

# MARSH

21 September 2004

## **Your duty to manage employee stress**

The Institute of Risk Management 2004 Risk Forum  
Workshop

**Barbara Dahill**

London



Marsh & McLennan Companies

# **Your duty to manage employee stress**

- Background to stress
- Stress and the law
- Stress risk assessments
- Dealing with stressed employees
- Using support services



# **Background to stress**

# Stress management

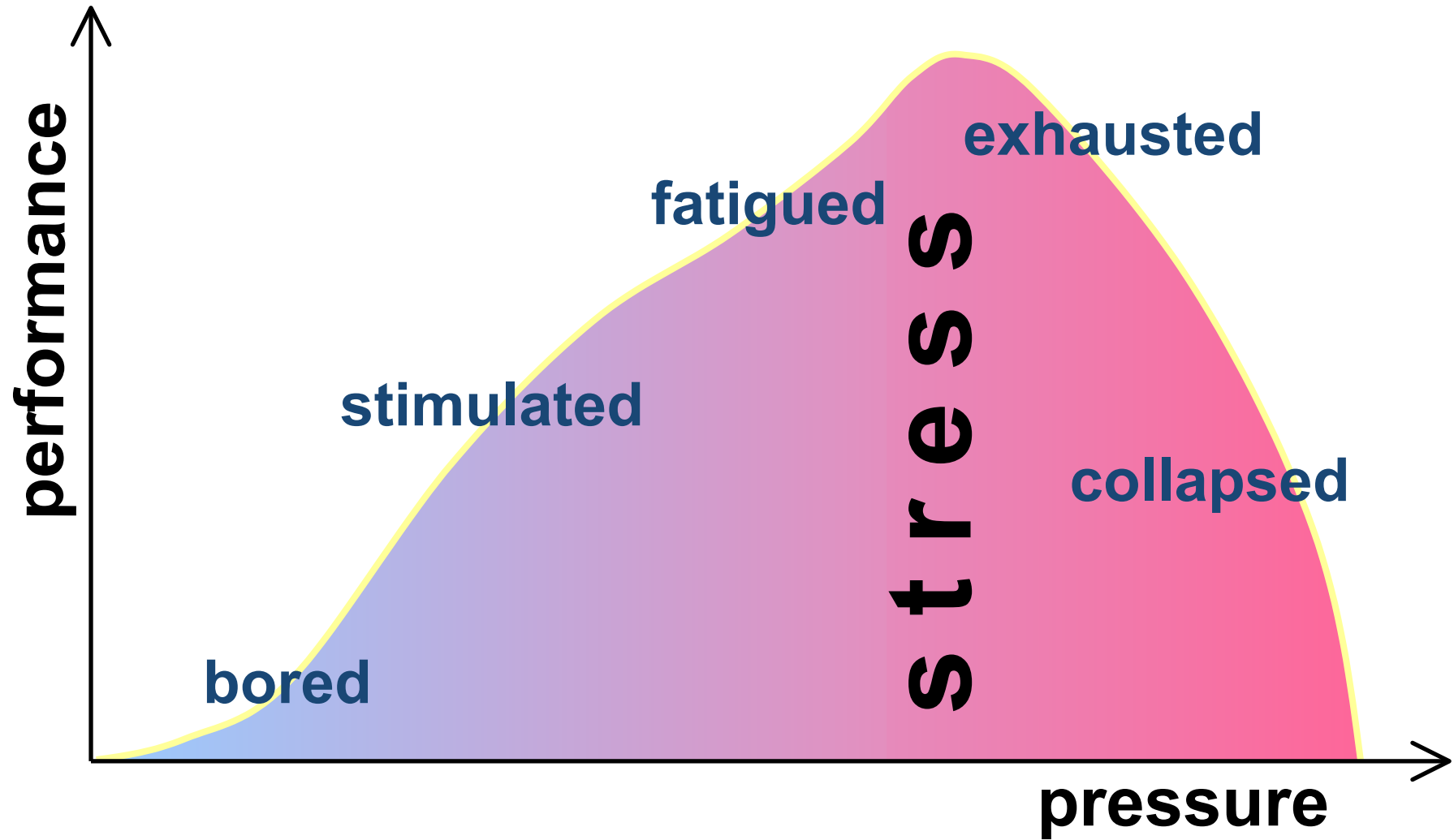
- Escalating cost
- Legal duty
- Ethical issue

