

December Mental Health & DIVERSITY, EQUITY, AND INCLUSION UPDATE

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'I've never met an HR department that's overstuffed'

As stress and burnout reigns, HR leaders must protect their people and their own mental health simultaneously.

With burnout on the rise, HR leaders and employers are having to come up with ever more eclectic ways of supporting their people whilst also safeguarding their own mental health. But why is stress so heightened right now? And, more importantly, how can leaders leverage their position to help ease the burden on employees?

Speaking to HRD, Julie Develin, Sr. Partner, HCM Advisory & Human Insights at [UKG](#), says that a lot of the pressures people are feeling right now stem from economic and societal challenges. "I think a lot of it has to do with the world we live in," says Develin. "I wouldn't even say it's as much about work alone so much at this point. If you look at the economic instability so many folks are going through, that we're all going through as a collective society, look at job insecurity and the changes that are going on in the world - I think that, among many other factors, definitely contributes to a heightened sense of stress."

'Line between work and life has been completely blurred'

And for HR leaders, the issue is twofold. While it's part and parcel of the job to protect employee wellbeing, it's also essential that practitioners look after their own mental health – something that's made even more difficult with growing workloads.

"[There's a lot of expectations on HR leaders](#)," says Develin. "There are so many employees that are facing heavier workloads these days – that line between work and life has been completely blurred because of 24/7 connectivity. There's this pressure to be constantly on, constantly responsive."

So, what can employers do to further protect their HR teams? Develin thinks leaders need to stop being inadvertently patronizing in their advice.

“When we talk about self-care and someone suggests ‘going for a walk’ or ‘journaling’ – it drives me a little crazy,” she tells HRD. “Don’t get me wrong—this may work for some people, but it is not a universal fix. Self-care is such a personal thing, so for an employer to tell an employee to ‘take a stroll and it’ll make you feel better’ – in some ways that might do more harm than good.

“One thing that that employers can do is be cognizant of the workload that they’re placing on HR. I always say I’ve never met an HR department that was overstaffed – so ensure that the headcount is there. Conduct regular check-ins and provide a safe space for HR professionals to discuss their workload to discuss their challenges and their wellbeing.”

According to research from The Workforce Institute at UKG, 69% of employees say their managers have the greatest impact on their mental health – more so even than their doctor (51%) and their therapist (41%). But the issue isn’t as silent and unseen as many employers believe it to be. While it can be initially difficult to spot the signs of poor mental health in teams, one way of assessing it entirely is by being sensitive to a psychologically unsafe workplace.

“I think a workplace with poor psychological safety may also have a lack of diversity and inclusion as well,” adds Develin. “This means that these organizations are less likely to attract and also to retain a diverse workforce. When it comes to poor psychological safety, employees tend to avoid interactions - they’re more likely to feel anxious, feel stressed and will eventually leave.”

<https://www.hcamag.com/ca/specialization/hr-technology/ive-never-met-an-hr-department-thats-overstaffed/466349>

How to Heal After a Toxic Incident at Work

There are four distinct phases to the aftermath of a toxic work incident, and each requires its own set of strategies and coping mechanisms. Many mistakenly believe that, once they report a situation or incident, they’ll experience relief, but find they continue to feel...more

When you’re the target of a discriminatory or hostile incident at work, it not only shakes your sense of psychological safety; it raises critical questions about how you should address the situation. An incident with a toxic coworker or manager can reveal the cracks in your sense of belonging, and you may feel pressure to forfeit protections you’re entitled to in order to be seen as a “team player.”

Many mistakenly believe that, once they report a situation or incident, they'll experience relief, but find they continue to feel and process the aftershocks of what happened even years later. Others find it hard to fully move on, wondering why they remain exhausted and still carry the weight of the event with them.

Consider Leila*, a manager in professional services. She didn't report a case of workplace discrimination, where her direct supervisor made racist and sexist comments, assuming her allegations wouldn't be taken seriously. She then spent the next 16 months looking for a new role but felt guilty that she should have reported to benefit those coming after her.

Or Asha, a lawyer who reported an incident of sexual harassment and moved on to another firm after a small settlement. Three years later, she still constantly questions her new colleagues' intent and actions. She wonders if what happened at her old firm is happening again. Then there's the senior public official,

Gloria, who filed a discrimination complaint after being passed over for a promotion based on her gender and still feels the physical stress and anxiety of having made her claim. Five years later, people in her workplace question her loyalty, even though she won her case.

There are four distinct phases to the aftermath of a toxic incident, and each requires its own set of strategies and coping mechanisms. Here, we'll unpack the difficult emotions that accompany each phase and show how the people interviewed worked through them. For business leaders, there's vital insight to be gained in recognizing these phases — both for lessening the detrimental impact of the reporting process and for providing ample support to employees who, at considerable personal risk, voice their concerns to enhance organizational culture.

Phase One: Deciding Whether to Report

If you've arrived here, something has happened — something that's made you question your safety or well-being at work. When deciding whether to report, start by asking yourself these three questions:

1. How does my organization handle HR issues?

Before you report an incident, it's important to understand your company's culture. Are there clear reporting protocols and processes in place? How have similar issues been dealt with in the past? Will your claim be investigated internally or will an outside agency be retained? The answers to these questions can be helpful in weighing the personal risk of reporting against the possibility of change.

2. What outcome am I seeking by reporting the issue?

It's equally important to understand your own motivations for reporting. Is there a specific outcome you want? Is it more about feeling heard? Are you looking for financial or another type of recompense? Are you hoping for the violator to be punished or fired? Being clear about the desired outcome empowers you to assess trade-offs and risks more confidently.

3. Do I have support and good counsel?

Do you have executive backing for raising this issue? Do you have someone with legal and HR knowledge guiding you? If the action you're reporting is blatantly illegal and you have supervisor or team support, the complaint will likely be taken more seriously. However, if you're reporting something more subtle, and there isn't a consensus around it, it may be easier for the organization to bury or discredit the complaint.

The dominant emotions in phase one are anger, disbelief, and disappointment in the system — all of which require a safe space to be heard and validated. Even if you choose not to report, it's still necessary to come to terms with what happened and the doubts and fears it raises.

Colleen Ammerman, director of the Harvard Business School Race, Gender & Equity Initiative, points out that even if a formal report or complaint doesn't seem viable, you're not powerless or without options. "Being treated poorly by your employer can be devastating, but it gives you invaluable information about how to manage your career in that environment," Ammerman said. "Will your manager work with you to mitigate the harm you're experiencing, if you don't want to use formal channels? If it's your manager who's violating policy or the law, do you have mentors who can help you move to another team, or colleagues who are willing to stick up for you day to day?"

With effective informal support, you might choose — on your own terms — to stay at your organization and achieve goals that are important to you. But it's important to assess whether that support is there. Without either formal or informal ways to address your experience, you may realize that the company is fundamentally unable or unwilling to value you and decide that a departure is the strategic option.

Phase Two: The Crucible of Reporting

If you decide to report, there's no substitute for a clear paper trail and witnesses to back up your assertions. Objective, clearly established evidence will be the best defense against any potential [gaslighting](#) and retaliation. The most important piece of advice to anyone who has decided to report is: document, document, document. Consider Anna, who works for a large advertising agency. She said that after she reported one of her managers for making racist comments about their clients, HR asked her multiple times if the conversations were recorded or documented instead of taking steps to interview others directly.

Ideally, you'll write down incidents as they happen. Take note of what was said or done and whom you spoke with, then email that to yourself so you have recorded time stamps. These notes can serve to jog your memory down the line and act as a timeline during legal or HR discussions.

It's critical to have a strong emotional support system (outside of legal counsel) during this phase of the process. Investigations can often be drawn out and time consuming. You might be made to feel you have to defend yourself — like you're the one in trouble. The participants in my research typically say it takes anywhere from two weeks to six months to investigate and resolve a complaint fully.

While reporting can effectively drive change or consequences for inappropriate behavior, it rarely fully sets things right. Many people find the process itself disconcerting. Most of the time, it raises uncomfortable questions about whether HR is there to protect the company from liability or its employees from harm. Many who come forward feel shifts in support after reporting. For some, strong retaliation occurs, but for others, it can feel like a more subtle erosion of belonging. In this phase, having one's credibility and motives repeatedly interrogated can cause feelings of helplessness, rage, isolation, shame, and disappointment in the reporting process.

Phase Three: From Aftershocks to Healing

Many people go down a long path of recovery to fully process what happened to them. These individuals feel an unshakable sense of loss and grief. Reporting often puts people face to face with a gnawing disenchantment around their work lives. Some struggle with self-doubt, questioning if it was worth speaking up and worrying about unforeseen penalties.

I've found that, for many women, going through the reporting process brings up latent feelings of trying to exist and lead in cultures that don't see, value, or celebrate them. In this phase, the dominant emotions are impatience, frustration, and exhaustion.

Like Asha and Gloria, most people expect to feel better after reporting, and they can't fully reconcile or understand the lingering emotions and aftershocks that still exist even years after their incidents. Many of the individuals who reach out for advice or coaching need to be reminded that there's nothing wrong with them and that they're not weak or broken if they're still processing events that happened in the past.

Individuals impacted by workplace toxicity must look outside their organizations for help moving forward:

Find support in others and scenario plan

Understanding what's possible during and after the reporting process can help you plan your next move. Most people I interviewed sought out advisors, coaches, therapists, and even outside counsel to talk through options. Some employees sued their organizations after internal processes failed them. Many individuals engaged in thorough scenario planning. Coaching is particularly helpful in this phase to generate ideas about how to move forward.

This can also be a good time to decide if you can stay and become successful in your organization or whether you need to consider an exit. You don't have to leave right away, but having options gives many people a greater sense of agency.

Sharing their stories and realizing they weren't alone also helped many of the individuals interviewed feel less isolated, fearful, and overwhelmed. Amelia, a product manager, described, "I had no idea that sharing my story and hearing from others would be the thing to set me free."

Find ways to process grief and loss

The stress individuals feel builds during and after the reporting process. Many people questioned whether it was worth coming forward, often second-guessing every step they took during the investigation. They replayed their conversations repeatedly. Did I share enough? Did I wait too long to come forward? How a person negotiates the aftereffects of a toxic event can be much more defining than the situation itself.

Where they could, the individuals who came forward took time off. Others incorporated movement, [being in nature](#), or working with a [somatic](#) therapist. They found some way to process the emotions in the mind and body, and they layered in small acts of joy to move past feelings of loss and overwhelm toward healing and forward momentum.

Phase Four: From Bounce back to Comeback

For most people, reaching the other side of a toxic event is not a fixed process, and individuals may move through the four phases at their own pace, experiencing setbacks and progress along the way. The journey typically spans several years and frequently unfolds in unpredictable ways.

For most people, I've found that the timing of the process looks something like this:

Phase 1, Day 1–6 months: Deciding whether to report

Phase 2, 2 weeks–6 months: The crucible of reporting

Phase 3, 6 months–2 years: Aftershocks to healing

Phase 4, 2 years+: Bounce back to comeback

Although the healing process is heavy and can be convoluted, there are success stories of people making a full comeback after facing a toxic situation. Once people get to this stage, they typically begin to feel relief, resolve, and cautious optimism.

Consider the leader who reported a pattern of gender discrimination and left because her company didn't take appropriate action. She's now the CEO of a social impact brand. She feels healed because she's creating her own culture where behaviors matter. Or consider the senior partner in a law firm who sought out coaches and advisers and now hosts a community for other women to share their stories related to toxic work incidents. Or the nonprofit manager who reported her organization's leader but was initially dismissed. She was able to remake her case two years later when 12 of her colleagues came forward with similar stories. The organization fired the leader and put new reporting processes in place.

Leticia Garcia, an executive coach and associate director of the Harvard Business School's Leadership Initiative, believes the lessons people learn living through the reporting and healing process cannot be underappreciated. She says, "Everyone's bounce back to comeback is unique. It can take time, but there is learning and wisdom on the other side."

Years after they reported and processed the emotions around the event, most people said they learned key skills they value and depend on now. They take space before reacting to triggering events at work. They seek agency even amid hostile dynamics, and they protect their peace

while meeting harsh realities head-on. Many made future employment choices based on what they learned, looking to avoid the same situations, while others acted more quickly if they faced toxicity again in the workplace (or in their lives in general). Some changed the course of their entire career because of what happened to them.

<https://hbr.org/2023/11/how-to-heal-after-a-toxic-incident-at-work>

One in seven HR leaders think men are better suited to management jobs, research reveals

Report also finds one in five senior people professionals would be reluctant to hire a woman they think might go on to start a family.

Fifteen per cent of HR decision makers believe men are better suited to top-level jobs than women, [a new report by the Young Women's Trust](#) has revealed.

The research – part of the charity's annual survey looking at the employment experiences of young women – also found that one in five (19 per cent) of the almost 1,000 HR leaders surveyed said they would be reluctant to hire a female employee whom they thought might go on to have children.

Additionally, more than a third of HR decision makers said they were aware of instances of young women being discriminated against, and that sexist behaviour still existed in their organisation.

Alesha De-Freitas, director of policy at the Fawcett Society, told the Guardian: "It is shocking that HR managers still believe that men are better suited to senior management than women. "This then funnels through to all of women's experiences at work, from pay discrimination to unfair treatment around contracts. No wonder there is [no prospect of the gender pay gap closing for at least another 28 years.](#)"

The report also surveyed 4,000 young women aged 18-30 and found that, in the past year, 50 per cent had experienced discrimination in the workplace. And this discrimination is on the rise, with just two in five (42 per cent) reporting they had experienced sexism at work the previous year.

In addition, a quarter (23 per cent) of young women said they were being paid less than their male peers for the same work – a practice that is against the law.

The research comes as a separate study released to mark Equal Pay Day last week (22 November) found [women in their forties would not see gender pay equity in their working lifetime](#), with parity not expected until 2051.

Claire McCartney, senior inclusion adviser at the CIPD, said it was also "concerning" that around a quarter of 18 to 40-year-old UK HR managers surveyed agreed that men were better suited to senior management jobs than women.

"While we have made positive strides towards gender equality and addressing barriers, this finding shows that we have much further to go," she added.

