

Natalie Edwards/Leanne Raven **Opinion**

Mental health and the rail industry



A recent survey by the Rail Safety and Standards Board (RSSB) reveals that 43% of rail employee respondents met the criteria for a clinical mental health condition.

The most frequently reported symptoms were those indicating moderate to severe depression, closely followed by moderate to severe anxiety. Significantly, the results show that rail employees experienced 1.5 times higher rates of anxiety compared with the general population.

These remarkable statistics show that mental health is a significant issue in the industry. Frontline staff have been integral to the ongoing operation of the railway throughout the pandemic. The emergency arrangements put in place to keep the railway going have triggered a closer focus on the rail workforce and collective wellbeing, but it is clear there is still much more that needs to be done.

In this article we explore employers' legal duties in this area, what practical steps employers can take to support their employees, and the expectations of the *Williams-Shapps Plan for Rail* for improvement in this crucial aspect of rail management.

What is the impact on organisations of poor mental health?

Poor employee mental health has a significant impact on organisations. Affected individuals take a much higher degree of sickness absence, which in turn affects an organisation's productivity.

It's estimated that mental ill-health costs transport companies £2,157 per employee per year, and can have an adverse and sometimes devastating impact on team morale and culture. The survey also found that poor mental health had played a role in an accident or incident at work.

From a business perspective, fostering good mental health makes commercial sense. It is likely to mean more productive workforces and fewer accidents.

Beyond this, there is a risk management imperative. Employers have legal duties with respect to their employees' health.

What legal duties do employers have in respect of their employees' mental health?

All employers have a 'common law' duty to take reasonable care of the safety of their employees. This is in addition to a specific general statutory duty to ensure, so far as reasonably practicable, the health, safety and welfare at work of all their employees.

This general duty is set out in the Health and Safety at Work etc Act 1974, and more specific duties are imposed on employers under the Management of Health and Safety at Work Regulations 1999 (Regulations).

For entities holding safety authorisations or safety certificates under the Railways and Other Guided Transport (Safety) Regulations 2006 (ROGS), there are additional considerations to ensure the ongoing safe discharge of their safety management system.

In relation to persons undertaking safety-critical work, there are also specific ROGS obligations to ensure, so far as reasonably practicable, that those persons are and remain competent and fit to carry out the work. This is vital context.

The Regulations and ROGS, both of which are heavily enforced by the Office of Rail and Road (ORR), require employers to undertake "suitable and sufficient" risk assessments of the health and safety risks

posed to employees at work, in order to identify measures that the employer needs to take to comply with its duties.

Traditionally, assessments have emphasised physical safety, but employers must also take account of potential risks to employees' mental wellbeing.

And the assessment should not be a static 'snapshot' but a dynamic monitoring tool: employers should review assessments if they suspect that there have been any significant changes or other reasons which would mean the assessments are inaccurate.

The current pandemic highlighted the need to monitor risk in a rapidly changing landscape. It also showed that employees who risk themselves by coming to work have high expectations that their employers will take extensive measures to protect them. Essentially, employees who went the extra mile in keeping services going expected their employers to reciprocate.

Employers also need to keep in mind the application of discrimination law in relation to mental health. In circumstances where the mental health condition has a substantial and long-term adverse effect on an individual's ability to do normal daily activities, mental health issues may meet the criteria of a disability under the Equality Act 2010. "Long-term" means that the condition has lasted or is likely to last 12 months or more.

It is not uncommon for depression and anxiety to be deemed disabilities. Where an employee suffers from a disability, their employer is under a duty to make

reasonable adjustments.

For example, if a station employee finds that their condition is worse at certain times, an employer could consider adjusting working hours or changing shift patterns.

Failure to make reasonable adjustments can lead to a discrimination claim, as can any widespread measures an employer puts in place that directly or indirectly disadvantage someone with a disability.

What practical steps can employers take?

Create a supportive environment:

Practically, employers can signpost employees to the various support systems in place, such as counselling services, employee assistance programmes, mental health first aiders or advice on wellbeing.

Employers should ensure wellbeing programmes are widely publicised to all staff. Creating a supportive and open culture should encourage people to speak up and share that they are struggling, and in turn help to break down residual social stigma surrounding mental health issues.

The RSSB suggests additional helpful measures, specifically for vulnerable employees, such as ringfencing time for line managers, union representatives, and wellbeing champions to contact those who are at risk.