## **Definition**

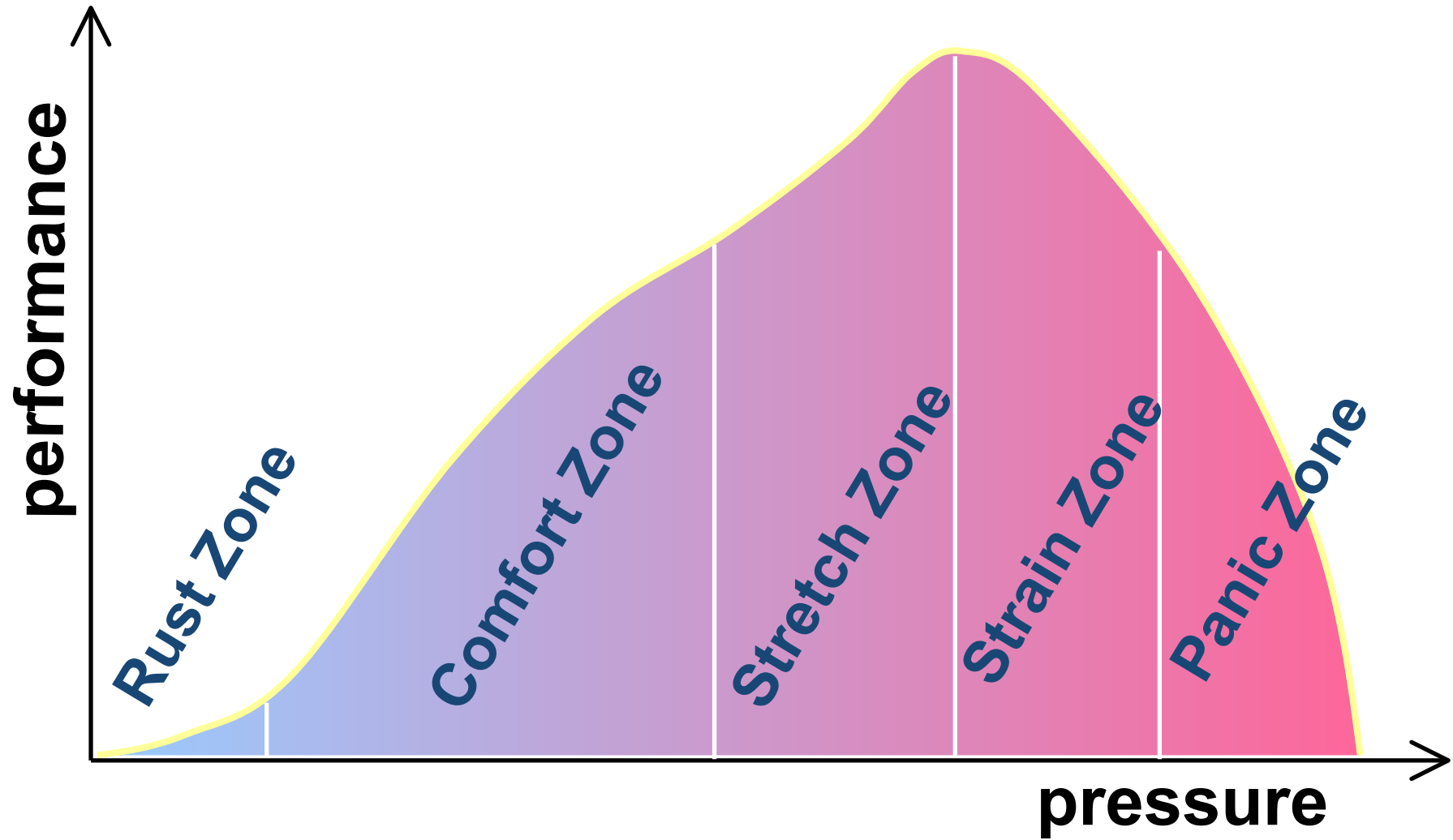
‘Stress is the condition experienced when someone perceives that they are unable to meet the demands placed upon them.’

Source: Health and Safety Executive (HSE)

# Yerkes-Dodson Human performance curve



# Yerkes-Dodson Human performance curve



## **Discussion - stress and pressure**

Consider someone who is under excessive pressure and beginning to display signs of stress. What characteristics and symptoms would indicate that they were stressed?