Sunita Harley, inclusion and professional development consultant at Collective Insight, told People Management this discrimination can take many forms, some "indirect and more subtle" and others "direct and more overt".

She said: "Some young women at the start of their careers could feel restricted in speaking up about any non-inclusive behaviours depending on whether their manager has built trust with them, or the level of hierarchy or power dynamics in their team."

The report also found that half (49 per cent) of young women were worried about not having enough opportunity to progress at work, rising to almost three in five (57 per cent) racially minoritized young women.

More than a quarter (28 per cent) of HR decision makers agreed that it was harder for women to progress in their organisations than men.

"It is important that all employees and managers are educated about how discrimination can show up in workspaces, whether it's online or in-person environments," Harley said.

She emphasized the importance of young women feeling able to be open about their experiences of discrimination. "It is key that HR professionals work closely with managers, diversity and inclusion teams and networks to create safe spaces for early career employees to share any concerns or examples that have negatively impacted their careers, progression or personal confidence," Harley explained.

Salaries were found to be often left open to negotiation, which disadvantages women and other vulnerable groups, according to the Young Women's Trust.

The charity found that 46 per cent of employers regularly advertised jobs without a salary, while half asked applicants about their current salary during the application process.

Despite the barriers faced by young women, the Young Women's Trust reported that some progress was being made within organisations – more than half (57 per cent) of employers offer programmes to support the development of young women, an increase from 51 per cent last year.

Flexible working is now offered by 80 per cent of employers, according to the charity, something that 84 per cent of women said was important to them.

Watson said HR has a “critical” role in addressing and preventing discrimination against young women in the workplace by implementing inclusive policies, fostering a supportive culture and actively working to eliminate biases.

<https://www.peoplemanagement.co.uk/article/1849380/one-seven-hr-leaders-think-men-better-suited-management-jobs-research-reveals>

Are Diversity, Equity, and Inclusion Initiatives Helping Workers—or Dividing Them?

BU researchers find few workplace DEI programs robustly track their impact, but that successful efforts have a handful of elements in common.

Diversity, equity, and inclusion (DEI) programs have failed. Or at least that was the claim of Texas lawmaker Brandon Creighton, when he introduced a bill that would ban DEI offices and training programs at public universities. Diversity was an important aim, [the state senator said](#), but DEI programs have “often worked against the true goal of diversity and equality, only furthering divides and creating sometimes a chilling effect on open dialogue.” The bill, which was passed into law this year and becomes effective January 2024, is one of [dozens around the country](#) clamping down on DEI initiatives in education.

DEI isn’t only endangered on college campuses, though. Some corporations have cut back on their commitments, too, [paring down dedicated equity-focused positions](#)—many only founded in the aftermath of the 2020 murders of Ahmaud Arbery, Breonna Taylor, and George Floyd—in the face of political opposition or tightening budgets.

One issue for those who want to make the case for keeping—even expanding—diversity programs is a lack of evidence pointing to their impact. In a new study [published in Translational Behavioral Medicine](#), Boston University researchers found very few workplace DEI initiatives have been tracked or monitored with peer-reviewed studies. After conducting a systematic review of research on DEI and antiracism trainings between 2000 and 2022, they discovered many studies only followed limited one-time trainings, measured results with less than 100 people, or didn’t have control groups—giving them no comparison between people who attended a workshop and those who didn’t.

Monica Wang, an SPH associate professor of community health sciences, says DEI trainings “grounded in theory...tended to have more significantly improved outcomes.”

“Most of the studies didn’t utilize randomized designs, which are the strongest studies, and most also had majority female participants,” making it hard for researchers to pull conclusions that apply to a wide population, says [Monica Wang](#), a study coauthor and BU School of Public Health associate professor of community health sciences.

But from the handful of robust studies, the researchers did spot some patterns that marked out successful DEI programs, allowing them to make recommendations for organizations and researchers, including replacing one-and-done trainings with longitudinal programs, using curricula that go beyond knowledge to sharing skills for implementing change, and examining impact with validated assessments.

“Trainings that were grounded in theory, those tended to have more significantly improved outcomes than those that only used a single session training or that weren’t grounded in theory at all,” says Wang. “It’s encouraging to see these trends, even though the sample size is small.” (For those wondering, [BU’s Diversity & Inclusion team](#) offers regular learning events, customized training and workshops, self-guided education, and more.)

The Brink talked with Wang about why we know so little about what works when it comes to DEI initiatives, the opposition to antiracism efforts, and how focusing on inclusion could improve employee health and retention.

<https://www.bu.edu/articles/2023/are-diversity-equity-and-inclusion-initiatives-helping-workers/>

You’re not imagining it: the workplace is becoming more hostile for women

Thousands of young women have reported feeling undermined, underpaid and overlooked at work in the past year.

When it comes to our right to [work](#), without [discrimination](#) and with [equal pay](#), it seems women have been fighting an uphill battle since the dawn of time. Yes, we’ve had some major wins along the way, but it’s hard not to feel like howling at the moon when you hear that once again we’re seeing an uptick in gender-based discrimination in the workplace, as revealed in a new study by [Young Women’s Trust](#).

The charity’s annual survey of 4,000 women aged 18-30 found that 50% have experienced discrimination at work, a jump from 42% last year. Worse still, 25% are suffering in silence, feeling unable to challenge the sexist comments, dismissive behaviour and salary inequality they’re facing day in, day out.

Sarah*, a young woman from London who shared her experiences as part of the study, said that inappropriate comments made by her manager based on her gender damaged her [mental health](#) and seriously knocked her confidence. “I was told I was ‘emotional’ or ‘dramatic’ when I raised concerns about projects in meetings,” she said. “I was left off key documents on projects that I initiated, and when asked to lead meetings, I had management disrupt and take over.”

Constantly being undermined and underestimated has a huge knock-on impact, not just on our ability to be heard and respected at work, but also on our earning power. A worrying 23% of women told the Young Women’s Trust that they are being paid less than their male peers for the same work, despite the fact that this is illegal, and almost half are worried about not having enough opportunities to progress.

Their firsthand experiences have been backed up by feedback from HR decision-makers across the country, with more than a third admitting that they’ve seen instances of young women being discriminated against in the past year, and confirming that sexist behaviour still exists within their organisations.

In the face of these frustrating truths, it’s little wonder there’s been a rise in women re-evaluating their relationship with the traditional workplace – from [‘quiet quitting’](#) to an uptick in [entrepreneurship](#) – but turning our backs on a broken system shouldn’t be the only answer. It’s why the Young Women’s Trust is focusing on empowerment through education: encouraging us to [know our rights at work](#) and feel able to recognize when we’re coming up against a sexist barrier and call it out.

“We know it’s hard for young women to get the jobs that they want because of barriers such as a lack of flexible working and affordable childcare, but then when they do enter the workplace, discrimination and a lack of support to progress create this broken rung on the career ladder,” says Claire Reindorp, chief executive of Young Women’s Trust. “It’s a travesty that in 2023, young women still aren’t being given the same chances in life as young men.”

The charity is calling on the government and employers to commit to ending discrimination for good, creating better job security for young women and ensuring fair and equal pay once and for all – and we are right behind them. Here’s to a better working future for us all in 2024.

<https://www.stylist.co.uk/life/careers/sexism-discrimination-work-rise/844974>

The Hidden Cost Of Workaholism On Employee Health And Well-Being

A recent study suggests that being addicted to work contributes to higher levels of stress and could cause individuals to neglect their physical and mental health.

A recent study [published in the Journal of Occupational Health Psychology](#) suggests that there are alarming consequences to being addicted to work.

This behavioral study, led by Professor Cristian Balducci at the University of Bologna, states how physical and mental well-being could be negatively impacted by an excessive and compulsive preoccupation with work, which is characterized as going beyond having a strong work ethic.

The study suggests that being a workaholic, or being addicted to work at this high degree, often contributes to the neglect of one's mental and physical health, relationships, and leisure activities. More specifically, Balducci suggests that workaholics not only feel unwell while working but also face a heightened risk of severe health issues, including burnout, cardiovascular problems, and in extreme cases, even death from overwork.

“The negative mood observed in workaholics may indicate elevated daily stress levels and that could be the cause of the higher risk for these individuals to develop burnout and cardiovascular problems,” Balducci [states in the report](#). “Furthermore, considering that workaholics often hold positions of responsibility, their negative mood could readily influence that of colleagues and co-workers. This poses a risk that organizations should seriously consider, intervening to discourage behaviors that contribute to workaholism.”

In an era where the boundaries between work and personal life are increasingly blurred, especially with the rise of remote and hybrid work models, the risks associated with workaholism could become more pronounced.

The study is a reminder of the increasing demands of the workforce to balance dedication to work with personal health and well-being. There is also a growing need for companies to develop work environments that prioritize work-life balance and employee well-being to boost their attraction and retention of top talent. This could involve implementing flexible working hours, encouraging time off, and/or providing support for employee mental health.

<https://allwork.space/2023/11/the-hidden-cost-of-workaholism-on-employee-health-and-well-being/>

American workers are 'unhappier at work' than they have been in years as inflation, remote work take its toll

'There's zero humanity,' one consultant working remotely said of not seeing co-workers.

'Shark Tank' star Kevin O'Leary says Silicon Valley Bank's statement blaming remote work for its failure is 'a falsehood' and says it collapsed because of a 'negligent board and idiot management.'

American workers are reporting that they are the most unhappy they have been in years, despite "wage increases, more paid time off and greater control over where they work," per [The Wall Street Journal](#).

The Journal referenced a [Gallup workplace report](#) from 2023 that found "the number of U.S. workers who say they are angry, stressed and disengaged is climbing." Another BambooHR study found similarly that data from "more than 57,000 workers shows job-satisfaction scores have fallen to their lowest point since early 2020, after a 10% drop this year alone."

American workers are reporting that they are the most unhappy they have been in years, despite "wage increases, more paid time off and greater control over where they work," per The Wall Street Journal.

[Inflation, which has eaten away](#) at nominal wage gains, work-life balance and remote work have all taken a toll on employees. "People chafe against being micromanaged back to offices, yet they also find isolating aspects of hybrid and remote work. A cooling job market—especially in white-collar roles—is leaving many professionals feeling stuck."

"You try to keep work and home separate, but that sort of stuff is just impacting your mental health so much," Lindsey Leesmann said after she left a job that required her to be in the office two days a week.

Some companies have tried to solve work dissatisfaction among employees by "spending on employee benefits such as mental health, child care and well-being bonuses by 20% over the pandemic years."

"All that extra spend has not translated into happier employees," Stephan Scholl, chief executive of Alight Solutions, [told The Journal](#).

"In an Alight survey of 2,000 U.S. employees this year, 34% said they often dread starting their workday—an 11-percentage-point rise since 2020. Corporate clients have told him mental-health claims and costs from [employee turnover](#) are rising."

"Long-distance relationships between bosses and staff might also be an issue," The Journal wrote, with some workers feeling isolated.

"One Los Angeles-based consultant in his 20s, who asked to remain anonymous because he is seeking another job," per WSJ, "said that when he started his job at a large company last year, his largely remote colleagues were focused on their own work, unwilling to show a new hire the ropes or invite him for coffee."

One issue was a lack of basic human interaction: "Many leave cameras off for video calls and few people show up at the office, making it hard to build relationships."

<https://www.foxnews.com/media/american-workers-unhappier-work-they-have-been-years-inflation-remote-work-take-toll>

Employees who feel a strong sense of belonging are more productive at work

A new study conducted by the [Achievers Workforce Institute](#) (AWI) found that a sense of belonging plays an essential role in employee productivity and wellness. Employees who feel a strong sense of belonging are seven times more likely to say they are productive at work.

Despite this, "the number of employees with a strong sense of belonging is roughly a quarter (26%) of the workforce," Hannah Yardley, Chief People and Culture Officer at Achievers said.

According to the study, the benefits that lead to the strongest sense of belonging in the workplace include unlimited vacation, access to a digital pharmacy, tools that connect employees to their coworkers, [childcare support and](#) always-on listening tools, such as an AI chat bot. "When individuals feel they belong, they are more engaged, motivated and willing to collaborate effectively within teams," Yardley said.

The study found that employees who have unlimited vacation time were 43% more likely to feel a sense of belonging at work. They also reported higher levels of engagement, job commitment and productivity.

The best way to increase employees' sense of belonging in the workplace is to avoid a one-size-fits-all approach to benefits, the study found. "We're increasingly seeing employees demand and expect a personalized work experience. This includes rejecting a one-size-fits-all approach to benefits," Yardley said.

For example, the study found that egg freezing and caregiving support did not increase male employees' sense of belonging, even though it raised women's sense of belonging by 22% and 45% respectively.

In addition to differences among gender, employees with disabilities reported that unlimited vacation time and pet insurance were among the most important for increasing their sense of belonging at work. "When assessing what benefits to prioritize, as HR leaders, we have to think about our employee population and what's going to have the biggest impact for the people on our teams," Yardley said.

<https://www.benefitspro.com/2023/11/28/employees-who-feel-a-strong-sense-of-belonging-are-more-productive-at-work/>

Employers Discriminate against Job Applicants with Black-Sounding Names, Study Indicates

In a study published earlier this year, Assistant Professor of Economics [Martin Abel](#) found employers are less likely to call back job applicants with Black-sounding names when presented with identical resumes.

The [research paper](#) was coauthored by Abel and fellow economist [Rulof Burger](#) and was based on a hiring experiment.

“Using nationally representative data,” write the two scholars, “we find widespread beliefs that people with names perceived to be Black possess lower levels of education, productivity, and noncognitive skills.” Specifically, they concluded that participants were some 30 percent more likely to hire workers perceived to be white compared to Black.

“We found that participants systematically discriminated against job candidates with names they associated with Black people, especially when put under time pressure,” wrote Abel in a piece published in [The Conversation](#) in September. “We also found that white people who oppose affirmative action discriminated more than other people against job candidates with distinctly Black names, whether or not they had to make rushed decisions,” he continued.

