



# Employment and work

## Managing mental health and the effects of Long Covid on staff returning to the office, Q&A

We have listed the questions received prior to and during our webinar hosted on 31 March 2022. Please see our responses below.

- **Should employers completely cede the decision of mental illness to an external medical authority?**

In most situations, yes, to enable expert opinion to be given in respect of adjustments, likely recurrence and prognosis.

- **There can be a link to mental health issues with alcohol, drugs and gambling addictions. What would be the best approach to manage such situations?**

Whilst addictions to substances are not disabilities, the mental ill health condition which contributed to the addictions or the ill health that arises from the addiction may be a disability. In the case of gambling,

there may be an issue as to whether there is an impact on the individual's ability to carry out day to day activities.

Supportive capability and well-being approaches would be seen as fair but, if the employee is not managing their well-being with the support that has been put in place, it would be reasonable to move to the capability process.

- **How to deal with mental health problems in a small company with limited resources and no Occupational Health dept.**

In this context, there is not much allowance made for a small employer. The legal obligations and expectations are the same as those which a larger employer with greater resources faces. Many of the elements of good practice that we talk about reflect a human touch (eg good communication, a willingness to talk and a focus on wellbeing) which may be more easily achievable in a smaller organisation.

- **Will depression amount to a disability?**

It certainly may do. Is there an impairment which has a long-term impact on an individual's ability to carry out day to day activities? The focus should be on the effect of the mental health condition. What is the impact on the individual's ability to carry out day to day activities? If it is more than minor or trivial it suggests there is an impairment. In many cases the effects of depression will be long term (ie lasting more than 12 months or likely to recur).

- **Can I include mental health absence days in a redundancy selection matrix?**

If the individual's mental health condition falls within the scope of a disability within the Equality Act we would advise that any sickness absence days relating to the mental health condition are not counted for the purposes of any redundancy scoring exercise.

## Contact us

To find out more about our Employment and work team and how we can help you, please get in touch.

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