

Mental Health and your Employment Rights

What are my rights?

Many people with a long term or fluctuating mental health condition will be protected at work as a 'disabled' person under the Equality Act (2010). If your mental health impacts adversely on your normal day to day life and has done so or is likely to do so for a period of over 12 months, then you are likely to be protected under the Act. This is the case even if this is a recurring or fluctuating condition.

Should I tell my employer about my mental health condition?

- This is a complex issue and one that needs careful thought. Make a list of the pros and cons about sharing this information with your employer/prospective employer. Get help, if you can, in order to weigh up the considerations and how to reveal this information if you think the pros outweigh the cons
- Sometimes you might be asked a direct question about this in a health check after you have been offered a job. You should answer truthfully and this could be a positive opportunity to ask for adjustments if you need these. **Please note: You should not be asked to disclose a medical condition prior to being offered a job**
- If you do tell your employer, you do not need to disclose all details - only those which impact on your work

What support can I get to stay at work?

- An employer has a duty to make reasonable adjustments for a person who has a disability under the Equality Act. However employers need to have enough information to know that you have a long term or recurring health condition that impacts on your day to day life.
- There are other ways an employer might come to know that you have a mental health condition e.g. information on a fit note or disclosed at an occupational health appointment.
- Negotiating reasonable adjustments is about helping an employer to understand if the job or workplace might be creating a barrier for you because

of your health condition. Think about which parts of your job might be adjusted to overcome these barriers then approach your employer to reach an agreement.

What do I need to remember if I am off work?

GP or other health professional

- Keep your fit notes up to date and send them to your employer on time
- Plan in advance to get a GP appointment in time
- If you are working with a specialist health care professional (such as an occupational therapist or clinical nurse specialist) tell them when you are struggling at work or have had to take time off
- Tell any specialist health professionals if you have been asked into a meeting at work about your absence - they might be able to provide some information that helps you explain your current health and plans to get back to work
- Let any specialist health professionals see any Occupational Health reports that you have received
- Discuss changing your fit note from stating that you are '*not fit to work*' to '*may be fit to work with adjustments*' when you are planning to return to work.
- Discuss with your GP and any other health professionals what support would enable you to return to work.

Back to work meetings and sickness absence reviews

- Ask your employer for a **sickness absence review meeting** every so often, even if you are not well enough to return yet. This will show your employer that you are working towards getting back to work.
- Ask your employer for a **return to work meeting** before you go back. Be prepared to discuss what will assist you to get back and see what can be agreed. Keep the discussions positive and productive.
- You are entitled to be accompanied to any meetings. This might be a trade union rep, a trusted colleague or friend.

Keeping in touch

- Comply with your employer's sickness absence procedures and arrangements for keeping in touch.
- Keep in touch with your employer when you are off **even if they don't keep in touch with you.**
- Negotiate with your employer if the arrangements for keeping in touch are proving difficult. E.g. you do not have to meet in the work place

Occupational Health

- Give consent to attend Occupational Health if your employer requests this
- Read the forms that seek consent to attend Occupational Health. Remember to ask to see your occupational health report. It is your right
- Read the forms that seek consent for your employer or Occupational Health to get a medical report from your GP. Discuss this with your GP and ask to see it before it is sent

Statutory Sick pay (SSP)

- Remember that after you have been off work for 28 weeks, you will no longer be entitled to Statutory Sick Pay (you may still be entitled to contractual sick pay)
- Remember that you are still employed even if you are no longer getting sick pay
- Remember to keep sending copies of your fit notes to your employer even if you are on Employment Support Allowance.

Remember. Get help as soon as possible. The earlier you can get back to work with the right support the better!

Support available

Trade Unions

If you are a member of a Union – make use of them. They will be able to give well informed support and advice. They may even be able to offer mediation.

Support@Work/ Edinburgh TUC

Offer advice and support for those with a Health condition, either entering work, or returning to work after time off. Focus is on early intervention - resolving any issues between employers and employees, regarding any Health and Inequalities at work.

Tel: **0800 0282 280**

Lothian Work Support Services

Offer advice, sign posting and mediation. They may take you on for 'Case Management'. Contact them to find out more and self refer:

Lothian work support Services
Occupational Therapy Department
Astely Ainsly Hospital,
13 Grange Loan, Edinburgh
EH9 2HL
Tel: **0131 537 9579**
Email: voc.rehab@nhslothian.scot.nhs.uk

CAB or your local Welfare Advice Services

These services may be able to provide useful advice and signposting. To find out where your nearest one is, ask at your local Library or GP surgery.

Job Centre

If you are using a Job Centre, ask them if they offer advice on Disability and Employment Rights and returning to work issues for those with a health condition.