To conduct the study, Abel explained, they recruited a group of 1500 people from across the US. “The group,” he added, “was nationally representative in terms of race and ethnicity, age, and gender.” The experiment involved collecting data about attitudes within that group toward the “race and ethnicity, education, productivity, and personality traits” of names selected from a pool of workers previously hired for a particular task.

Furthermore, after being presented with pairs of names, participants were also offered incentives for selecting the worker they thought would be more productive in a particular task. “The chance that they would choose job candidates they perceived to be white because of their names was almost twice as high than if they thought the candidates to be Black,” wrote Abel. “This tendency to discriminate against people with Black-sounding names was greatest among men, people over 55, whites, and conservatives.”

The first step toward reducing this type of discrimination, he suggested, might be to slow down the initial assessment of applicants as part of the hiring process.

<https://www.bowdoin.edu/news/2023/11/employers-discriminate-against-job-applicants-with-black-sounding-names-study-indicates.html>

Making mental health days work

Emma O'Connor explains how HR professionals can manage requests for time off and develop a strategic but human response to supporting wellbeing.

[Mental ill health costs are continuing to rise](#) for employers – more than 25 per cent since 2019 to an estimated £53-56bn a year. At the same time, and perhaps unsurprisingly, we're seeing a growing demand for mental health days.

Understanding mental health days

A mental health day is when an employee takes a day off work to specifically manage a mental health-related issue. It could be where an employee is suffering symptoms of stress, anxiety or depression and needs to reduce overwhelming feelings. Mental health days offer respite from work commitments and responsibility, allowing time and space to recalibrate and reset.

Some companies currently offer 'duvet days' for more general purposes. In the US, 'personal days' are allocated to allow employees to simply take a day to regroup and focus on themselves, without having to take a sickness absence day.

From a UK employer's perspective, there's no legal distinction between whether you're off work for a physical reason or a mental health concern. For statutory sick pay purposes, you are either fit to work or unfit – the reason for that is not distinguished.

The pandemic blew open the mental health conversation in the workplace and, to some extent, normalized conversations around it. We're generally far more educated, literate and understanding about mental health today. While many colleagues will not feel comfortable sharing their concerns, others will be fine citing mental health as a reason to take time out. Employers need to recognize this.

What mental health days mean for HR

Start with thinking about their purpose. Can a single mental health day really address broader underlying causes and concerns if a team member keeps taking them? For HR, this means ensuring employees feel comfortable about raising concerns in the first place as well as offering proactive solutions that support individuals when they come back into work. If an employee returning to work after a mental health day is still subject to the exact same triggers and pressures, are they helping?

While line managers have a huge role to play in absence management, they often don't feel they have the skills to have sensitive conversations around mental health. This is where HR comes in. Unless you really talk to employees, listen to and manage concerns early, this can lead to issues of long-term sickness.

If your business is considering introducing mental health days in addition to holiday, sickness or other leave entitlement, a framework is advisable. Who is entitled to them within an organisation? What is their purpose? Is there a length of service requirement? Is this paid or unpaid? Is someone entitled to a 'set' number of mental health days? How are they recorded and measured, particularly around performance indicators and bonuses? Also, what happens when someone returns from taking a mental health day – will there be follow up or a review?

Managing mental health

There's sadly a tendency for individuals to mask mental health issues when it comes to taking leave, potentially putting it down to conditions associated with mental health such as headaches, migraines or insomnia. Mental health issues can often present in areas such as appearance and mistakes at work, as well as behavioral signals like disengagement or logging on at irregular times. It's not always easy for employers to join the dots on these – especially in the hybrid and remote workplace.

Because people may not present with the real reason for their sick leave, it's essential you have proper sickness absence reporting procedures in place. These should be supported by confidential and sensitively handled processes and full return-to-work discussions to ensure the business is aware of the reason for the absence and can offer the right support.

Managers play an important role in absence management procedures and in creating high-trust relationships within an environment of psychological safety. Employees need to know they have a safe place to go, to be heard, where their concerns will be treated seriously and compassionately.

Encouraging an open culture

We need to be confident that mental health days aren't hiding longer-term personal or workplace issues – and this means looking beyond sickness absence or data on a chart. It may be that there's a wider issue like burnout that requires a more permanent adjustment to an individual's role or adjusted work patterns that support wellbeing in a more sustainable way. There could also be legal obligations under the Equality Act 2010 such as the duty to make reasonable adjustments.

Employers can do a lot more culturally to make it easier for people to ask for mental health days or raise concerns more generally. Make sure you're having those open conversations. It's essential your organisation is joined up so when a colleague takes a day off, both their line manager and HR are aligned in how this is reported, managed and, vitally, supported in the longer term for the best possible mental health outcome.

<https://www.peoplemanagement.co.uk/article/1849041/making-mental-health-days-work>

New report encourages more effective interventions to improve workplace

The need to support employees and colleagues in managing their mental health is widely recognized, however the wide range of interventions being marketed makes it difficult for employers to know what works.

Launched on the back of increased mental health issues in UK workplaces with a record number of days being lost due to work related stress, a new report aimed at employers, occupational health, and human resources professionals, seeks to “cut through the noise” and identifies what really works.

Written by Dr Kevin Teoh, from Birkbeck, University of London and compiled by the Society of Occupational Medicine (SOM) and the CIPD, the report, '[The Value of Occupational Health and Human Resources in supporting mental health and wellbeing in the workplace](#)' provides guidance on how to better manage workplace mental health and wellbeing. It offers information on how to design programmes and interventions for organisations. It highlights how, by working together, HR and Occupational Health can better support employees' mental health and wellbeing.

The key to making a difference is a systematic approach to managing mental health and wellbeing, providing health and wellbeing support interventions that are evidence-based and meet the needs of staff. The report recommends primary, secondary, and tertiary interventions:

Primary level interventions (prevention) – identifying root causes e.g. ensuring workload is manageable, adequate support is available, leadership is compassionate, inclusive, and ethical. Training managers to support the wellbeing of their staff and encourage employees to seek help.

Secondary level interventions (support) – improving people's ability to cope with challenging aspects of their roles. Effective strategies include helping staff maintain a healthy balance between their work and personal life.

Tertiary level interventions (rehabilitation) – focusing on treatment and encourage a safe and healthy return to work. Occupational health, the specialist and expert field of health and wellbeing at work, is a crucial part of the solution.

<https://www.fmj.co.uk/new-report-encourages-more-effective-interventions-to-improve-workplace-mental-health/>

Bosses have a duty to keep workers safe from antisemitism

An employer may also be vicariously liable for acts of discrimination that happen at or are in connection with the workplace.

The [war in the Middle East](#) is causing tensions around the world, with repercussions far beyond the borders of Israel and Gaza.

We have seen an alarming increase in hate speech and hate crimes against people simply because of their race, religion or nationality, in particular antisemitism which is now at unprecedented levels and continuing to escalate.

In the current context of tension in the Middle East, social media poses a risk when an employee posts something that would be unlawful in the workplace. iStock
Many people in Australia are feeling unsafe, threatened and victimized. Their security, which to now has been taken for granted, is under threat.

The images and news reports from the conflict are causing significant emotional distress, affecting people's mental and physical health. This emotional toll is filtering into our workplaces, and employers must be cognizant of the potential legal issues that may flow.

Employers need to effectively manage these risks and do what they can to protect their employees.

It is possible that workplaces that appear to support one side of the conflict over another may expose themselves to claims for unlawful discrimination on the basis of race, religion or nationality.

An employer may also be vicariously liable for acts of discrimination that happen at or in connection with the workplace, and should therefore ensure that all reasonable steps are taken to prevent racism or other discrimination among co-workers and support anyone who comes forward with a complaint.

For example, holding morning teas in support of one side of the conflict may be regarded as unlawful differential treatment on the basis of religion or national origin. Employer-sanctioned and public statements of support from employers, running fundraising campaigns, or supporting protests and marches may similarly constitute unlawful discrimination.

Similarly, taking a less robust approach to prevention or management of the harassment or bullying of one vulnerable minority group over another may be unlawful discrimination. Workplaces may also be found vicariously liable for the conduct of individual employees who engage in conduct that unlawfully discriminates against another employee.

This may be direct conduct – such as offensive comments made to a Muslim employee about being a “terrorist” or a “supporter” of Hamas, simply because they are of Muslim faith, or indirect conduct – such as excluding a Jewish person from a group activity based on their religion.

All employers in Australia have an obligation to ensure the health and safety of their employees at work.

Various laws and regulations in Australia impose a positive duty to take reasonably practicable steps to ensure the psychological safety of workers. As with all safety issues, this requires a risk assessment to be undertaken, the implementation of preventive measures and providing relevant support for employees. It is not enough to simply address issues once they have been raised in a formal complaint.

In this heated environment, it is even more important to be aware of what is going on in your workplace and among your employees, which may cause a risk to their own health and safety or the health and safety of others.

This may include behaviour that constitutes bullying, such as repeated teasing, baiting, sharing of memes or other social media posts, or other conduct that poses a risk to another employee’s psychological safety. (This could result in prosecution under relevant state laws or orders under the Commonwealth Fair Work Act 2009.)

The greatest blind spot for employers is the private activity of their employees. It is accepted that activity engaged in by employees outside of work or work hours may be subject to workplace laws and policies, particularly if the conduct bears upon the employee’s employment and is contrary to the employee’s contract of employment.

In the current context, [social media](#) poses the greatest risk – for example, when an employee posts something that would be unlawful in the workplace, and the post bears upon their employment or affects other employees.

For example, an employee who posts on their personal social media page the slogan “From the river to the sea Palestine will be free” (which is understood by many as a call for the abolition of Israel and therefore the annihilation of all Jewish people in Israel), may result in legal claims against the employer.

This may be the case even if such a post is made on a private account, outside of work hours. How can a Jewish employee feel safe at work, knowing that a colleague is making racist (or worse) comments about them in their private time? Of course, the same may apply in regard to posts that are offensive towards Palestinians or that seek to minimize the impact of the conflict on Palestinians.

Conduct of this kind could constitute unlawful discrimination and racial vilification for which the employer may be held vicariously liable.

Similarly, employees who are part of a WhatsApp chat group that is used to discuss both work and private social matters can become problematic if discriminatory memes and links are being shared. In such a scenario, the workplace connection is even clearer – both in respect of the conduct itself, and any harm caused to the offended recipient.

From a legal perspective (morality needs its own article), employers should remind employees of their obligations to ensure a harmonious workplace in this heightened environment, and to avoid any behaviour that would constitute unlawful discrimination or bullying.

To proactively manage risks, employers might also consider more robust policies to monitor internal communications, and address social media activity and recruitment strategies to ensure that not only all current employees, but the next group of graduates, display the values consistent with a respectful and tolerant workplace culture.

<https://www.afr.com/work-and-careers/workplace/bosses-have-a-duty-to-keep-worker-safe-from-antisemitism-20231120-p5el86>

6 Tips for Difficult Conversations at Work

You can ensure an effective resolution and an improved relationship.

Difficult conversations at work are potentially uncomfortable, but preparation can help tremendously.

In a difficult conversation, focus on using "I" statements and unpacking shared words and phrases.

It's helpful to focus on behaviors rather than intentions.

If you work with other people, it is only a matter of time until there is some form of interpersonal dissatisfaction, dysfunction, or conflict. These problems are rarely effectively resolved without having a difficult and potentially uncomfortable conversation. There are many approaches; of course, every relationship and specific interaction between two or more people is unique. That said, here are some things to consider for those such scenarios.

Start Sentences With "I" and Avoid "You"

Your own experience is unarguable. That is, when you explicitly refer to your interpretation of something as just that, you are not claiming that your statement is the absolute truth. Starting a statement with "you" automatically puts the other person on the defensive, ready to argue or

explain why what you are saying is not accurate or true — that is, it does not match the other person's view.

Examples include:

I believe . . . think . . . feel . . . perceive . . . imagine . . . wonder.

My . . . story is . . . perception is . . . perspective is . . . interpretation is.

I . . . assumed . . . concluded . . . reacted . . . behaved.

“Unpack” (Examine) Shared Words or Phrases

We all use words such as “trust” and “communication” and assume that the other person is thinking in the same terms. However, words mean different things to different people, especially in the context of a specific interpersonal relationship (and one that includes some unpleasant emotions). Be sure to explain what you mean by the words that seem to come up most often in the conversation.

Examples of words that commonly arise and are subject to differing definitions include trust, communication, responsibility, accountability, respect or disrespect, appreciate, and [teamwork](#).

Focus on the Other Person's Behaviors Rather Than Intentions and Traits

When referring to things the other person did or failed to do, it is easy to slip into describing those events and actions in ways that imply undesirable motives or intentions or negative character traits. Doing so is very likely to elicit defensiveness, as your judgments are liable to be at odds with the other person's perspective.

Instead, focus on observable actions.

Avoid using exaggeration words such as “always” and “never,” which invariably are not 100 percent accurate, elicit defensiveness, and provide grounds for arguing and counterexamples. Of course, it is probably important to also share your judgments (story) about those actions, but make it clear that you recognize that your perspective is just that — yours — and not necessarily the absolute truth.

Play the Role of Investigator

Be sure to invest time and [attention](#) in fully understanding the other person's perspective. Investigating the underlying meaning of particular words is one such aspect. Another is focusing on the other person's experience of events related to the conversation at hand. What do they remember, and how did they interpret what happened?

Examples of prompts to facilitate such understanding include:

Help me understand

Please share your experience

I wonder...

What were your thoughts and feelings?

Resist Getting Defensive

When another person accuses you of something or misunderstands your intentions or reasons, it is natural to get defensive, launch into disagreement, and attempt to set the record straight. Unfortunately, that natural response rarely works and instead frequently escalates the conflict.

Why?

Contradicting the other person's story prompts their defensiveness, as they then launch into correcting you as to how you don't understand their reality. Changing minds and promoting understanding is unlikely indeed. Instead, fall back into investigator mode, seeking to fully understand the other person's story (as inaccurate as it obviously may seem to you).

Then, use "I" statements to share your perspective and experience. Avoiding statements that start with "you" sends the message that you are not judging the other person's experience as right or wrong but showing how yours compares (differs). Continue the conversation in this way to facilitate mutual insight into the nature of the conflict.