Implement effective management:

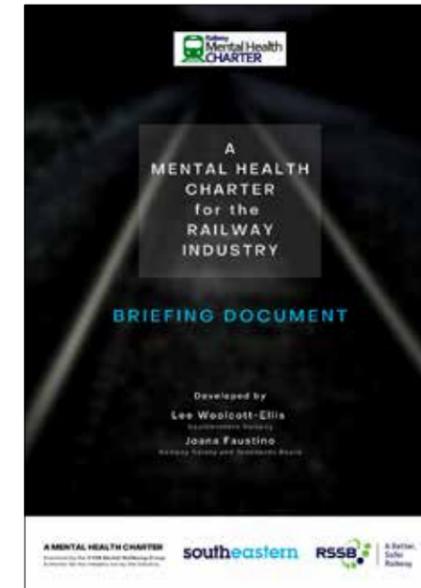
Training managers on identifying mental health issues and how best to support employees is critical. Managers who are properly briefed and who are sensitive to the key flags of deteriorating mental health can be the front line of defence in protecting exposed individuals, supporting their recovery and reducing legal risk for an employer.

Training should extend to effective management of sickness absences more broadly - for example, conducting 'back-to-work' meetings when an employee is certified as fit to return by their GP (or a company's own Occupational Health Specialist).

A back-to-work meeting is an ideal forum to discuss whether any adjustments need to be made to working patterns or environment. Managers should also be encouraged to maintain a dialogue with HR, who can assess whether an individual should be referred to generalist or specialist Occupational Health services.

The RSSB suggests undertaking an organisational stress risk assessment. This may allow employers to understand hotspots of stress or trends in sickness absence.

For example, if staff in a particular team



Railway Mental Health Charter

have consistently higher rates of sickness absence than other teams, an employer should investigate the underlying reasons and take action.

Are they under-resourced and overloaded, consequently being signed off with stress? If so, consider work allocation and resourcing reviews, and ensure you understand how the team is managed. Is it because of a toxic team culture? Employers may need to undertake investigations and discipline wrongdoers.

Recognise good work: Put simply, recognition is important. Managers should always ensure that they recognise and praise hard work, to remind employees that they are valued and that their contribution makes a difference.

What impact will the Williams-Shapps Plan for Rail have on mental health in the rail industry?

The *Williams-Shapps Plan* highlights the importance of an inclusive and diverse culture in the rail industry. If this cultural transformation is achieved (notwithstanding a temporary period of some uncertainty), it will have a positive impact on mental health.

An optimistic outcome would be that by working in an inclusive and diverse culture, good mental health could be better sustained, and we would see a drop in the issues revealed by the RSSB survey. We might also, with this new ethos, see a culture where employees feel able to speak about mental health conditions, seek help, and be better supported.

As the formation of Great British Railways will entail the joining of employees from multiple existing organisations, and the recruitment of a

more diverse workforce, these employees will bring with them fresh ideas, initiatives and tips from their previous organisations.

However, the creation of a new industry model and migration of existing arrangements into a new entity may well also cause stress and anxiety. Therefore, this is a time when organisations will need to be fully alive to mental health.

RSSB identifies a number of risk factors at work which may pose challenges to mental health. These include: identifying as having a disability; physical health problems; single and divorced marital status; and identifying as bisexual.

If the *Williams-Shapps Plan* achieves its ambitious goal of creating a genuinely diverse workforce, these characteristics should (theoretically) cease to be 'risk factors' for mental health.

Williams-Shapps promises investment in skills, training and leadership across the rail sector, to foster greater collaboration, improve productivity and encourage innovation. Being valued, invested-in and up-skilled will (if done well) naturally have a positive impact on mental health.

As identified in the RSSB survey, two of the key factors for improving mental wellbeing are feeling that one's work is useful and having a positive social environment. These elements of the *Williams-Shapps Plan* will feed into those important factors.

As we know, the *Williams-Shapps Plan* is ambitious in what it aims to achieve in respect of the rail industry's people. Alongside the positive impacts these changes may have on mental health, there are inevitably some adverse ones.

The desire to modernise will result in a drive to reduce operating costs where possible, which will mean staffing is scrutinised and ultimately redundancies are made.

Driving cost efficiencies in the industry is a message that has started coming from the very top in recent months. In collaboration with the ORR, the Government will likely introduce reporting requirements on staff productivity and pay.

On an individual level, employees may feel the added pressure and the looming prospect of finding themselves in a selection pool for redundancy. These types of pressures will, in themselves, lead to added stress and strain mental health. ■

About the author

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