## **Effects**

Stress results in mental, physical and behavioural

# Mental

- Phobias
- Anxiety
- Panic
- Compulsion
- Addiction
- Paranoia
- Depression

# Physical

- Gastritis
- Irritable bowel
- Peptic ulcers
- Asthma
- Headaches
- Hypertension
- Skin rashes

# Behavioural

- Critical
- Humourless
- Indecisive
- Moody
- Negative
- Aggressive
- Withdrawn



**What causes stress symptoms?**

# The 'Fight or Flight' response



## Effects on the body

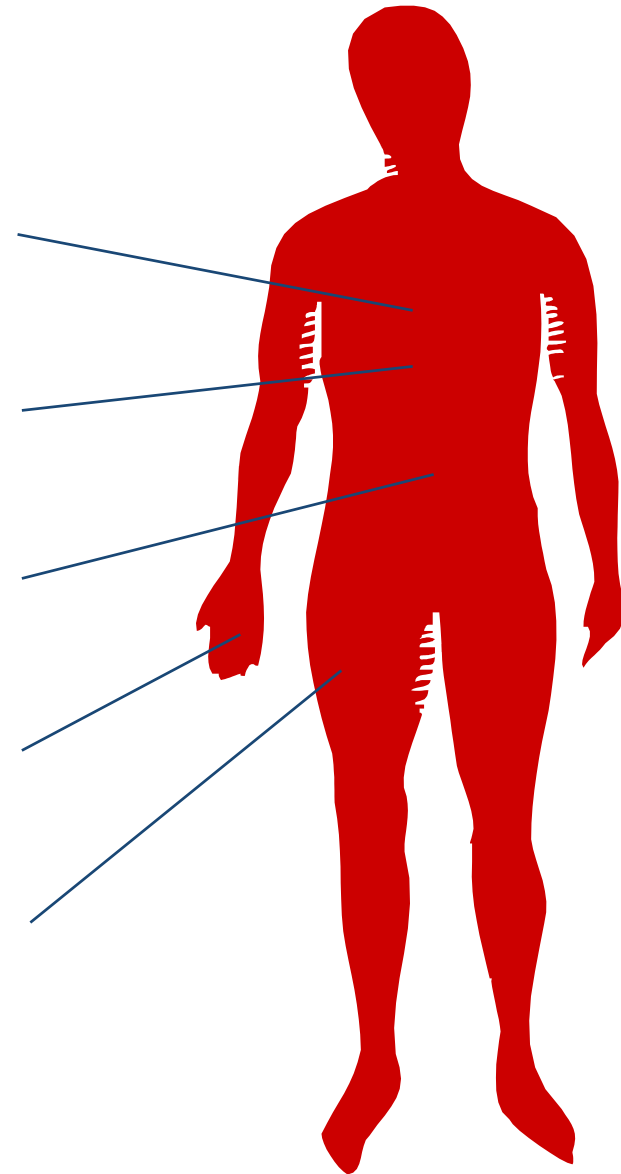
heart rate increases

respiration increases

digestion slows

skin dries

muscles tense





# **Stress and the law**

## **The legal challenge**

- Not a mental disorder, but is causative
- No legal definition
- One of most reported work-related conditions
- Great variation in individual tolerance

## The legal challenge

- Effectiveness of reduction measures varies by individual
- Admitting stress may be viewed by employees as not being able to do the job
- Causes of stress vary - domestic and work-related

## **Possible legal consequences of stress claims**

- Personal injury claims
- Criminal proceeding (under health and safety legislation)
- Constructive dismissal
- Harassment - sex, race and constructive dismissal
- Disability discrimination under the DDA

# **The Management of Health & Safety at Work Regulations**

Employers are required to assess the nature and scale of workplace risks to health and safety and ensure there are proper control measures in place to avoid these wherever possible, and reduce them so far as possible, where not.

## **Stress claims**

- Employer's duty of care applies irrespective of whether stress is caused by work or domestic factors
- Duty of care includes safe working environment and safe systems of work

## **Stress and the law**

### **Walker v Northumberland County Council**

‘Breach of its duty of care in failing to take reasonable steps to avoid exposing the employee to a health endangering workload.’

**£175,000**

Walker v Northumberland County Council [1995] IRLR 35

## Stress and the law

### McLeod v Test Valley Borough Council

Left job due to stress induced mental illness caused by **bullying** from his manager.