Collaborate on Next Steps and Moving Forward

After engaging in the process described thus far, it is likely that all parties have a more nuanced understanding of each other and what went wrong. What next? Be as specific as possible as to lessons learned and how to apply these from this point forward.

Are there specific requests each person has as to how they would like the other person to respond if or when a similar situation arises?

Would it be helpful to schedule a second conversation to check in with each other as to how the relationship is going? Doing so would help ensure that the investment in and progress from this difficult conversation is not lost.

Like any skill, navigating candid, potentially uncomfortable conversations effectively requires preparation, practice, and perspective (reflecting back on your experience and learning from it) but the benefits can be immense.

<https://www.psychologytoday.com/us/blog/mindful-professional-development/202311/6-tips-for-difficult-conversations-at-work>

United States: Accommodating Disabilities Under The ADA: Just Because You Can Doesn't Mean You Must

Court explains that "feasible" isn't always "reasonable."

It's widely understood that the Americans with Disabilities Act (ADA) generally requires employers to provide reasonable accommodations to individuals with disabilities to enable

them to perform their essential job functions. What's not so well understood is what exactly is a "reasonable accommodation," and when and what job functions are truly "essential." A recent decision from the United States Court of Appeals for the Eleventh Circuit – which hears cases coming out of Alabama, Florida and Georgia – addressed these questions and provides some helpful guidance to employers.

In [Geter v. Schneider National Carriers](#), Cierra Geter sued her employer, arguing that her requests that the company accommodate her disability by permitting her to work remotely and to work part-time each were reasonable in light of pandemic-motivated business changes introduced by her employer after her termination. Ms. Geter's employer took the position that working full-time and in-person were essential functions of her job, and that adjustments it made to how employees performed work during the unique circumstances presented by the COVID-19 pandemic did not demonstrate that those functions were not essential prior to the pandemic.

The court agreed with Ms. Geter's employer, explaining that the fact that an employer could temporarily allow employees to work remotely or on a part-time basis due to an unprecedented global pandemic did not mean the employer must continue those practices, or offer them as accommodations, after the circumstances giving rise to them abated. Further, the court noted that temporarily removing an essential job function in response to the COVID-19 pandemic did not mean that function was not, in fact, an essential job function. The Eleventh Circuit's decision serves as a reminder that pandemic-era workplace policies are not the new normal, and employers are not perpetually bound by their response to an unprecedented emergency.

Schneider Accommodated Ms. Geter for Months Pre-Termination

Schneider – a transportation and logistics company that operates twenty-four hours a day, seven days a week – hired Ms. Geter to work as a full-time dispatch analyst on the overnight shift. That role involved providing support to drivers by coordinating dispatches, taking calls and messages from drivers and resolving any driver issues. After being diagnosed with post-traumatic stress disorder, Ms. Geter took temporary leave from Schneider.

When her period of leave ended, Ms. Geter returned to work on a temporarily revised remote, part-time schedule, which Schneider provided to accommodate Ms. Geter as she transitioned back to work. This arrangement had been in place for months when Ms. Geter requested that she be permitted to continue to work indefinitely on a remote, part-time basis. Schneider denied her request, indicating that full-time, in-office work was an essential function of her position, and it terminated her employment.

Ms. Geter's Misplaced Reliance on Pandemic Protocols Post-Termination

Ms. Geter maintained in the lawsuit that neither her presence in the office nor working full-time was essential for her position, but she admitted that being in the office was necessary when drivers asked for help finding trucks or retrieving keys and acknowledged that she often printed paperwork for drivers in an area of the office to which drivers typically did not have access. Ms.

Geter's employment ended in 2019, but during the pendency of her litigation against Schneider, the COVID-19 pandemic ensued.

During the pandemic, Schneider made numerous adjustments to continue operations, including allowing some remote work and other process changes. In March 2021, Schneider returned to a full-time, in-person work schedule and otherwise suspended these pandemic-related changes. Ms. Geter argued in the case that these COVID-19 adjustments proved that the company could have accommodated her requests for part-time and remote work.

The trial judge found, and the Eleventh Circuit agreed, that policies and practices adopted after Ms. Geter's termination, and which were implemented to respond to a global pandemic, were not illustrative of the workplace Ms. Geter worked in when she was terminated in 2019, about a year before the COVID-19 pandemic began.

Ms. Geter conceded there were no part-time employees in the same role when she sought accommodation, and Schneider would have had to employ another employee to cover her in-office duties, like retrieving keys, when she worked reduced hours or remotely. Still, Ms. Geter argued that in-person work was not essential, pointing to Schneider's pandemic-era policy of leaving the office unlocked. The court was unpersuaded, stating that "the bare feasibility" of temporarily allowing part-time and remote work after Ms. Geter's termination and in response to a global pandemic did not mean that Schneider considered working full-time and in-person fundamentally unnecessary. The fact that Schneider could change how a job was performed did not undercut Schneider's determination that certain job functions are essential.

The Eleventh Circuit thus affirmed the district court's grant of summary judgment in favor of Schneider, agreeing that a full-time schedule and in-person work indeed were essential functions of Ms. Geter's role.

The Takeaway

The pandemic changed much about the way that work is performed. We learned that many companies can pivot to remote workplaces, slimmed-down workforces and other emergency protocols aimed at sustaining business in a crisis. But the Geter decision underscores that these changes, adopted during an unprecedented emergency, do not require employers to jettison their understanding of essential job functions or permit an indefinite work-from-home arrangement if that would impose an undue burden on the business. The flexibility demonstrated during the pandemic remains a consideration for whether an accommodation is feasible, but in the end, it must also be reasonable – an issue where employers' sound judgment remains critical.

<https://www.mondaq.com/unitedstates/discrimination-disability--sexual-harassment/1394154/accommodating-disabilities-under-the-ada-just-because-you-can-doesnt-mean-you-must>

Psychological safety gains attention

"A psychologically healthy and safe workplace is one that promotes employee psychological well-being and actively works to prevent harm to avoid psychological health (problems) due to negligent, reckless or intentional acts," said Wendy Bennett of AgSafe BC.

Farm owners and operators should pay attention to the latest news in psychological health and safety because one day they may be responsible for it when it comes to their employees. That's according to one presenter at the recent Canadian Agricultural Safety Association digital conference.

"Here in British Columbia, they are beginning to write the legislation that will require employers to provide a psychologically healthy and safe workplace for their workers," said Wendy Bennett of AgSafe BC.

What that legislation will look like is anyone's guess, "but what I'm hoping is that they're going to base all of this on the CSA (Canadian Standards Association) standard that was generated about 10 years ago and currently undergoing review."

Psychological health and safety are interrelated, she said in her presentation. The CSA standard defines psychological safety as the absence of harm or threat of harm to an employee's mental well-being.

The term "psychological health" refers to an employee's ability to think, feel and behave in a way that lets them perform effectively in their work environments, personal lives and society. Problems cover a spectrum from common difficulties such as fatigue to more severe disorders, said Bennett.

"A psychologically healthy and safe workplace is one that promotes employee psychological well-being and actively works to prevent harm to avoid psychological health (problems) due to negligent, reckless or intentional acts.

"I'm sure you can think of bullying as an example of an intentional act, and it's the employer's obligation to prevent that from happening."

Bennett outlined several CSA-documented workplace factors that affect psychological health and safety.

One of these is organizational culture. A good culture holds all people accountable. There is sincere respect for others' ideas, values and beliefs and difficult situations are addressed effectively.

“Think about the organizational culture within your own operation,” she said. “When somebody new comes in, how do they learn about what that organizational culture is?”

A workplace with good psychological and social support ensures services or benefits are available for workers who experience stress, and it has a good understanding of employee mental health.

“It means workers believe their organization values their contributions, is committed to ensuring their psychological well-being and provides meaningful support if this well-being is compromised,” Bennett said.

Attendees asked what accommodation should look like. How far should accommodations go, for example, for an employee whose stress at home is beginning to impact their work, and how can the employer support them?

“It’s all related to the relationship that this individual has with the employer,” said Bennett. “If it is impacting work, then it’s necessary to have a conversation with the worker to determine how they can reduce their stress.”

Response could include offering support through an employee assistance program, assisting them in receiving counselling to manage stress and recommending the employee check with their doctor to address stress levels.

How far those measures should go is a difficult question, Bennett said.

“They still have a job to do, and there are expectations to find that balance, but being supportive and encouraging them to take care of themselves I think is crucial.”

Bennett recommended the Guarding Minds at Work website, marketed as a free tool for employers to assess and address psycho-social factors known to have an impact on organizational and employee health, as well as the financial bottom line.

The site’s surveys evaluate the readiness of an organization to put a psychological safety program in place, said Bennett.

“There are surveys that employees can do; supervisors can do and employers can do.... It comes up with the results and encourages different ways to start.

“It can be something that happens really quickly or it can take a really long time, but it’s very important that there’s engagement from all levels. There has to be employees, managers, supervisors and all the middle people. It can’t be driven top down, or it won’t work,” she said. Workload is often described as the biggest workplace stressor.

Bennett said a business that emphasizes good workload management keeps labour in line with reasonable expectations for each employee's position and fosters openness for those employees to raise the issue with their supervisors.

Employees also have an appropriate level of control over prioritizing tasks and responsibilities when facing multiple demands.

"I think if we look back to the days when we were in lockdown and the multiple demands and requirements that were in place, particularly for families, there were full work expectations for many," said Bennett.

"The families that managed to accomplish sanity in that time frame, I think (that) is amazing. I think workload management is a real issue that we have to be respectful of."

The balance is trickier during peak farm seasons, when long hours in the cab are common and incoming weather might push work hours late into the night. Bennett said even two minutes off the tractor or the combine can help farmers improve mental health.

"We encourage farmers to take just two minutes to get out of the cab at the end of a row or whatever and take in your surroundings.

"I think that perhaps some farmers, because it's so much work and they're around it all the time, maybe they stop appreciating the incredible beauty of the area they are located. But they should be able to take some deep breaths and remind themselves that they've got this." Farmers may be geographically isolated compared to urban workplaces, but there is still community and a role for peer support.

Bennett drew on her own experience managing flood victims in British Columbia in 2021, as an example.

"There were farmers who were minimally impacted by the flooding, and they formed groups to help support those who had been significantly impacted by the flooding. A lot of these groups came together just for coffee," she said.

But the support didn't end there.

"A lot of them came together to get resources. There were lots of donations and there were a lot of different donation centers that opened on farms. The sense of community that was built from this was absolutely incredible.

"The biggest (lesson) that I learned in all of the situations was that they need each other. And so being able to facilitate that seems to have the greatest impact."

<https://www.producer.com/farmliving/psychological-safety-gains-attention/>

Substance Use Disorders and the Work Place

Human resource departments can help or hinder employees with SUDs.

Substance use disorders (SUDs) have continued to increase since the pandemic.

Businesses can address SUDs by providing straightforward access to employer health insurance. Fellow employees can be effective allies.

Cannabis presents additional challenges because of its complicated legal status.

Substance use disorders (SUDs) for nearly every drug [have increased since the pandemic](#). The number of overdoses has increased as well, with the Centers for Disease Control and Prevention estimating that [107,655 people died](#) of an overdose in 2021. The increase of SUDs may have a profound impact on workplaces, affecting the [productivity](#) and safety of employees as well as the viability of businesses themselves.

[Workers with SUDs](#) miss, on average, 14.8 days of work per year, while those using opioid pain medications miss 29 days. This contrasts with people without a SUD, who miss 10.5 days on average. People in recovery miss an average of 9.5 days. However, most businesses do not feel adequately prepared to address the reality that employers and employees may be struggling with SUDs.

Human resources departments can play an important role in addressing SUDs in the workplace. HR departments can set the tone or ethos of a business through its policies and implementation.

Some suggestions include:

There should be clear and easy access to employer-based health insurance coverage. An SUD is both a physical and mental health condition, so policies should ensure there is parity in coverage of physical and mental health.

All policies should be in accordance with the Americans with Disabilities Act since a severe SUD may be categorized as a disability.

Human resource departments must have clear and specific policies about reviews, leaves of absence, reasons for dismissal, and procedures for adjudicating and perhaps appealing decisions.

Workers need to know their rights, so all employment protections should be clearly identified and easily accessible.

Employers and supervisors can be allies in addressing these challenges, perhaps because they have witnessed behaviors or identified patterns of missed work.

A few concrete suggestions include:

Never hold work meetings in a bar.

Don't organize outside-of-work activities around alcohol.

If organizing a work event, ensure there are many non-[alcoholic](#) beverages that are just as festive and appealing as the alcoholic ones.

Be flexible in work shifts or tasks if someone has appointments aimed at addressing the problem.

If you are in recovery yourself, be willing to share your story. Listen without judgment. Ask if they want help or support.

Be an ally and run interference if another starts cross-examining a person about their use. Deflect or redirect others who are engaging in gossip and speculation.

Coworkers are often on the frontline of SUDs in the workplace. They may see behaviors a supervisor might not and may bear the burden of lost productivity and absenteeism. However, they, too, may be allies.

Some recommendations include:

Help a coworker get ahead of the situation with a supervisor if there have been missed work days, lower productivity, etc. Convince a coworker that it is better to be proactive than reactive. Role-play what to say to the boss or supervisor.

Validate fears about work and other possible consequences of their problem and the additional consequence of not proactively addressing it.

Help untangle the complicated language in employment policies and help to locate helpful information. Know employment protections.

Be willing to cover or be flexible on work shifts or tasks if a person has appointments related to addressing a drug or alcohol problem.

The decriminalization of marijuana or cannabis in many states, though not on the federal level, presents additional, though not insurmountable, complications to workplaces. So, too, does the legalization of medical marijuana in some states where recreational use remains illegal.

Businesses may find themselves navigating between different and inconsistent laws, not certain which ones take precedence. They may also find themselves imposing workplace restrictions that may seemingly conflict with a person's right to consume cannabis.

Some suggestions related to cannabis use:

Educate all employees about what sort of accommodations must be made for the use of medical cannabis.

