 per cent. Sickness absence is at its highest level in fifteen years, mental ill health is the leading cause of long-term absence, and fewer than a third of employers train the line managers who will be the first to see it. The most basic control in the whole field is absent in seven organisations out of ten.

3. Enforcement: what has actually happened

This is the question I am asked most often, and the honest answer is more useful than the alarming one.

The United Kingdom has never prosecuted an employer for work-related stress

There is no conviction, no fine and no case brought on work-related stress or psychosocial risk. Commentators have been predicting the first prosecution since at least 2019 and it has not happened.

What did happen: the University of Birmingham, December 2025

This is the strongest action to date and it is worth understanding precisely.

- Birmingham University and College Union filed a formal complaint with the Health and Safety Executive in April 2024. The Executive inspected in September 2025.
- On 11 December 2025 it issued a Notification of Contravention to the Vice-Chancellor, confirming a material breach of health and safety law on the management of work-related stress.
- The findings were that the university was not following its own stress management policy, that risk assessments had not been completed at College or School level, that assessments were too generic and staff were not involved, that controls were ineffective, and that there was no effective monitoring. The Executive's own wording was that there were clear and significant inconsistencies in the university's management arrangements.
- An action plan was required by 28 January 2026 and corrective measures by 30 September 2026, with the Executive's costs recovered under Fee for Intervention.

Be precise about what that is. A Notification of Contravention is the Fee for Intervention document issued on a finding of material breach. It is not an improvement notice, it is not a prohibition notice and it is not a prosecution. The university itself described it as the lowest level possible. It is nonetheless a formal written finding of material breach on psychosocial risk against a major employer, and the route in was a union complaint. That route will be used again.

The earlier precedent, an improvement notice served on West Dorset General Hospitals NHS Trust, dates from 2003 and is now more than twenty years old.

Sources: Birmingham University and College Union, December 2025; Times Higher Education; Health and Safety Executive freedom of information release on West Dorset General Hospitals NHS Trust.

The contrast worth knowing about

In October 2023, Court Services Victoria was convicted on its own guilty plea, in the Melbourne Magistrates' Court, of failing to provide and maintain a safe working environment under the Victorian Occupational Health and Safety Act 2004. It was fined \$379,157 with \$13,863 in costs.

Between December 2015 and September 2018, staff at the Coroners Court of Victoria were exposed to traumatic material, role conflict, sustained workload and work demands, poor workplace relationships and inappropriate behaviour. Staff reported bullying, favouritism, verbal abuse and intimidation, and took stress leave. Jessica Wilby, the principal in-house solicitor, died by suicide in September 2018 after three months of personal leave with a diagnosis of work-related major depressive disorder. Court Services Victoria accepted that it had conducted no adequate process to identify risks to psychological health.

The difference between Victoria and the United Kingdom is not the size of the problem. It is that one jurisdiction wrote a specific duty that an inspector could enforce, and the other did not.

Source: WorkSafe Victoria, October 2023.

4. What changes before 2028

Three developments will do more to change what is expected of United Kingdom employers than anything in the last decade.

The Employment Rights Act 2025

- **Already in force.** Since 6 April 2026, a disclosure about sexual harassment qualifies as a protected disclosure for whistleblowing purposes. Disclosure channels and how they are handled are therefore already regulated territory.
- **Expected 30 October 2026.** The preventative duty on sexual harassment is raised from reasonable steps to all reasonable steps, and employers must not permit harassment of their employees by third parties such as clients or customers. A ministerial power to specify what evidence-based preventative steps count sits alongside it.

A note on that date. It is confirmed on gov.uk and by Acas, but I could not trace a commencement instrument for it on legislation.gov.uk when this briefing was written. Treat it as announced and expected rather than as already commenced, and watch for the regulations.

A British Standard for workplace health

Sir Charlie Mayfield's Keep Britain Working review reported in November 2025 and has been accepted by government. Its headline findings were that 2.8 million working-age people are economically inactive because of ill health, 800,000 more than in 2019, and that economic inactivity costs the United Kingdom around £212 billion a year. The sharpest single trend in it was a 76 per cent rise between 2019 and 2024 in economically inactive 16 to 34 year olds with a mental health condition.