A history of psychological illness while employed by another local authority, and deemed to be **vulnerable** to further stressors.

**£200,000**

McLeod v Test Valley Borough Council [2000]

## Stress and the law

### Pratley v Surrey County Council

Wanted to be viewed as an achiever

Asked GP to conceal cause of work-related depression

Court decided that employer was not able to assess her vulnerability

Pratley v Surrey County Council [2003] EWCA Civ 1067

# Hatton v Sutherland

- Employer is entitled to assume employee can withstand normal pressures of job
- Indications of impending harm must be plain enough for reasonable employer to realise need for action
- Employer who offers confidential advice with referral to counselling is unlikely to be in breach of duty

Hatton v Sutherland; Barber v Somerset County Council; Jones v Sandwell MCB;  
Bishop Baker Refractories Ltd [2002] TLR 66, CA

## Stress and the law

### Criteria for personal injury claim

- Employer owes a **duty of care** to the employee and is in breach of that duty
- Damage to health was **foreseeable**
- Employee suffered an **injury**
- Injury caused by factors in **workplace**

# Dealing with stressed employees

- Contact employee
- Obtain medical details
- Arrange occupational health referral
- Refer employee to counselling or other support
- Organise return to work plan

## **Lessons from successful defences**

- Open and receptive management style
- Flexible communication channels
- Support services available
- Effective, straightforward procedures
- Documentation of incidents and responses
- Demonstrable commitment to employee welfare
- Measuring and monitoring systems
- Employees withheld information

## **Lessons from successful claims**

- Failure to recognise signs of stress
- Failure to respond to problems
- Inadequate management framework
- Lack of communication channels
- Inadequate support infrastructure
- Inconsistency of approach

## Stress management - HSE Guidance

- Encourage managers to have an **open attitude**
- Provide **skills, training and resources**
- Provide scope for **varying working conditions**
- Treat people **fairly and consistently**
- Ensure good **two-way communication**

# Stress management - HSE Guidance - 2

## Achieving HSE standards

- 85% of employees indicate they:
  - are able to cope with the **demands** of their job
  - have a say about, and some **control** over, the way they do their work
  - receive adequate **information and support** from their colleagues and managers

## **Stress management - HSE Guidance - 3**

### Achieving HSE standards

- 65% of employees indicate they:
  - are not subjected to **unacceptable behaviour**, such as bullying, at work
  - understand their **role and responsibilities**
  - believe that the organisation engages them frequently during **organisational change**



## **Work adjustments to prevent stress claims**

Consider adjustments that you could make within the workplace that could help prevent stress claims.

## **Work adjustments to prevent stress claims**

- Provide support - human and technical
- Reduce workload
- Alter working hours - increase breaks
- Monitor regularly
- Postpone involvement in stressful events
- Training
- Counselling
- Buddy programme
- Act proactively



# **Stress risk assessments**

## **Getting a risk management framework in place**

- Undertake regular risk assessments
- Provide stress management training
- Provide training for managers in spotting early signs and taking action
- Develop a stress policy
- Provide access to counselling

## **Demands:**

*'I am able to cope with the demands of my job.'*

**1. Often**

**2. Sometimes**

**3. Seldom**

**4. Never/almost never**

## **Control:**

*'I am able to have a say over the way I do my work.'*

**1. Often**

**2. Sometimes**

**3. Seldom**

**4. Never/almost never**

## **Support:**

*'I believe that I receive adequate support and information from my colleagues and superiors.'*

**1. Often**

**2. Sometimes**

**3. Seldom**

**4. Never/almost never**

## **Relationships:**

*'I am subjected to unacceptable behaviours (e.g. bullying) at work.'*

**1. Often**

**2. Sometimes**

**3. Seldom**

**4. Never/almost never**

## **Role:**

*'I understand my role and responsibilities within the organisation.'*

**1. Often**

**2. Sometimes**

**3. Seldom**

**4. Never/almost never**

## **Change:**

*'The organisation engages staff frequently when undertaking organisational change.'*

**1. Often**

**2. Sometimes**

**3. Seldom**

**4. Never/almost never**

## **Stress risk evaluation service**

- Web enabled or paper based
- Confidential input from all employees
- Based on HSE criteria

# Stress risk evaluation service

Key aspects of the service:

1. Tailor demographic data
2. Brief managers
3. Send email with link to survey to all participants
4. Two email reminders to complete survey
5. Analysis of data by Marsh
6. Report of key findings and recommendations
7. Meeting with managers to discuss report and agree action

# Stress risk assessments

HSE criteria

**Culture**

```
graph TD; Culture --> Demands; Demands --> Control; Control --> Relationships; Relationships --> Change; Change --> Role; Role --> Support; Support --> Training;
```

**Demands**

**Control**

**Relationships**

**Change**

**Role**

**Support**

**Training**

# MARSH

## Culture

The culture of an organisation is a key factor in determining how successful a company will be in managing stress in the workplace

Please mark one box for each question, choosing the box next to the statement which is closest to your experience

	5	4	3	2	1	0	
<b>Organisational Priority</b>							
Stress and health are treated as real organisational priorities	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	No-one takes an interest in the health and stress of employees
<b>Open Communication</b>							
There is good, open communication and everyone knows what is going on	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Employees are not told about changes and developments that affect them

# MARSH

## Role

Stress can often be associated with an individuals understanding of their role, and how clearly defined the role is

Please mark one box for each question, choosing the box next to the statement which you think is closest to your experience

	5	4	3	2	1	0	
<b><i>Roles Understood</i></b>							
All employees clearly understand their role and responsibilities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Roles are only vaguely defined and employees are not always clear about their personal responsibilities
<b><i>No Role Conflict</i></b>							
Employees can undertake their jobs without ambiguity or conflict	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	There are often conflicting job demands with employees uncertain about what they should do

# MARSH

## Relationships

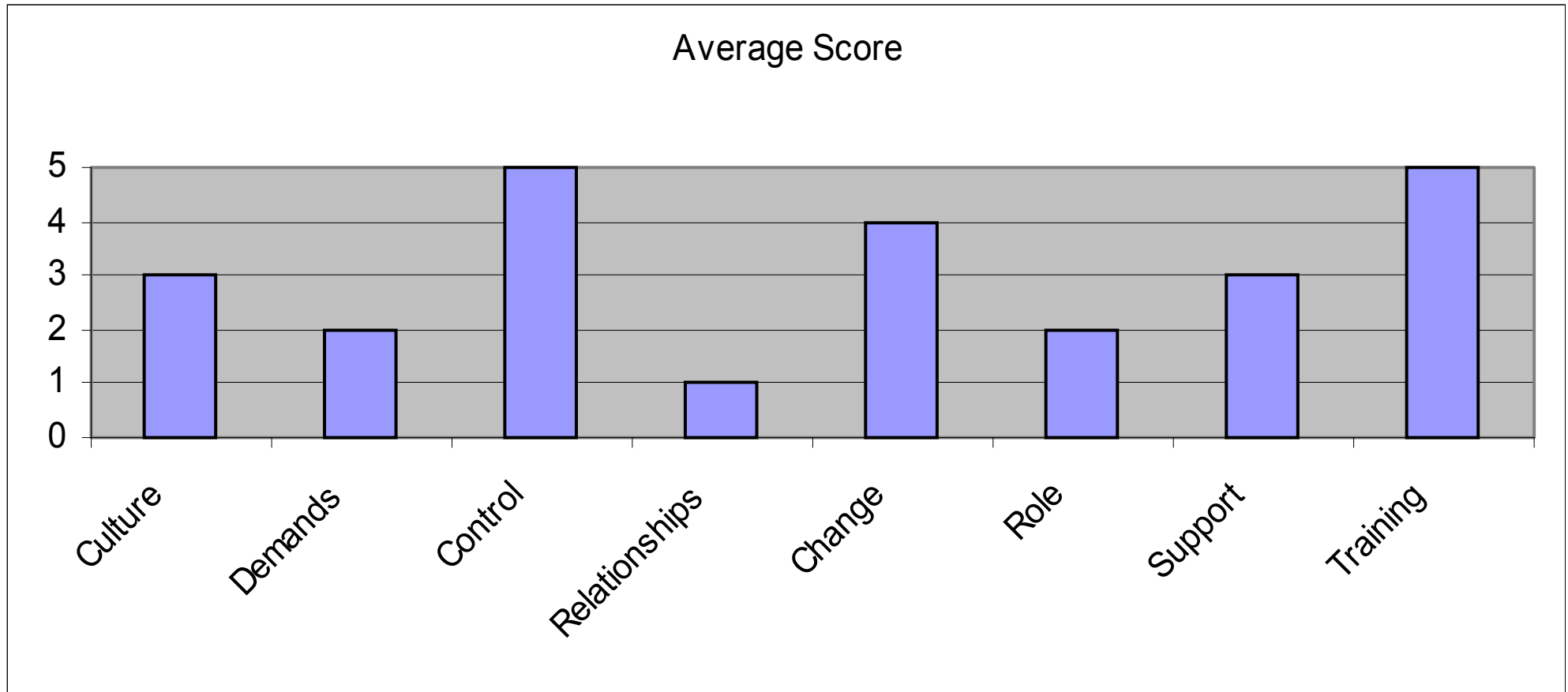
The questions on relationships are based around how people interact with each other in their place of work