Have clear policies about drug testing and what counts as a "clean result."
Identify which, if any, jobs no amount of cannabis use is permissible.

In states where recreational cannabis is legal, be able to definitively state whether it is permissible to consume products at the workplace during the day.

The best workplace policies are proactive, consistent, and clear. No policies will ever keep people from struggling with SUDs in the workplace, but good policies can both be helpful to the individuals suffering and the companies employing them.

<https://www.psychologytoday.com/us/blog/philosophy-stirred-not-shaken/202311/substance-use-disorders-and-the-work-place>

Workplace Discrimination Saps Everyone's Motivation – Even if It Works in Your Favor

When people work for discriminatory managers, they put in less effort. That's true both when managers are biased against them and when they're biased in their favor, according to [a new paper](#) that Nicholas Heiserman of Oklahoma State University [and I](#) have published in the journal *Nature Human Behaviour*.

To demonstrate this, we placed nearly 1,200 research participants in several experiments designed to mimic work settings, where they and other "workers" made decisions about how much effort to dedicate to a task.

In some experiments, we had participants complete number searches – by counting how many times "3" appeared in a large table of numbers, for example. The more searches a participant completed, the higher their effort was rated. Participants, working in pairs or in small groups, were told that their manager would award a bonus to one person based on how many number searches the workers completed.

To create a discriminatory situation, participants were told that there were two types of employees: blue and red. Participants were always assigned to be blue. One-third of the

participants were told that the manager had a bias against blue employees, while another third was told that the manager was biased in their favor. The rest didn't receive any information one way or the other.

We found that those workers who knew their managers discriminated – whether it was for them or against them – completed fewer number searches than participants in the control group.

By measuring workers' expectations that they would receive a bonus, our experiments also help show that discrimination reduces work productivity by separating effort from rewards.

This makes intuitive sense: If you know your boss is biased against people like you, you'll have less incentive to work hard, since you know you're unlikely to get promoted regardless.

Similarly, if your boss is biased in favor of people like you, you'll probably get promoted anyway. So, again, why work hard?

Why it matters

It's well established that workplace discrimination leads to [reduced earnings](#) and [advancement opportunities](#) for members of disadvantaged groups.

But our results suggest that it can lower productivity of all workers, even those advantaged by it – which means discrimination may hurt firms' bottom lines more than has been assumed.

Another of our key findings helps explain why the effects of discrimination on work effort can worsen over time. Specifically, we found that even though working for a discriminatory boss made everyone put in less effort, the disadvantaged showed the largest decline.

We suspect this could lead to a vicious cycle, where targets of discrimination respond by putting in less effort than advantaged workers. In turn, their managers may come to see them as lazier, less competent or less deserving of promotions – which can strengthen their original biases.

To test this, we ran an additional study with participants who had managerial experience. We showed them the work effort of two groups of participants from our experiments: one group that had been discriminated against, and one that benefited from discrimination against others. The latter group had higher productivity.

We labeled these groups generically as “red types” and “blue types,” and while the managers knew that one group had put in more effort, they didn't know discrimination was the reason why.

We found that managers readily stereotyped both groups, perceiving members of the advantaged group as warmer and much more competent. Further, they said they would strongly prefer to hire, work with, promote and give bonuses to members of the advantaged category.

These findings show how discrimination can lead to behavior by employees that strengthens the negative stereotypes underlying the original act of discrimination, or even spread discriminatory stereotypes to new managers.

What's next

Studying discrimination based on invented categories in simulated work environments can help us understand the basics of how it works, but it ignores differences in how bias operates when it comes to, for instance, race versus gender, or sexuality versus parental status. An important goal for future research is to better understand how the processes we observe play out for these real-world bases of discrimination.

For instance, following a [related study](#), future research might measure racial biases of managers in organizations and the productivity of employees who work for them. Based on our research, we would expect employees whose managers are racially biased to be less productive than employees whose managers aren't.

But we may expect different effects if, rather than racial discrimination, we studied the [well-established](#) pattern of discrimination against mothers in the workplace. That's because, as we have shown in [our prior work](#), some mothers don't interpret clearly biased treatment of them in the workplace as discriminatory. So what happens when people work for biased managers but don't recognize it? That's an important question to address in future work.

<https://goodmenproject.com/featured-content/workplace-discrimination-saps-everyones-motivation-%E2%88%92-even-if-it-works-in-your-favor/>

Half of work related illness is down to stress, depression or anxiety

Nearly two million workers in Great Britain reported suffering from work-related ill health in 2022/23, according the latest annual statistical report from the UK's Health and Safety Executive.

The statistics reveal that 1.8 million workers reported they were suffering from work-related ill health in 2022/23, with approximately half of the cases down to stress, depression or anxiety. In the recent years prior to the COVID-19 pandemic, the rate of self-reported work-related ill health had been broadly flat, but the current rate is higher than 2018/19.

There were an estimated 875,000 cases of work-related stress, depression or anxiety in 2022/23. The current rate of self-reported work-related stress, depression or anxiety is higher than the pre-pandemic level. An estimated 35.2 million working days were lost in 2022/23 due to self-reported work-related ill health or injury.

HSE's chief executive Sarah Albon said: "Preventing or tackling work-related stress can provide significant benefits to employees, improving their experience of work and their overall health;

and also to employers including increased productivity, decreased absenteeism and reduced staff turnover.”

HSE’s statistics also reveal the impact work-related ill health and workplace injuries are having on Britain’s economic performance. In 2021/22, the estimated annual costs of workplace injury and new cases of work-related ill health reached £20.7 billion, representing a £1.9 billion increase compared with 2019/20.

The figures also show that 135 workers were killed in work-related accidents in 2022/23, while 561,000 workers sustained a self-reported non-fatal injury in the workplace during the same period.

<https://workplaceinsight.net/half-of-work-related-illness-stress/>

Why do so many have an unhealthy relationship with work?

A report by HP suggests most staff around the world have an unhealthy relationship with their work and that salary is not a key factor in this issue.

With the amount of time people give to their jobs, it’s nice to assume that most people have a positive relationship with their work, but a recent study suggests this is not the case. In September, HP created its first [Work Relationship Index](#) (WRI), which analyzed the relationship between employees and their work worldwide.

This index surveyed more than 15,600 respondents across various industries in 12 countries and found that most had an unhealthy relationship with work. The majority of people surveyed were classified as ‘knowledge workers’ – which HP defined as primarily desk-based (including hybrid and remote workers).

The survey suggested that 73pc of these workers have an unhealthy relationship with work, which can have significant impacts on an employee’s health, personal life and productivity.

But what can lead to an employee having an unhealthy relationship with work? HP Ireland MD Val Gabriel told SiliconRepublic.com that the company looked at 50 aspects of society’s relationship with work and found six key drivers that employers should take note of.

“HP looked at how people feel about their skills and abilities, the role of work in their lives, the space they work in, the tools and technology they use and their expectations of leadership, which resulted in HP identifying these six key drivers that can lead to a healthy relationship with work,” Gabriel said.

Some of the key drivers HP identified are fulfilment – having a genuine connection to work – leadership and people-centricity – which includes being treated with respect and a healthy work-life balance.

The other drivers were skills – and receiving the right training to feel proficient – tools and workspace, which includes having a choice in where they work in the form of hybrid or flexible working options.

“Beyond this, salary, relationships with peers at work and alignment with an employer’s mission were also included, among others,” Gabriel said.

Gabriel said there isn’t one driver in particular among these six that is “more important or urgent over another” and encouraged business leaders to adopt a similar view.

“All of these core drivers foster action and can help employees build a better relationship with work,” Gabriel said.

The index did not include Irish workers, but in terms of workers reporting a healthy workplace relationship, Gabriel noted that the more mature markets all scored at or below the global average of 27pc, unlike emerging economies where scores were higher.

The impact of our relationship with work

The HP index suggests there are serious consequences to an employee having an unhealthy relationship with work. Many employees that have unhealthy relationships with work claimed it leads to issues with their mental health, their relationships with friends and family, and their physical wellbeing, according to the survey.

For their workplace, reduced productivity and the desire to leave the company become significant issues. Even when employees feel neutral about their relationship with work, the survey suggests that more than 71pc consider leaving their company, while 91pc consider leaving when they’re not happy with their workplace.

“Some workers are prone to reduced productivity if they are in an unhappy period with work, even individuals who are currently in healthy relationships with work, risk lower productivity when things with work are not at their optimum,” Gabriel said.

“It is important to note that while people with healthy relationships with work can have decreased productivity, workers with unhealthy work relationships experience these instances at a higher rate.”

Meanwhile, there are clear benefits when workers have a healthy relationship with work. The index suggests that some knowledge workers would be willing to take a pay cut if certain other benefits were included, such as a better feeling of fulfilment, more empathetic leadership and options to work where and when they want.

“Those with a healthy relationship with work are more likely to agree that they are compensated fairly than those with an unhealthy relationship with work,” Gabriel said. “However, and as with many other related findings, salary was not identified as a top driver of a healthy relationship with work.”

HP said business leaders need to consider these key drivers to attract workers and that expectations among employees are changing. About three-quarters of the business leaders surveyed acknowledged that emotionally intelligent leadership is required for a leader to be successful.

Meanwhile, 83pc of the knowledge workers surveyed suggested they would be willing to earn less money if they found an employer that has leadership qualities such as emotional intelligence and increased trust and agency in their staff.

“The key takeaway from this research finding is the importance that employees place on finding and experiencing greater emotional intelligence, trust and agency at work,” Gabriel said. “For all employers, providing this along with autonomy, flexibility, training – and fostering an environment with greater empathy – can significantly improve the employee experience.

“This is a valuable and powerful signal of what companies need to get right if they are to keep teams inspired and engaged.”

<https://www.siliconrepublic.com/careers/unhealthy-relationship-with-work-hp-survey-ireland>

AI Bias in the Workplace: Top 4 Takeaways From EEOC Commissioner’s Conversation at FP Conference

Most HR professionals are no strangers to technology, particularly when it comes to using applicant tracking systems and human resource information systems to hire workers and track key employment data. However, recent innovations — such as ChatGPT and other generative AI tools — are changing HR processes and have the potential to both create and eliminate workplace biases.

So, what are the major impacts on employers when these tools are used to make hiring, workforce development, and other employment decisions? [EEOC Commissioner Keith Sonderling](#) joined [Fisher Phillips’ Chairman and Managing Partner John Polson](#) at the recent [Fisher Phillips AI Strategies @ Work Conference](#) to discuss the most critical issues facing employers – and we’ve summarized their discussion for those who missed out.

1. AI Will Change the Workplace – And Employers Need to Adapt As Well

One of the biggest issues HR teams will face from a workforce development perspective is how GenAI will change jobs. For instance, AI is impacting workers in many fields from the manufacturing frontlines to corporate headquarters. Historically, knowledge workers who hold advanced degrees might not have been concerned about how AI was going to impact their jobs because they saw AI use as a function of automation, but ChatGPT is affecting everyone. Regardless of how technology evolves, however, employers still have some basic HR and legal decisions to make.

For example:

Is AI going to change the way your organization gets work done? If so, are you going to invest in [upskilling and reskilling](#) your workforce in response to these changes? Are you going to conduct layoffs? If so, who will be impacted? How will these changes affect older workers, workers with disabilities, women, and those from underrepresented groups? As more businesses utilize generative AI, [women and diverse groups are expected to lose their jobs at disproportionate rates](#).

The key, said Sonderling, is to train your workforce on new developments and ensure you're taking appropriate steps to account for the employees who may be most affected by evolving technology.

2. Employers Deploying AI Tools Need to Monitor for Bias

Many of the workplace issues we're talking about from a technology perspective are still core HR issues. We're just applying the existing framework to new tools that we've never dealt with before.

Consider the following: AI Can Help Curb Bias

Technology is commonly used to streamline the hiring process. Sonderling noted that AI tools can actually help employers with diversity, equity, and inclusion if both carefully designing and properly used. But if not, they can cause problems.

Bias can exist at the earliest stages of the hiring process. Even just from reading a job candidate's name on a resume, the hiring manager can make assumptions based on gender, national origin, race, or religion. If AI is used in the right way, however, it can remove that kind of bias by looking only at the candidate's skills and experience, rather than their name and other personally identifying information.

For example, some employers are using apps to do the first round of interviews, which can prevent bias decisions that hiring managers make based on visual cues. When a job applicant walks into an interview, what do you see? "You see the person," Sonderling said. That means you inevitably see a lot of things the EEOC says you're not allowed to base an employment decision on, such as race, gender, disability, or pregnancy. But by initially using an app and

removing those visual cues, you can make initial decisions based on who you think the best candidate for the job is going to be.

But You Should Proceed with Caution

Although AI tools may help eliminate bias, they might also create it. What if the app-based interview system isn't good at picking up accents? Imagine a job candidate with a German accent applying for a grocery store manager position. If the app records their response to a question about how they would handle a screaming customer but only picks up 50% of what they said because of their accent, the German candidate might score lower than other applicants even if they gave a better response. This could lead to a claim of national origin discrimination.

Keep in mind that AI-powered systems are built by humans and use a system of judgment that generally reflects human characteristics. For instance, if a company is seeking to hire individuals who reflect the characteristics of the company's already-successful employees and is trained using those employees' data, the existing demographics of that company may impact any results provided by an AI-analytics tool.

Beyond Hiring

Although HR teams commonly incorporate AI tools into their hiring process, don't forget that technology bias can also impact current employees. As an example, the EEOC has said that bias can occur when using employee monitoring software that rates employees based on their keystrokes or other factors.

Notably, the anti-discrimination laws that the EEOC enforces cover all terms and conditions of employment. For example, Title VII of the Civil Rights Act prohibits employers from discriminating against job candidates or employees "with regard to any term, condition, or privilege of employment" in areas such as "recruiting, hiring, promoting, transferring, training, disciplining, discharging, assigning work, measuring performance, or providing benefits."

New Technology, Same Rules

The EEOC has made clear that existing agency regulations can apply to situations where employers use AI-fueled selection procedures in employment settings. The agency said this is especially true in "disparate impact" situations – where employers may not intend to discriminate against anyone but deploy any sort of facially neutral process that ends up having a statistically significant negative impact on a certain protected class of workers.