A drafting panel has now been established at the British Standards Institution to write a Healthy Working Standard, with certified practice targeted for 2029. Over 250 organisations are engaged in the implementation phase. If an employer wants to be in that conversation, the time to be in it is while the panel is sitting.

Source: Keep Britain Working review, final report November 2025, and the government implementation update of June 2026.

The revision of ISO 45001

This is the structural change, and it is the one most likely to be underestimated.

- **ISO 45003**, published in 2021, gives guidelines for managing psychosocial risk within an occupational health and safety management system. It is guidance rather than requirements, so there are no auditable clauses and no accredited certification against it. Its systematic review closed on 3 September 2026 and the outcome has not been published.
- **ISO 45001**, the certifiable occupational health and safety management system standard, is in revision. The Draft International Standard ballot closed on 8 September 2026. Certification bodies are working to publication in 2027 with a three-year transition, and report that psychosocial health and workplace culture have been strengthened in the draft. The draft text is not public, so nobody should state what the published standard will require.

Why this matters more than a directive would

ISO 45001 is certifiable and accredited, and it is already held by organisations in every market discussed in this briefing. If psychosocial requirements arrive inside that certificate, then every certified organisation has an external auditor coming to test them, annually, from the start of the transition. No European directive on any realistic timetable would produce that effect faster.

I sat on the ISO 45003 drafting panel, so treat my reading of where this is heading as informed but interested.

5. Europe is three regimes, not one market

There is no European psychosocial risk directive and there never has been. The Framework Directive of 1989 requires employers to evaluate all risks and to adapt work to the individual, and the European Commission confirmed in 2014 that this applies to mental health, but an interpretative document creates no duty an inspector can act on. What binds an employer is national law, and national law differs sharply.

Group	Countries	What it means in practice
Specific binding provisions	Belgium, Denmark, Sweden, Germany, Italy, France, Portugal, Estonia, Croatia, Hungary, Lithuania, Greece, Norway	Named duties, in several cases named risk factors, and sometimes a reference method. An employer can be told what good looks like.
General duty plus case law	Austria, Ireland, Luxembourg, Malta, Netherlands, Poland, Romania, Slovenia, Finland, Cyprus, Spain, United Kingdom	The duty is inferred from a general obligation to assess risks to health. Real, but nobody can tell the employer precisely what discharging it looks like.
Moving now	Finland 2023, Sweden January 2025, Norway January 2026, Poland November 2026, Spain pending, Italy remote-work module 2025	Six jurisdictions have changed their psychosocial rules inside four years. Any compliance mapping has to be maintained rather than written once.

Classification after the European Trade Union Institute mapping of work-related psychosocial risk regulation in the European Union, 2022, updated for changes since.

The hard mandates, and what each one requires

Country	Instrument	In force	What the employer must do
Belgium	Royal Decree of 10 April 2014, Code on Well-being at Work	1 Sep 2014	A two level risk analysis, at organisation level and at the level of a specific work situation. A statutory prevention adviser for psychosocial aspects and a confidential counsellor. Formal and informal worker request procedures.
Germany	Arbeitsschutzgesetz section 5(3) no. 6, documentation under section 6	25 Oct 2013	Assess psychological strain. All employers, no size threshold. Written documentation of results, measures and effectiveness review. The works council co-determines the entire process, including the questionnaire.
Italy	Legislative Decree 81/2008, Article 28	31 Dec 2010	Assess work-related stress and record it in the risk assessment document. The INAIL method is the reference: an objective indicator checklist first, and a questionnaire only where that flags risk. A remote-work module was added in 2025.
France	Code du travail L.4121-1 to L.4121-3 and R.4121-1	2009 / 2010	Psychosocial risk assessed within the single risk assessment document, updated at least annually or on significant change, with criminal exposure for failing to create or update it. No method is mandated.
Denmark	Executive Order 1406 of 26 September 2020	1 Nov 2020	Six named risk factors, from heavy workload and unclear demands through to offensive behaviour and work-related violence. The inspectorate assesses qualitatively, by interview and observation.