Please mark one box for each question, choosing the box next to the statement which is closest to your experience

	5	4	3	2	1	0	
<b>No Bullying</b>							
No-one is ever bullied in the workplace and relationships are based on trust and respect	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Bullying is a tolerated aspect of the culture and there is often a degree of hostility or 'politics'
<b>No Harassment</b>							
No-one ever feels harassed or victimised because of their sex, race, beliefs or disability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Employees who do not fit are subject to unfair discrimination

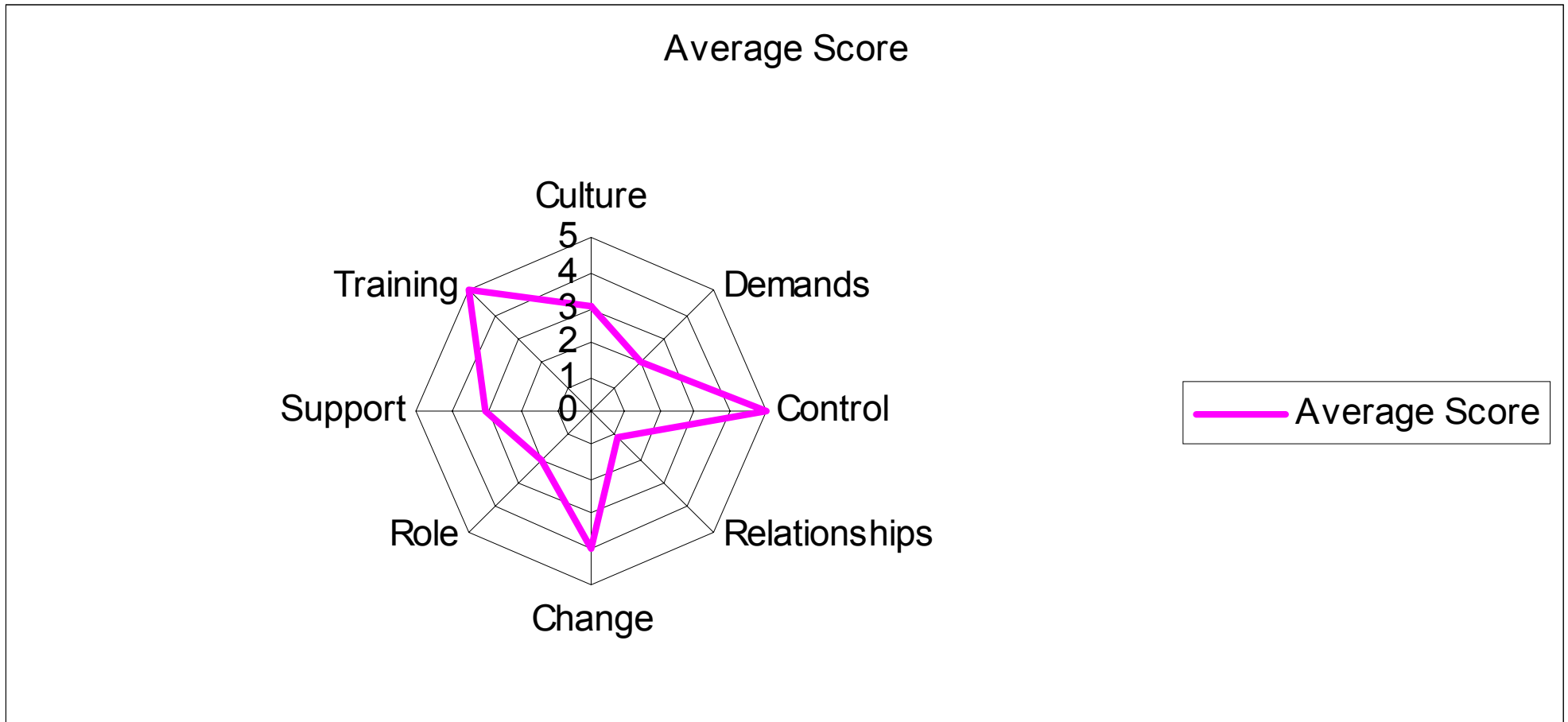
# Stress risk assessment

## Overall results - I



# Stress risk assessment

## Overall results - II



## **Stress risk evaluation service**

- Strengths and weaknesses identified
- Highlights priorities for action
- Shows demographic distribution
- Establishes benchmark for future assessment



