

This is the first in our series of regular updates on legal issues. MIKE PITT, employment, company and commercial law specialist, of Oldham practice Pearson Hinchliffe, examines the links between stress, depression and disability discrimination.

As the pressures of working life increase, I am frequently asked whether stress or depression can give rise to a successful disability-discrimination claim.

While many people suffer as a result of stress, this does not necessarily mean that they are disabled for the purposes of the Disability Discrimination Act 1995.

The Act defines a disability as a "physical or mental impairment which has substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities".

Mental impairment, for the purposes of the Act, must result from, or consist of, a mental illness that is clinically well-recognised by a respected body of medical opinion. Schizophrenia and manic depression are good examples.

Stress itself does not amount to a physical or mental impairment. It may, however, aggravate existing conditions, such as diabetes, migraines or irritable bowel syndrome. It may also contribute to a condition such as clinical depression.

In such cases, employers need to consider how to minimise the effect of a stressful working environment on the disability. A key issue here is whether reasonable adjustments can be made so that the employee can continue to work. These could include, for example, providing counselling and specific support at times of high stress.

Sometimes, a tribunal will conclude that no reasonable adjustments can be made to reduce the effect of any potential stress on an employee.

This happened in the case of a woman with high blood pressure and diabetes, who was taking anti-depressants. She applied for a job in the finance department of a college whose finances were in dire straits and being monitored by outside authorities. Two members of staff had left on health grounds and two others were suffering stress-related illnesses.

The college decided that the applicant was not fit to be employed in the finance department because it was very likely that she would suffer health problems. She took the case to a tribunal, claiming she had been discriminated against on grounds of disability.

Both sides agreed that she was disabled and had been treated less favourably because of her disability. But the tribunal decided that her treatment was justified because the college was only trying to avoid subjecting her to a stressful working environment that could aggravate her condition.

The tribunal also decided that no reasonable adjustments could have been made to improve the situation in the finance department and reduce the effect of any potential stress on her.

This article is intended for general guidance and should not be relied upon without detailed legal or financial advice on your specific circumstances. This article relates to the Laws of England and Wales.

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