Country	Instrument	In force	What the employer must do
Sweden	AFS 2023:2, replacing AFS 2015:4	1 Jan 2025	Workload, working hours and victimisation, within the systematic work environment duty. A restructure of the regulations rather than a relaxation of them.
Netherlands	Arbowet Article 3(2) and Arbobesluit Article 2.15	In force	Psychosocial workload is a defined statutory category covering work pressure and unwanted conduct, which must sit inside the risk inventory with measures in the action plan.
Portugal	Lei 102/2009, Article 15(2)(f)	In force	Psychosocial risk factors named alongside chemical, physical and biological agents. Textually stronger than Spain or Ireland, and routinely overlooked.

Sources: national statutory texts and regulators; European Commission peer review on psychosocial risk legislation and enforcement, 2024.

Two dated changes worth diarising

- **Poland, 5 November 2026.** The Act of 19 June 2026 amending the Labour Code redefines mobbing as persistent harassment and removes the need to prove intent or a specific psychological consequence. Every employer with ten or more staff must adopt anti-mobbing rules and a procedure covering prevention, detection and remedy with support for the person affected, within six months, so by 5 May 2027. Minimum compensation rises to six times the minimum wage.
- **Spain, 2027 to 2028.** The Council of Ministers approved a draft reform of the occupational risk prevention law on 28 April 2026. It places psychosocial risk explicitly at the centre, extends recognised work-related harm to mental, cognitive, behavioural, social and emotional damage, and requires health surveillance addressing mental health. It has not yet reached the Cortes, and the draft allows a further year to make the specific psychosocial regulation.

What is moving at European Union level

On 2 September 2026 the European Parliament's Employment and Social Affairs Committee adopted a legislative initiative on psychosocial risks, stress and mental health at work, by 41 votes to 12 with 4 abstentions. It asks for binding duties on regular psychosocial risk assessment and prevention planning, a prior assessment before introducing teleworking changes, automated decision-making or monitoring technology, mandatory consultation of workers' representatives, and a reversal of the burden of proof. A plenary vote was indicated for October 2026, after which the European Commission has three months to act or give reasons.

Do not treat it as settled. European employers issued a joint statement in June 2026 opposing a standalone psychosocial directive, and the Parliament asked for much the same thing in 2022 without result. Separately, the European Agency for Safety and Health at Work launches a two-year campaign, Together for Mental Health at Work, on 13 October 2026, and national inspectorates typically align their campaign-year priorities to it.

6. The wider world is ahead of Europe

Employers with operations outside Europe should know that the most prescriptive psychosocial instruments in the world are not European.

Jurisdiction	Instrument	Position	What it requires
Brazil	NR-1, amended by Ordinance 1,419/2024	Obligations in force, penalties stayed	Psychosocial risk must be managed inside the mandatory occupational risk management process and documented in the risk management programme. The Supreme Federal Court stayed the psychosocial penalties in June 2026 for want of clear criteria, the full court upheld that in August, and the stay was extended again on 24 September into late December. The obligations were never suspended, only the fines.
Australia	Model Work Health and Safety Regulations and Code of Practice, 2022	Adopted in every jurisdiction	Identify psychosocial hazards, control the risks and review the controls. Victoria went furthest with standalone Psychological Health Regulations from 1 December 2025, naming bullying, sexual harassment, aggression and exposure to traumatic content.
Mexico	NOM-035-STPS-2018	Fully effective October 2020	Size tiered. Employers with more than fifty staff must evaluate the organisational environment at least every two years, with penalties to roughly twenty-five thousand US dollars.
Japan	Industrial Safety and Health Act, Stress Check Programme	Extension pending	An annual stress check is mandatory for employers of fifty or more. A 2025 amendment removes the threshold altogether, with a commencement date to be set within three years that has not yet been fixed.
Canada	CSA Z1003, National Standard	Voluntary since 2013	The useful control case. Thirteen years of a national psychological health and safety standard with no compliance mechanism behind it.
Chile	Ley Karin, Law 21,643	In force 1 August 2024	Employers must revise their risk matrices to take in workplace violence and harassment, publish a prevention protocol and run tiered training.