# **Managing organisational stress**

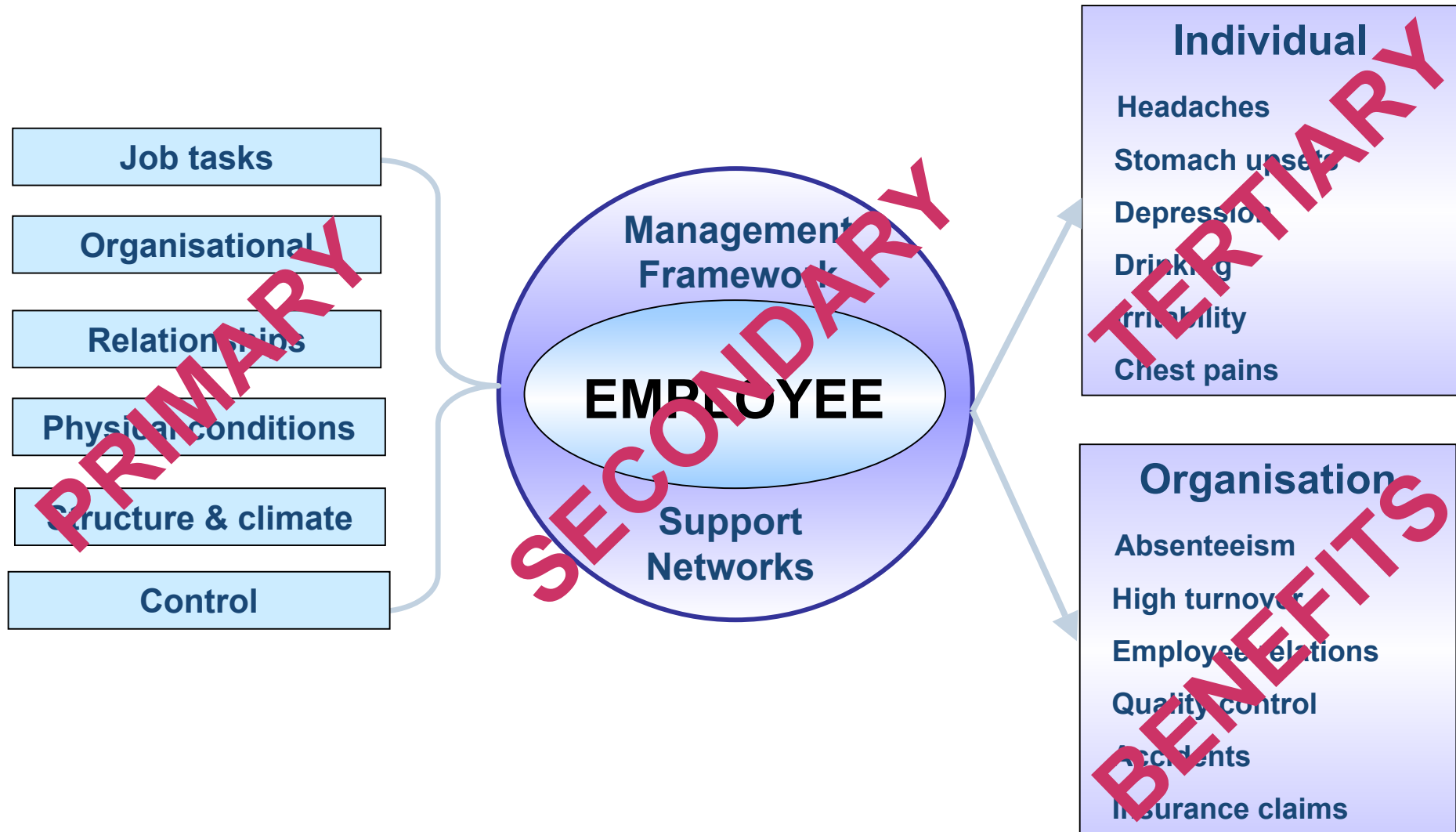
## Managing stress

Our ancestors' stress was **physically** driven

Stress today is usually **emotionally** driven

We have to learn how to turn off the fight or flight response

# Organisational stress



# Causes of work-related stress

- Lack of personal control
- Prolonged pressure to perform
- Conflicting demands
- Continuous threat of aggression
- Ill defined work roles
- Poor working relationships
- Poor communication
- Insecurity
- Excessive workload through staff reductions
- Excessive working hours

Source: Cox

**However...**



None of the objective features of work are as predictive of stress as the employee's perception of the demands on them

Source: Cox



Perception of pressure is a function of the behaviour of managers

Source:Buck

## **Handling stress in others**

- Pick the time and place
- Be approachable - no desk, no aggression
- Allow time and silence
- Listen carefully
- Ask open questions
- Don't argue
- Know your limitations

## **Remember to:**

- Respect confidentiality
- Tell staff how you will use any information
- Involve individuals in any decisions
- Involve safety representatives
- Record findings

Source: Health and Safety Executive

## **Review:**

- Job demands
- Control over work
- Relationships
- Problems with change
- Personal role
- Level of support

Source: Health and Safety Executive

## **Stress management keys:**

- Culture of enjoyment
- Management style
- Supportive environment
- Early intervention



# **Using support services**

## **Support services**

- EAPs
- Occupational health
- 'Alternative' therapies
- Consulting/audit services
- Training

## **Support services**

- Do they come in at the right part of the cycle (assess, plan, implement, monitor)?
- Are they focused on primary interventions?
- Do they address priorities?
- Do they have performance indicators and measures of success?



**Managing stress in others**  
**Case studies**

## Case study 1 - Arthur

Arthur is a 32 year old employee. His job is primarily office based. He fractured his leg four months ago and required surgery to repair the fracture. He was not an easy employee, and you feel that the team is more harmonious without him. You have not personally made contact but human resources have been in touch with him. Four months after surgery, Arthur has completed a course of physiotherapy and is no longer receiving any medical treatment. He has expressed reluctance to return to work, stating that he is concerned that he may injure his leg during the course of his day to day activities at work. His doctor continues to sign him off from work.