3. EEOC's Plan for Addressing Potential AI Bias in the Workplace

Sonderling reminded employers that the EEOC isn't focused on regulating technology. Rather, the agency is going to look at whether the use of technology in the workplace resulted in unlawful employment discrimination. "That's our profession, and that's what we know best," he said.

Whether a manager or computer made a bias employment decision, the employer is ultimately liable. That's why employers should consider working with their vendors from the start to ensure they are using the products correctly and reducing the potential for bias decision-making. "We're going to look at the results," Sonderling said.

Was technology used to intentionally discriminate based on a protected characteristic? Did the AI tool have a disparate impact on certain groups? Federal anti-bias laws will [apply to employment decisions made with AI](#) in the same way they do to decisions made without the use of technology.

4. How to Stay Compliant as You Explore New Technology

Consider creating a strong corporate governance framework related to AI use in the workplace and taking the following actions:

Conduct Audits. The EEOC recommends that employers test all employment-related AI tools early and often to make sure they aren't causing legal harm. In New York City, [a new local law requires employers to conduct a bias audit](#) if they use AI tools to hire and promote employees in the city. Audits must be done before using a new automated employment decision tool and annually thereafter to assess disparate impact based on race, ethnicity, and sex. Although the new law applies only to New York City, employers might consider performing a broader audit for all locations and assessing for potential bias based on all protected characteristics. "Proactively doing audits helps with liability," Sonderling said, "because if you can find the issues, you can fix them before there's continued discrimination."

Create Robust Policies. Have you developed a corporate statement and employee handbook policies related to AI? You may want to authorize only certain people to use the HR tools after they are trained by the vendor and certified at a certain level. A strong policy will cover legal compliance, state that you're not going to use it to discriminate, and explain that you will take swift disciplinary action if the AI tools are used inappropriately. Let employees know who to contact if they have any concerns and let them know they will not be retaliated against for reporting actions they perceive as biased. Having these policies and practices in place helps you to show that you have a culture of compliance if something goes wrong.

Provide AI Training to Employees. A best practice is to train decisionmakers and ensure all employees know whether and how they may use AI tools in the workplace. Make sure they are familiar with your policies and practices and consider having your vendors work with key staff to explain how to properly use your AI programs.

Be Proactive. If a federal investigator shows up to your worksite, it's helpful to show that you carefully selected a product; the vendor trained your relevant employees on how to use the technology; and you developed robust policies on its use, conducted audits, and took swift action to address any misuse. Having that governance in place can put you in a better position with the EEOC.

Conclusion

Don't forget that you should approach any self-audit with the help of legal counsel. Experienced legal counsel can help guide you about the best methodologies to use and assist in interpreting the results of any audit. Additionally, using counsel can potentially shield certain results from discovery under attorney-client privilege. This can be especially beneficial if you identify changes that need to be made to improve your process to minimize any unintentional impacts.

<https://www.fisherphillips.com/en/news-insights/ai-bias-4-takeaways-from-eeoc-commissioners.html>

Are workplace DEI policies still legal after SCOTUS decisions?

This summer, the U.S. Supreme Court ruled that the use of race in college admissions violated the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964 (*Students for Fair Admissions Inc. v. President & Fellows of Harvard and Students for Fair Admissions Inc. v. University of North Carolina*, 143 S. Ct. 2141 (2023)). Although the decisions were limited to college admissions practices, they could have implications for employers and their diversity, equity and inclusion efforts.

At first blush, the decisions — though momentous for institutions of higher education — seemed lackluster for employers. After all, Title VII of the Civil Rights Act of 1964 and 42 U.S.C. Section 1981 already expressly prohibit discrimination in employment based on race — any race. In addition, Executive Order 11246, which requires federal contractors to take “affirmative action” toward women and minorities, specifically prohibits the use of race — any race — in making employment decisions (41 C.F.R. § 60-2.16(e)(2)).

Affirmative action for federal contractors means recruiting candidates from diverse sources and the application of neutral and nondiscriminatory selection criteria to the applicant pool. The theory is that the creation of diverse candidate pools will gradually result in more diverse workforces.

However, contractors are not required, or even allowed, to favor female or minority applicants. The U.S. Equal Employment Opportunity Commission also takes the position that “[t]he process of screening or culling recruits presents another opportunity for discrimination. Race obviously cannot be used as a screening criterion” (EEOC’s Compliance Manual on Race Discrimination, Section VI(A)(4) (2006)). Thus, the affirmative action required of employers who are federal contractors is entirely different from the practices at issue in the SFFA cases.

The Supreme Court’s decision posed nothing new or different in the employment context. However, since the decision was issued, some employers have been sued or threatened with lawsuits over their DEI practices. If the law didn’t change, what did?

Reactions to decisions

Within two weeks of the SFFA decisions, 13 state attorneys general, including Alan Wilson of South Carolina, wrote to Fortune 100 companies, contending that race discrimination was common in their organizations and warning that race discrimination in furtherance of DEI policies would be prosecuted.

U.S. Sen. Tom Cotton, R-Ark., sent a letter to 51 of the nation's larger law firms stating that DEI hiring policies were unlawful. He also warned, "[t]o the extent that your firm continues to advise clients regarding DEI programs or operate one of your own, both you and those clients should take care to preserve relevant documents in anticipation of investigations and litigation." Five of the 13 state attorneys general who sent the initial letter delivered a similar letter to the managing partners of the Am Law 100 firms.

To make matters more confusing, attorneys general from 20 states and the District of Columbia engaged in their own letter-writing campaign, urging the Fortune 100 companies to ignore the threats from the other states and advising them to double down on their DEI initiatives. North Carolina Attorney General Josh Stein did not join the campaigns of either group of attorneys general.

Meanwhile, employers began facing legal challenges to their DEI practices. America First Legal has urged the EEOC to investigate The Hershey Co., Mars, Anheuser-Busch and Starbucks for their DEI policies. Companies facing lawsuits relating to their DEI practices include American Express, Activision, Meta, Gannett and Morgan Stanley.

Law firms are not immune from these challenges. The American Alliance for Equal Rights sued Perkins Coie and Morrison Foerster for allegedly providing fellowship opportunities on the basis of race.

Questionable DEI practices

Many of the legal challenges noted above revolve around the alleged explicit use of race in making employment decisions. Title VII prohibits the use of race "with respect to ... compensation, terms, conditions, or privileges of employment," as well as classifying employees or applicants in a manner that could adversely affect them because of a protected characteristic (42 U.S.C. § 2000e-2(a)).

In light of that, here are some DEI practices that employers should be cautious of implementing:

Setting aside a certain number of jobs for women or minorities: Set-asides could be interpreted as quotas, which are prohibited.

Establishing unattainable or unreasonable goals for women or minorities: Placement goals to increase representation of any demographic are not necessarily unlawful. In fact, federal contractors are required to set placement goals where the representation of women and

minorities is less than one would reasonably expect based on their availability (41 C.F.R. § 60-2.15(b)). However, goals that are not objectively reasonable based on anticipated openings and attrition can pose legal risk.

Tying compensation or bonuses to attainment of diversity goals: Although not per se unlawful, such incentives could provide powerful supporting evidence of discriminatory decision-making. Requiring diverse candidate slates: Potentially, an employer can organically create diverse candidate slates from diverse applicant pools. However, if individuals are moved forward in the selection process because of their race or gender and the need to satisfy a “diverse slate” requirement, this could violate nondiscrimination principles.

Limiting opportunities based on race or gender: To offset past historical disadvantages, some employers might desire to offer extra or special opportunities, such as training, mentorship and leadership programs, to individuals from underrepresented groups. If those opportunities are limited to racial minorities or women, these programs could draw challenges.

This is not to say that initiatives like the above cannot be designed in a way that passes legal muster. However, employers should be mindful that these are categories of practices that have already been — or are most likely to be — challenged as violative of Title VII or other state or federal laws. Employers should consult employment counsel when considering any programs of this nature.

DEI best practices

The following practices are recommended to foster lawful DEI and ensure compliance: Setting placement goals for women or minorities that are based on objective factors, are reasonably achievable, contemplate gradual and incremental progress, and measure achievement by percentage of placements as opposed to specific numerical targets.

Analyzing selection processes to determine whether any practice has an adverse impact based on race or gender. This includes an adverse impact on white and male candidates or employees.

Reviewing DEI policies periodically to ensure they are lawful in substance and practice. Using a wide variety of recruitment sources, including those that focus on diverse groups and ensuring that candidate pools are reasonably diverse before applying neutral, nondiscriminatory selection criteria.

Including women and minorities as interviewers where feasible and appropriate.

Training managers on policies relating to nondiscrimination, DEI and unconscious bias.

Monitoring internal and external communications for consistency of messaging around DEI.

DEI is not a synonym for discrimination. Although some employers might have pushed the envelope, the vast majority strive to do both what is right and lawful. Sometimes, the law is

counterintuitive, and DEI could be one of those areas. Therefore, employers should involve experienced employment counsel in developing DEI programs and reviewing existing practices to ensure compliance with nondiscrimination laws.

<https://sclawyersweekly.com/news/2023/11/22/are-workplace-dei-policies-still-legal-after-scotus-decisions/>

Bosses thought they won the return-to-office wars by imposing rigid policies. Now they're facing a wave of legal battles

Top-down return-to-office policies that do not consider employees' individual circumstances are being legally challenged.

After seemingly having won the return-to-office wars, employers may be walking into a legal storm by enforcing rigid return-to-office (RTO) mandates.

The post-pandemic era presents a unique challenge as employers grapple with shifting workforce dynamics. The insistence on a full return to the office, without considering individual circumstances, could lead to a surge in legal issues, particularly discrimination claims. This concern is not mere speculation—it's a reality backed by a significant uptick in workforce discrimination charges.

Rigid RTO policies are disproportionately impacting disabled employees, mothers, and older workers—and could even, in certain cases, breach the law.

The disability discrimination dilemma

One of the most pressing issues is disability discrimination. With many employees having worked remotely for over two years without a dip in productivity or performance, employers face a [challenging legal landscape](#) when justifying the need for in-person work.

Thomas Foley, executive director of the National Disability Institute, [noted](#) that he has “great concerns” over RTO for people with disabilities, including transportation to and from work, workplace accessibility, and the potential to encounter micro (or larger) aggressions. Brandalyn Bickner, a spokesperson for the EEOC, said in a statement that the ADA's reasonable accommodation obligation includes “modifying workplace policies” and “might require an employer to waive certain eligibility requirements or otherwise modify its telework program for someone with a disability who needs to work at home.”

In a [notable](#) legal settlement, a facility management company agreed to pay \$47,500 to settle an Equal Employment Opportunity Commission (EEOC) lawsuit for violating the Americans with Disabilities Act (ADA). The case, EEOC v. [ISS Facility Services, Inc.](#), involved the company's refusal

to allow a disabled employee at high risk for COVID-19 to work part-time from home, despite previously allowing a rotating schedule during the pandemic. The company's denial of the employee's request for accommodation, followed by her termination, was deemed a violation of the ADA. The settlement also required the company to permit EEOC monitoring of future accommodation requests. This case emphasizes the importance of ADA compliance and the need for employers to be flexible and consistent in accommodating employees, especially in changing work environments.

In a [lawsuit](#) against Electric Boat Corp., Zacchery Belval, a resident of Enfield, Conn., claimed discrimination for the company's failure to provide reasonable accommodations under the Americans with Disabilities Act and the Connecticut Fair Employment Practices Act. Belval, who has multiple health issues, including a heart defect and severe anxiety, argued he was at increased risk for COVID-19. He had worked from home during the pandemic, but faced challenges when the company encouraged a return to the office. The physical demands of returning and poor office conditions led him to seek continued remote work, which the company partially granted. However, Belval deemed this accommodation insufficient. When he did not return to work under these conditions, Electric Boat considered him resigned. This case underscores the complexities employers face in implementing return-to-office policies while also needing to provide ADA-compliant reasonable accommodations, particularly for employees with significant health risks.

Mental health issues have become increasingly [prominent](#) in the context of workplace accommodations. The pandemic has led to a 25% increase in cases of depression and anxiety in the U.S., underscoring the need for employers to consider remote work as a reasonable accommodation. Companies are facing a rise in mental health disability discrimination complaints from employees who view remote work as a reasonable accommodation. The Equal Employment Opportunity Commission (EEOC) has observed a 16% increase in such charges between 2021 and 2022, particularly for conditions like anxiety, depression, and post-traumatic stress syndrome. This trend is indicative of a broader challenge where mental health disorders have become a prominent reason for disability complaints. Employers who fail to make an effort to accommodate such requests risk facing EEOC actions. In September, the agency filed a complaint against a Georgia company after it fired a marketing manager who requested to work remotely three days a week to accommodate anxiety.

Impact on older workers

Older workers are particularly impacted by RTO mandates. A recent [survey](#) from Carewell has illuminated this trend, revealing that as many as 25% of workers over the age of 50 are contemplating retirement more seriously in light of RTO mandates. This statistic is particularly striking when compared to the 43% who expressed a reduced likelihood of retiring if given the option to work remotely. Such figures not only highlight the preferences of older workers but also underscore the potential unintended consequences of inflexible RTO policies.

The resistance to RTO mandates among older workers isn't just a matter of preference; it brings to the forefront concerns about age discrimination. If RTO policies disproportionately affect

older employees, either by forcing them into early retirement or by making their work conditions less favorable compared to their younger counterparts, employers could face age discrimination claims. These concerns are amplified by the fact that losing older workers en masse could mean a significant loss of experience, skills, and institutional knowledge for organizations.

Employers, therefore, need to carefully consider the impact of RTO mandates on their older workforce. Offering flexibility, whether through remote work options or hybrid models, could be crucial in retaining older employees. Additionally, engaging in dialogue with this segment of the workforce to understand their specific needs and concerns can help in formulating policies that are inclusive and considerate of all age groups.