The Brazilian position is current as at 25 September 2026 and rests on Brazilian press reporting rather than the court file. It is moving and should be checked before it is relied on.

The global scale

The World Health Organization estimates 12 billion working days lost every year to depression and anxiety, at a cost of around one trillion US dollars in lost productivity, and that 16 per cent of working-age adults had a mental disorder in 2023.

In April 2026 the International Labour Organization published its first global report on the psychosocial working environment, with new estimates of more than 840,000 deaths a year attributable to psychosocial risk factors, nearly 45 million years of healthy life lost, and 1.37 per cent of global gross domestic product.

7. The gap between the duty and the practice

This is the part of the picture that should give any board pause. In the countries with the oldest and hardest obligations, meeting them is still a minority activity.

Country	The obligation	What is actually measured
Germany	Explicit since 2013, all employers, no size threshold, with written documentation a separate statutory duty.	Around 44 per cent of establishments run a risk assessment that includes psychological strain. That is 68 per cent conducting risk assessments, of which 65 per cent factor in psychological strain. Up from roughly one in five in 2015, and still a majority not doing it after eleven years.
France	The single risk assessment document is criminally enforceable and must be kept current.	46.4 per cent of establishments had an up-to-date document. Smaller firms describe it as a formal obligation, meaning paperwork.
Italy	Explicit since 2010, with a free state methodology and, since 2025, a remote-work module.	47 per cent of Italian establishments report having none of the psychosocial risk factors measured, the highest such rate in the European Union. 48 per cent report difficulty complying with safety regulation.
Netherlands	Psychosocial workload is a defined statutory category that must sit inside the risk inventory.	31 per cent of all companies fail to manage work pressure adequately, and between 44 and 54 per cent lack sufficient measures on unwanted conduct. Only 68 per cent have a risk inventory at all.

Sources: German Joint Occupational Safety Strategy survey 2023/24, published June 2025, with the 44 per cent figure derived from the two published percentages; IGAS report 2022-109R citing DARES; European Agency for Safety and Health at Work, ESENER 2024; Netherlands Labour Inspectorate, Arbo in Bedrijf 2024-2025, based on 2,070 company visits.

And the rate of change is slow

The European survey of enterprises on new and emerging risks covers 41,458 establishments across thirty countries. Between 2019 and 2024, among establishments with twenty or more employees, action plans against stress rose from 33 to 39 per cent and bullying and harassment procedures rose from 45 to 55 per cent.

- Six percentage points in five years. Legal obligation is converting into documented action at roughly one point a year across Europe. That is a real and durable direction of travel, and it is nothing like a surge.
- Worker participation in designing prevention measures fell, from 61 per cent to 55 per cent, and 31 per cent of European Union enterprises have no worker representation mechanism at all. Most psychosocial regimes, and the proposed directive, assume one exists.
- The main barrier is not a lack of instruments. Among establishments finding psychosocial risk harder to manage than other risks, 59 per cent cite reluctance to talk openly about these issues. The Netherlands scores best in Europe on having enough information to include psychosocial risk, at 79 per cent, and still has 31 per cent of companies failing to manage work pressure.

That last point is the one I would want a board to absorb. Information is not the constraint. Willingness and follow-through are.

8. What good looks like

If the duty is real, the honest question is what discharging it actually involves. Six things, in order.

Assess the work, not the worker

The largest independent study in this field examined 46,336 workers across 233 United Kingdom organisations and found that individual-level interventions, meaning mindfulness, resilience and stress management courses, relaxation classes and wellbeing apps, produced no measurable benefit across multiple wellbeing indicators. Its author's conclusion was that organisations have to change the workplace and not just the worker, and that if you are seriously trying to improve wellbeing it has to be about working practices.

What the paper pointed to instead was organisational: scheduling, management practice, staffing resource, performance review and job design. That is a psychosocial risk assessment described in different words, and it is the single strongest argument for doing this properly rather than buying an app.