- What actions would you now take?
- Would you communicate with others in your organisation, or access any services?
- What actions could you have taken prior to this point?

## Case study 2 - Brian

Brian is a 42 year old middle manager who was promoted five months ago. You are his manager. He has found it difficult to adjust to his new role and you have concerns about his ability to carry out his new responsibilities. You have met Brian twice to discuss performance objectives for his new role and to identify learning and development needs.

Since his promotion, Brian has had nine working days absence for complaints including flu, backache and stomach upset. He is now off sick and has been signed off by his doctor with work-related stress. After three weeks absence, you refer him to the occupational health service who confirm that he is not fit for work. You feel that his absence is directly related to his inability to carry out his new role and are frustrated that he is 'getting away with this'.

Brian has told the human resources department that he does not want you or human resources to contact him during his absence.

- What would you do?
- Should you have done anything different earlier?
- What role should the occupational health service have regarding Brian?
- Should this case influence the future selection of managers?

## Case study 3 - Alice

Alice has had repeated absence complaining of back pain. Her doctor recommended that she should see a consultant who proposed minor surgery. This was undertaken and after six weeks off work, Alice is not feeling better and is depressed and anxious. She continues working, but with intermittent absence and a negative approach. Her colleagues are complaining about her attitude and about having to cover for her work when absent. Alice has told her manager that she feels her condition is worsened by the increasing pressures of the job. Her consultant has advised further surgery but this can not undertake this for at least six months.

- Is this likely to be a stress issue?
- What course of action do you recommend?



The information contained in this presentation provides only a general overview of subjects covered, is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Insureds should consult their insurance and legal advisors regarding specific coverage issues.

© Copyright 2004 Marsh Ltd All rights reserved



Barbara Dahill  
020 7357 2726  
barbara.dahill@marsh.com