Working parents and gender disparities

The legal risks associated with RTO policies are further highlighted by their impact on working parents, especially mothers. The transition from remote to office work brings into sharp focus the balancing act that working parents, especially mothers, must perform between their professional responsibilities and childcare obligations. The legal implications of these policies stem from the potential for indirect discrimination and unequal treatment of working parents.

[Studies](#) have consistently shown that working mothers are disproportionately affected by the lack of flexibility in work arrangements. The data reveals that nearly twice as many working mothers as fathers have considered leaving their jobs due to the stress associated with childcare. This statistic is alarming and points towards a deep-seated issue in the current work environment where the needs of working mothers are not adequately accommodated.

Furthermore, 30% of mothers, compared to 17% of fathers, report difficulties in finding working hours that align with their childcare needs. This disparity not only highlights the challenges faced by working mothers but also raises concerns about potential gender discrimination in the workplace.

The lack of flexible working options can exacerbate existing inequalities. Mothers often bear a larger share of domestic and childcare responsibilities, and inflexible work schedules can intensify these demands, leading to increased stress and potential burnout. This situation is particularly challenging for single mothers or those without access to external childcare support. The inability to balance these demands can lead to mothers being forced to choose between their careers and their family responsibilities, a choice that fathers are less likely to face to the same extent.

From a legal standpoint, these disparities could give rise to discrimination claims under various employment laws. Employers who fail to provide reasonable accommodations or flexibility to working parents, particularly mothers, might be seen as engaging in indirect discrimination. Such practices can be construed as creating an unfavorable work environment for certain groups of employees, thereby violating equal employment opportunity laws.

To mitigate these risks, employers must take proactive steps to provide equitable support to all working parents. This could include offering flexible work schedules, remote work options, or part-time arrangements that allow parents to manage their work and childcare responsibilities more effectively. Additionally, employers should consider implementing policies that specifically support working mothers, such as extended maternity leave, breastfeeding breaks, and facilities, or support for childcare.

Instituting these changes requires a cultural shift within organizations to recognize and value the diversity of employees' needs. This shift involves not only policy changes but also a broader understanding and empathy toward the challenges faced by working parents. By fostering an inclusive work environment that accommodates the unique needs of working mothers, employers can not only avoid potential legal challenges but also enhance employee satisfaction and retention.

Additional discrimination considerations in remote setups

The evolving legal landscape, shaped by advancements in legal technology and updated guidelines on harassment, presents new challenges and complexities for employers, particularly in the context of remote and hybrid work environments. The EEOC has [recently](#) published important updates in its guidance that address the nuances of remote work and discrimination.

One of the key aspects of this new EEOC guidance is the clarification it provides on legal standards and employer liability in the context of remote work. As the workplace extends beyond the traditional office environment into remote and hybrid models, the definition and scope of harassment have also expanded. This expansion necessitates a reevaluation of existing policies to ensure they adequately address the unique challenges and scenarios presented by remote work settings. For instance, harassment in virtual meetings or through digital communication platforms presents different challenges compared to in-person interactions, requiring tailored responses and preventive measures.

The guidance also underscores the importance of accommodating the needs of diverse employee groups, with specific attention to LGBTQ+ employees. This focus is critical in fostering an inclusive work environment and ensuring that harassment policies are sensitive to the needs of all employees, regardless of their sexual orientation, gender identity, or expression. Employers are encouraged to review and update their policies to ensure they provide clear, specific protections against harassment of LGBTQ+ employees, which is essential in maintaining a respectful and inclusive workplace culture.

Additionally, the guidance highlights the need for updated policies related to video meetings and lactation accommodations. As video conferencing becomes a staple in remote and hybrid work models, employers must establish clear guidelines to prevent and address harassment that may occur in these virtual settings. This includes setting standards for professional conduct during video calls and ensuring that employees' privacy and dignity are respected. Similarly, the guidance on lactation accommodations reflects an understanding of the changing needs of working parents, particularly mothers, in remote work scenarios.

Furthermore, the EEOC emphasizes the importance of training for employees on these new aspects of workplace conduct. Training programs should be updated to include scenarios and examples relevant to remote and hybrid work environments, ensuring that employees understand their rights and responsibilities under the new guidelines. This training should also cover how to report harassment in remote work settings and the resources available to employees who experience or witness such behavior.

In response to these challenges, I tell [my clients](#) that they would benefit from adopting a flexible approach to [RTO mandates](#).

A one-size-fits-all policy may not only lead to legal repercussions but also overlook the diverse needs of a modern workforce. Companies need to consider individual employee circumstances, including disability, age, and parental responsibilities, to navigate this new landscape successfully. Inflexible RTO mandates not only risk alienating key segments of the workforce but also invite a host of legal challenges.

By embracing flexibility and inclusivity in return-to-work strategies, employers can mitigate legal risks, foster employee engagement, and build a more inclusive and productive work environment.

<https://fortune.com/2023/11/22/bosses-thought-they-won-the-return-to-office-wars-by-imposing-rigid-policies-now-theyre-facing-a-wave-of-legal-battles/>

EEOC Issues Proposed Enforcement Guidance on Harassment in the Workplace

On Oct. 2, 2023, the Equal Employment Opportunity Commission (EEOC) published its [Proposed Enforcement Guidance on Harassment in the Workplace](#) in the Federal Register. Public comment to the proposal was open until Nov. 1, 2023. The proposed guidance, if issued in final, would be the first update to the EEOC's guidance on workplace harassment since 1999.

The proposed guidance addresses various updates in the law, including the U.S. Supreme Court's decision in *Bostock v. Clayton County*, which held that the protections against sex-based discrimination under Title VII of the Civil Rights Act also include discrimination based on sexual identity and gender orientation. It acknowledges issues related to virtual harassment, considering the rise of remote employment opportunities, as well as issues related to the #MeToo movement.

The [EEOC's proposed guidance coincides](#) with an increase in 2022 in charges of discrimination filed with the EEOC, as well as an increase in lawsuits filed by the EEOC.

Structure of the Guidance

The proposed guidance focuses on the following components of a harassment claim:

Covered Bases and Causation: Was the conduct based on the individual's legally protected characteristic under the federal EEO statutes?

Discrimination with Respect to a Term, Condition, or Privilege of Employment: Did the harassing conduct result in discrimination with respect to a term, condition, or privilege of employment?

Liability: Is there a basis for holding the employer liable for the conduct?

Conduct in Virtual Environments

With the increase in virtual and remote work in recent years, the proposed guidance provides insight into the types of virtual conduct that can constitute actionable harassment under federal EEO statutes. It specifies that electronic communication using private phones, computers, or social media accounts – even if it does not occur in a work-related context – can affect the terms and conditions of employment.

The proposed guidance provides the following example:

“[I]f an Arab American employee is the subject of ethnic epithets that a coworker posts on a personal social media page, and either the employee learns about the post directly or other coworkers see the comment and discuss it at work, then the social media posting can contribute to a racially hostile work environment.”

The proposed guidance also specifies that conduct occurring within the work environment, if conveyed using work-related communication systems, accounts, or platforms such as the employer's email system, electronic bulletin board, instant message system, videoconferencing technology, intranet, public website, or official social media accounts, can contribute to a hostile work environment. Such conduct can include, “sexist comments made during a video meeting, racist imagery that is visible in an employee's workspace while the employee participates in a video meeting, or sexual comments made during a video meeting about a bed being near an employee in the video image.”

Issues Related to Sex-Based Discrimination

The proposed guidance also addresses Title VII's prohibition of sex-based harassment and discrimination, which specifically includes harassment on the basis of sexual orientation, gender identity, pregnancy, childbirth, or related medical conditions. The proposed guidance provides the following examples of conduct that can qualify as sex-based discrimination:

Harassment based on a woman's reproductive decisions, including decisions about contraception or abortion;

Harassment based on the expression of gender identity, including intentional and repeated use of a name or pronoun inconsistent with the individual's gender identity (misgendering); and
Harassment because an individual does not present in a manner that is stereotypically associated with that person's gender.

Key Takeaway for Employers

The proposed guidance, if issued in final, will not have the force and effect of law, but instead is intended to provide clarity regarding requirements under the law or EEOC policies. Employers should consider reviewing their internal anti-discrimination and harassment policies to identify any gaps based on the proposed guidance. The proposed guidance further clarifies that an employer's effective complaint process should include prompt and effective investigations and corrective action, adequate confidentiality protections, and adequate anti-retaliation protections.

<https://www.jdsupra.com/legalnews/eec-issues-proposed-enforcement-3516164/>

Employers Beware: Return-to-Office Mandates and the Americans with Disability Act

As the Covid-19 pandemic drifts further into the rearview, many companies are rolling back work-from-home policies and requiring employees to return to the office on a schedule similar to pre-pandemic office hours, with renewed attendance requirements. Many executives say their companies are more innovative and collaborative when employees are physically present in the office, which in turn increases revenue, productivity and employee retention.

After several years of work-from-home, however, some employees are opposed to return-to-office mandates. Employees seeking an exemption from such mandates to continue working remotely are increasingly citing mental health conditions such as anxiety, depression and post-traumatic stress disorder as justification for an accommodation. Companies implementing return-to-office mandates should be aware of potential liability issues when employees seek to continue working remotely.

Employees with physical and mental disabilities are protected from discrimination under Title I of the Americans with Disabilities Act (ADA). Under the ADA, if a disabled employee requests a workplace accommodation, the employer must engage in an interactive process with the employee to discuss the employee's limitations and determine an effective and reasonable accommodation. Employers are entitled to seek certain information to verify an employee's disability, disability-related limitations and need for the requested accommodation. If an employee has a qualifying disability, and there is a reasonable accommodation available that meets their needs, the employer must provide the accommodation unless it would pose an "undue hardship" on the employer.

Similarly, employers are not required to provide the specific accommodation requested or preferred by the employee. Employers may provide an alternative, less-burdensome reasonable accommodation instead, as long as it is effective in addressing the employee's disability-related limitations. On the other hand, if an employee does not have a disability-related limitation

that requires work-from-home, then employers do not have to provide work-from-home as an accommodation under the ADA.

Employers are often wary of work-from-home accommodation requests, and some companies worry that allowing some employees to work remotely and not others will stoke complaints about unequal treatment among the workforce. However, automatically denying an employee's request to work-from-home as a disability accommodation without following the proper procedures can expose employers to discrimination claims.

The number of charges alleging disability discrimination against employees with anxiety, depression, and post-traumatic stress disorder rose by at least 16% for each condition from 2021 to 2022, [according to the Equal Employment Opportunity Commission](#). Data from multiple state civil-rights agencies also show that in recent years, discrimination complaints based on disability — encompassing a range of conditions including mental-health disorders, hearing impairments, and autoimmune diseases — have overtaken previous top complaints based on other protected classes such as retaliation and race discrimination.

The ADA does not require an employer to offer a work-from-home program to all employees. However, if an employer offers a remote work program, it must allow employees with disabilities an equal opportunity to participate in such a program. As with all accommodation requests, if an employee requests remote work as an accommodation, the employer should engage with the employee in an interactive process to confirm that the employee has a qualifying disability under the ADA and a disability-related need to work from home.

Possible questions for the employee may include: (1) how the disability limits or impacts their ability to perform their essential job functions; (2) how the requested accommodation will effectively address that limitation; (3) whether an alternative accommodation could effectively address their disability-related need; and (4) whether the proposed accommodation will enable the employee to perform the essential functions of their position.

Things to keep in mind:

To be protected by the ADA, employees must be able to perform the essential functions of their position with or without reasonable accommodation. The ADA does not require employers to eliminate an essential job function as an accommodation for an individual with a disability. While employers may seek verification to confirm that an employee has a qualifying disability, employers are prohibited from asking for details about the employee's disability and must keep interactive discussions with employees focused on the specific job functions affected by their impairment.

The ADA's reasonable accommodation obligation includes "modifying workplace policies" which might require an employer to waive certain eligibility requirements or otherwise modify its remote work program for someone with a disability who needs to work from home. Employers are within their right to enforce return-to-office mandates but must consider reasonable accommodation requests by disabled employees who ask to be exempted from the

mandate. Employers should ensure that they have proper policies in place for evaluating all employee accommodation requests, including requests to work from home due to a disability. Employers are encouraged to consult counsel to ensure compliance with the ADA and other applicable laws.

<https://www.jdsupra.com/legalnews/employers-beware-return-to-office-6473695/>

Sleep hygiene may be HR's next big mental health push, as 58% of U.S. workers say they regularly struggle to get quality sleep

Addressing mental health at work has emerged as one of the most important issues HR teams are tackling these days, offering perks like [quiet rooms](#) or [on-site therapists](#). HR teams may also want to support employees with a mental health-adjacent effort that usually happens outside the confines of an office: sleep.

Over half (58%) of U.S. adults say they regularly struggle to get a good night's sleep, according to a survey of more than 1,000 American workers from meditation and mental health platform Headspace. While the CDC [recommends](#) that working-age adults (age 18 to 60) get more than seven hours of sleep per night, 63% of surveyed U.S. adults say they sleep less than six hours per night.

Stress and financial pressures are the top two factors affecting workers' sleep quality. Why should employers care? Well, 72% of respondents agree that a bad night's sleep tanks their productivity the next day, citing feeling distracted (61% of respondents), failing to accomplish goals (42%), and even calling out sick (25%).

"Even though we don't talk about it in a corporate environment, not having slept well puts you in a situation where you can't perform well. And 25% of people missing a day at work clearly has a significant impact on productivity," Karan Singh, Headspace's chief people officer, tells Fortune.

About one-quarter of American respondents say that if they could improve just one aspect of their life to benefit their mental and physical health, they'd select sleep. And 77% say consistent quality sleep would improve their mental health.

In some ways, addressing sleep quality may be a lower entry barrier for workers interested in seeking mental health care but still reluctant to take the plunge. Headspace, which serves more than 4,000 employers across 200 countries, says it has seen increased interest in its sleep quality content, noting that it's sometimes easier for employees to simply say, "I didn't sleep so well last night" instead of disclosing they want mental health care. "It's a lightweight...entry point to get access to care," Singh says.

While offering sleep hygiene tools can be helpful, people leaders should also establish a culture that decreases stress levels, such as minimizing the amount of work employees must address late in the evening.