Source: Fleming, W.J. (2024), Industrial Relations Journal 55(2).

The six steps

- **1. Assess against named domains.** In the United Kingdom, the six Management Standards domains give you a defensible framework. Use them as the structure of the assessment rather than as a survey you run once.
- **2. Involve the people exposed to the risk.** This is the control most often skipped and the one inspectors look for. An assessment produced without worker involvement was one of the specific findings against the University of Birmingham.
- **3. Assess at the level where the risk sits.** Organisation-wide averages hide the teams in trouble. Belgium requires a two level analysis for exactly this reason, and it is good practice everywhere regardless of what the law says.
- **4. Document the measures, not just the findings.** In Germany the documentation is a separate statutory duty. In the United Kingdom, regulation 3 requires the significant findings and any groups especially at risk to be recorded where there are five or more employees. If it is not written down, it did not happen.
- **5. Reassess when the work changes, not only on the anniversary.** Regulation 3 already requires review on significant change. The direction of European travel is towards assessment triggered by specific events, including the introduction of monitoring technology or automated decision-making. Restructures, redundancy programmes and new systems are all triggers.
- **6. Test whether the controls worked.** The effectiveness review is what turns a document into a management system, and its absence was the fourth finding at Birmingham. Leading indicators beat lagging ones: waiting for the absence data is waiting too long.

Seven questions a board should be able to answer

1. When did we last assess psychosocial risk, and at what level of the organisation?
2. Which teams came out worst, and what changed as a result?
3. Were our own people involved in designing the assessment and the measures?
4. What proportion of our line managers have been trained to hold these conversations?
5. What is our trigger for reassessing, and did the last restructure meet it?
6. If an inspector asked us to show our working tomorrow, what would we hand over?
7. Who owns this, and is it health and safety or is it quietly nobody?

9. How Being Real can help

Being Real is a specialist workplace mental health consultancy. We translate international standards into practical change, and our authority comes from the evidence and from having helped write the standards themselves.

Service	What it involves
ISO 45003 gap analysis and certification support	Assessing your organisation against the world's first global standard for psychological health and safety at work. Trusted by BT, Rolls-Royce and public sector bodies.
BS 30480, suicide prevention in the workplace	Supporting organisations to implement the British Standard for workplace suicide prevention, including the Royal College of Veterinary Surgeons practice standards integration project.
Strategic workplace mental health advisory	Senior level counsel for human resources teams, boards and leadership on psychological health strategy, policy and regulatory compliance.
Keynote speaking, training and workshops	In person and virtual delivery, from keynotes and panel discussions through to accredited training at every organisational level.

Who you would be working with

Peter J Kelly is an occupational psychologist and the founder of Being Real. He spent over twenty years at the Health and Safety Executive shaping national policy, sits on the ISO 45003 drafting panel, and is the expert convenor for BS 30480, the British Standard on suicide and the workplace.

If this briefing raised a question

The most useful first step is usually a short conversation rather than a proposal. If you would like to talk through where your organisation sits against any of the above, I am happy to do that.

Peter J Kelly · peter@being-real.co.uk · 07384 305508 · being-real.co.uk

If you or someone you work with needs support

This briefing deals with organisational risk rather than individual care. If reading it has raised something closer to home, the following are available in the United Kingdom, free, at any hour.

Samaritans 116 123

Free to call, twenty-four hours a day, every day of the year.

SHOUT Text SHOUT to 85258

A free, confidential, twenty-four hour text support service.

Emergency services 999

If someone is in immediate danger.

Asking someone directly whether they are thinking of suicide does not plant the idea. It opens a door. Ask clearly, listen carefully, act promptly.

Sources and notes

Every figure in this briefing is drawn from the following. Where a claim could not be verified to a primary source, that is stated on the page where it appears.

United Kingdom law and guidance. Health and Safety at Work etc. Act 1974 s.2; Management of Health and Safety at Work Regulations 1999 reg.3; Health and Safety Executive Management Standards and Working Minds; Employment Rights Act 2025 and the gov.uk implementation timeline, updated 25 August 2026; Acas.

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