According to Headspace's 2023 workforce attitudes toward mental health [report](#), 89% of employees surveyed say they've felt moderate to extreme stress over the past month, with 49% saying they feel a sense of dread at least once per week. Respondents point to instability and unpredictability at work, overwhelming expectations to take on more job responsibilities, and higher expectations and fear of not meeting them as the top three drivers of their dread.

"It is about the context and the culture that HR leaders can set," says Singh. "If there is a culture of responding to email, all day, every day, all night, every night, then more often than not, that's going to likely lead to runaway thoughts and challenges with stress and eventually trying to get to sleep."

<https://fortune.com/2023/11/20/sleep-mental-health-rest-wellbeing-headspace/>

Generation Z: 'The Loneliest, Least Resilient Demographic Alive'

Generation Z's vitality, while trending upward, lags far behind that of other cohorts, according to a new survey commissioned by The Cigna Group. But HR can play a key role in supporting the mental health of this generation.

The [study of 4,000 U.S. adults](#) revealed that 33 percent of young adults rate their own mental health as "excellent" or "good," compared with 48 percent, on average, of all other adults. Generation Z also reported lower personal confidence and self-esteem, dissatisfaction with their personal and professional lives, and lower overall quality of life than all other generations.

"What stood out to me was the extent to which younger people continue to face enormous mental health challenges—particularly Gen Z," said Stuart Lustig, a child psychiatrist and national medical executive at Evernorth Health Services, a division of The Cigna Group. "Gen Z are the loneliest, least resilient demographic alive today."

Among Generation Z respondents:

26 percent of women describe their mental health as excellent or very good, compared with 43 percent for their male counterparts.

27 percent of women and 40 percent of men describe their confidence and self-esteem as excellent or very good.

29 percent of women and 41 percent of men see their body image as excellent or very good.

White respondents were more likely than their Black counterparts to report struggling with their mental health, body image and confidence.

More than half of Generation Z (55 percent) experienced stress about their finances—a higher percentage than for older generations (42 percent). Most young adults agree that financial or economic concerns are the most important problem facing their generation, citing the high overall cost of living (35 percent) and inflation (25 percent) as the biggest financial problems.

"No other generation feels less connected, less autonomy over their future, more unfocused when it comes to life, and reports worst quality of life and greater hindrance due to their mental health," Lustig said. "This has huge ramifications for other aspects of life, including the workplace."

How Mental Health Struggles Can Cost Companies

The research showed that poor mental health significantly impacts the workplace. Individuals with lower levels of vitality tend to have:

- Higher absenteeism.
- Less confidence at work.
- Lower work performance.
- Higher turnover.
- Less satisfaction with work.

Further, approximately half of Generation Z respondents reported that their poor mental health keeps them from taking care of responsibilities and concentrating on completing important tasks, the study indicated.

"In contrast, people with higher vitality are more present in their jobs, more productive and have a higher confidence and ability to carry [out] their duties," Lustig added.

In some cases, the workplace can deteriorate employee mental health. A [2023 survey by SHRM](#) found that 27 percent of Generation Z workers say their job has made them feel depressed at least once a week in the past six months, causing many of them to look for a new job.

<https://www.shrm.org/topics-tools/news/inclusion-equity-diversity/the-least-resilient-demographic-alive>

United States: Employees Soon May Not Have To Show Any 'Adverse Action' To Prevail At NLRB

As anyone who follows labor law knows, the National Labor Relations Board (NLRB) and its general counsel, Jennifer Abruzzo, have been quite active in the last 18 months. Indeed, from a groundbreaking change to the union election process to a new rule on joint-employment to a new standard the agency will use to evaluate employer personnel policies – just to name a few – the pace of change has been dizzying.

It appears we can add another potential significant development to the mix: the possible removal of a requirement that an employee claiming discrimination under or violation of labor laws must show, in some cases, that they have suffered an "adverse employment action."

According to a [recent article from Bloomberg Law](#), "The National Labor Relations Board's top lawyer wants to eliminate the current requirement that a worker must be fired, disciplined, or suffered other adverse employment actions for agency prosecutors to prove illegal anti-union discrimination. NLRB General Counsel Jennifer Abruzzo asked for the change in legal standard last week as part of a challenge to an administrative law judge's decision dismissing allegations that Starbucks Corp. violated federal labor law by denying a worker's transfer requests because of her union activity."

Under most employment and labor law statutes, to set forth a valid discrimination claim, an employee must show that he or she suffered a tangible, adverse employment action - such as termination or discipline. Sometimes this area of the law can be murky. For example, is a negative performance evaluation that is not tied to pay or promotion opportunity an adverse action? Is a forced transfer to another position that pays the same, has the same hours, and requires the same amount of work an adverse action? What about the withholding of an annual performance review discussion?

Arguments can often be made on both sides. While those issues often become the subject of litigation, whether or not an adverse action has taken place typically is not, as it is a standard requirement in most cases.

<https://www.mondaq.com/unitedstates/employee-rights-labour-relations/1390286/employees-soon-may-not-have-to-show-any-adverse-action-to-prevail-at-nlrb>

Gen Z set to outnumber baby boomers in the workforce in 2024, Glassdoor says

HR and organization leaders face pivotal culture changes next year as Gen Z workers become a more dominant presence in the workplace.

The coming year represents a pivotal moment of cultural change that U.S. companies can't ignore, as Generation Z workers, or "Zoomers," [are poised to overtake Baby Boomers](#) in the full-time workforce, Glassdoor's 2024 Workplace Trends report predicted.

Gen Z workers care deeply about community connections, having their voices heard in the workplace, transparent and responsive leadership and diversity and inclusion — priorities that employers, HR professionals and talent acquisition teams will have to address to attract and retain this increasingly important share of the American workforce, according to the Nov. 15 report.

Employers who undertook layoffs in 2023 will also have to address another critical issue: continuing declines in employee morale and satisfaction, the report cautioned. Employee ratings about senior management and CEO approval typically plummet immediately after a layoff, and assessments change little during the following six months, according to the report. By contrast, employee dissatisfaction with their workplace culture and work-life balance may not be immediately felt, but "there can be an ongoing impact from longer-term burnout, weaker employee culture and persistent disengagement" during the same six months after a layoff.

By most expectations, U.S. businesses avoided having to deal with an official recession, Glassdoor noted. Companies also may have made it through the worst of the layoffs and should be able plan for hiring to "haltingly improve" over 2024, it said. But organization leaders still face crucial issues — namely those having to do with workplace culture — that "will test the robustness" of their institutions, the report noted.

To strengthen employee morale, employers may want to start by [repairing employee trust in leadership](#) damaged by cost-cutting strategies employers took to prepare for a potential economic downturn. Although 56% of HR and business leaders recently surveyed by Challenger, Gray & Christmas said their employees had a favorable view of leadership, that is a noticeable decrease from 65% last spring, according to the firm's October report. Respondents pointed to inefficacy, inconsistency and poor communication as causes.

Poor communication may be part of the reason Gen Z, millennials and Gen X workers say [they're struggling at work](#), according to a September report from FlexJobs.

The report found that nearly three-quarters of Gen Z workers feel more optimistic about their career prospects now than this time last year, as compared to 43% of millennials and 31% of Gen X workers. But workers across all three generations reported similar challenges, including excessive work and a lack of clarity around their job roles and expectations.

Gen Z was most concerned about expectations from their bosses and a lack of knowledge about how to complete tasks, the FlexJobs report found.

These newest members of the workforce are hungry for personal growth, and talent teams may stand out by [showcasing learning benefits](#) as a way to appeal to Gen Z applicants, LinkedIn reported in 2022. The platform's research found that Gen Z job hunters consider increased learning opportunities a top factor in their job search. They ranked training second, just behind "better alignment with my interest or values."

In the face of a growing and maturing Gen Z, companies may also want to consider [revamping their total rewards strategies](#). As younger generations form families, advance in their careers and accumulate assets, they'll be more focused on health insurance for dependents, retirement savings and other traditional benefits, researchers in a EY and Limra joint study released last August reported.

Glassdoor found that benefits such as fertility and adoption assistance, parental leave and mental healthcare continued to rise in 2023, perhaps as a widespread effort to make working more accessible to parents or to attract millennials on the cusp of family-formation years, it said.

However, this trend could ebb in 2024 "as labor is more available and companies scrutinize costs to identify the benefits that are most (and least) important to their employees," Glassdoor added.

<https://www.hrdiver.com/news/gen-z-overtake-baby-boomers-workforce-glassdoor/699828/>

Why Executives Still Downplay Their Own Identities, Harming CEO Diversity Goals

C-suite executives and senior managers have a significant influence on organizational culture. Yet 67% of senior managers workers "cover" to fit in at work, downplaying aspects of their social identities that are disfavored in their workplaces, such as parental status, race, disabilities, or sexual orientation.

These are the findings from a new [Deloitte report](#), based on a study of 1,269 U.S. working adults employed in firms with at least 500 employees, and conducted in collaboration with New York University's law school.

40% of the surveyed workers believe that their leaders expect them to cover, the Deloitte study found.

This should be a wake-up call for CEOs who are almost unanimous in saying that diversity, equity, and inclusion has become a [personal strategic](#) priority for them.

The Silent Struggle: A Widespread Issue

It's not just executives who worry that stereotypes and biases associated with their social identities could hurt them professionally. Approximately 60% of U.S. workers cover to fit in at work, according to the Deloitte report.

Caregivers, workers with disabilities, and those who identified as non-heterosexual reported covering at even higher rates (68%, 70%, and 69% respectively). Among minoritized racial groups, over 60% of Asian, Black and Hispanic of employees reported covering.

Holding back on discussing mental illness struggles or childcare challenges, altering one's physical appearance to appear younger – or older, avoiding contact with racial group peers, and refraining from interrupting identity-insensitive jokes are just some of the ways in which people avoid calling attention to stigmatized aspects of their identity, according to the Deloitte report.

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Covering can be a helpful coping mechanism: It may help with gaining acceptance from others, or with navigating a workplace rife with stereotypes and biases.

But the costs are also substantial, ranging from the exhaustion that arises from maintaining these facades to missed opportunities for creating a more inclusive workplace.

An Inclusive Leadership Wake-Up Call

Leaders at all levels who embrace and address relevant aspects of their social identities can set the stage for others to do the same.

This could involve discussing personal challenges they've faced navigating stigmatized aspects of their identity. By doing so, they demonstrate vulnerability and authenticity, making it easier for others to follow suit.

When it is not possible for leaders to be able to directly share their stories, and because not all employees will identify with senior executives, managers can foster an uncovering culture by creating spaces and time for employees to share authentic, personal stories of growth and learning.

Authentic, personal stories of growth build connection, increase inclusion, and model learning. They facilitate trust and open brave space for conversations on otherwise difficult or taboo topics. Employees respond especially positively to peers' value-upholding stories, according to a

Boston University [study](#) that examined newcomers' responses to different narratives and storytellers.

Employee resource groups (ERGs) can play a significant role in providing employees with shared social identities a platform to connect, share experiences, and advocate for change. ERGs can serve as safe spaces for employees to discuss challenges openly. They can accommodate a range of purposes: making [mental health](#) issues discussable, establishing a stronger support network for [working parents](#), and creating alternate spaces to [white-centered](#) ones.

Crucially, ERGs are also a vital source of information and ideas for organizations seeking to destigmatize and debias the workplace.

In summary, addressing the prevalent practice of covering in the workplace, particularly among executives, and fostering inclusive leadership could go a long way towards helping organizations create a more inclusive and open organizational culture.

<https://www.forbes.com/sites/corinnepost/2023/11/14/why-executives-still-downplay-their-own-identities-harming-ceo-diversity-goals/?sh=a5ad4f87684c>

Women of color are underrepresented in federal workforce leadership, EEOC says

“The barriers faced by different groups of women are sometimes hidden in larger data,” EEOC’s Dexter Brooks said in a statement.

While both AIAN women and African American women have double the participation rate in the federal workforce compared to the civilian labor force, both earned considerably less than their counterparts.

“Significant” pay gaps and underrepresentation in leadership still plague federal workforce positions, particularly for American Indian and Alaska Native (AIAN) women, African American women and Hispanic women and Latinas, [according to a U.S. Equal Employment Opportunity Commission report](#) released Nov. 8.

While both AIAN women and African American women have double the participation rate in the federal workforce compared to the civilian labor force, both earned considerably less than their counterparts. AIAN women, for example, earned a median annual salary of \$56,432, which is \$22,800 less than all women federal employees.

Hispanic women and Latinas, meanwhile, had lower participation rates in the federal workforce compared to the civilian force, but resigned at a rate “almost twice the average for all employees government-wide,” according to EEOC.

AIAN women were the only group that had proportional representation among managers and supervisors, but only accounted for 0.4% of executives, which is disproportionate to their presence in the force, EEOC said.

Hispanic women and Latinas held first-line supervisory positions at a higher rate than their participation, but they were underrepresented comparatively as managers and executives, EEOC said. African American women were underrepresented across the board; while they accounted for 11.7% of the federal workforce, they only accounted for 10.4% of supervisors, 9.6% of managers and 7.3% of executives.

“The barriers faced by different groups of women are sometimes hidden in larger data,” Dexter Brooks, associate director of the EEOC’s Office of Federal Operations, said in a statement. “We hope these reports provide federal agencies and those working to implement Executive Order 14035 with information that can be leveraged to address the significant pay gaps and separation issues identified in these reports.”

Other studies have [showcased the “broken rung”](#) that keeps marginalized women out of the upper echelons; McKinsey’s 2023 Women in the Workplace report also noted that women of color remain underrepresented in leadership. Women tend to face their biggest hurdle in that first step up to manager, the report said.

Other experts have spoken at length about how many women feel they need to [erase their identity](#) in order to fit into leadership. The pandemic in particular highlighted how child rearing and child care difficulties [disproportionately affected women’s workweeks](#).

To ameliorate this, employers can offer child care benefits of varying types, including back-up care, as well as schedule flexibility and paid sick days, one study showed.

<https://www.hrdiver.com/news/women-of-color-underrepresented-in-federal-leadership/699706/>