

# STRESS LESS WORK MORE

Amanda Marquarite Robinson,  
Barrister



## Aim:

- Provide an overview to the law on reasonable adjustments
- Provide guidance on capability/performance
- Provide guidance on managing your own stress in the workplace

WEBINAR



# TOPICS

Who am I?

What is Stress?

Disability

Reasonable adjustments

Capability / performance

Stress less, work more



# WHO AM I?

- Barrister
- Former Employment Rights Officer
- Member of The Barrister Group
- Owner of Great Russell Street Chambers



Anxiety

Stomach flipping

Empty head

FIRST APPEARANCE – EAT



# WHAT IS STRESS?

*Stress is the body's reaction to feeling threatened or under pressure.*



# STRESS

Adrenaline – fight or flight – motivates us to act

Can affect our mood, body and relationships

Can make us feel anxious, irritable

Can affect our self-esteem

Long-term stress or severe stress can lead to feeling physical, mental and emotional exhaustion



## Digestive system

- Stomach ache
- Diarrhea

## Obesity

- Weight gain

## Immune system

- Weakening
- More likely to have colds and other infections

## Nervous system

- Anxiety
- Depression
- Loss of sleep
- Lack of interest in physical activity

## Cardiovascular system

- Increase in blood pressure
- Increase in blood sugar

LONG-TERM EFFECTS





- ▶ Irritability, anger, tearfulness
- ▶ Worry, anxiety, hopelessness
- ▶ Racing thoughts, feeling overwhelmed
- ▶ Stress headaches, muscle pain
- ▶ Dizziness, sickness, feeling faint

## SIGNS OF STRESS



# OTHER EFFECTS

- ▶ Fatigue
- ▶ Depression
- ▶ Chest pain
- ▶ Difficulty breathing
- ▶ Menstrual cycle irregularities
- ▶ Erectile dysfunction
- ▶ Loss of libido



- ▶ *(1) A person (P) has a disability if—*
  - ▶ *(a) P has a physical or mental impairment, and*
  - ▶ *(b) the impairment has a substantial and*
    - ▶ *long-term adverse effect on P's ability to*
    - ▶ *carry out normal day-to-day activities.*

## DISABILITY - S6 EQUALITY ACT 2010





# PHYSICAL OR MENTAL IMPAIRMENT

- ▶ Examples include:
- ▶ Sensory impairments – sight / hearing
- ▶ ME, chronic fatigue syndrome, depression, epilepsy
- ▶ Motor neurone disease, muscular dystrophy
- ▶ Asthma, stroke, heart disease
- ▶ Dyslexia, dyspraxia
- ▶ Anxiety, panic attacks, phobias
- ▶ PTSD
- ▶ Schizophrenia



More than trivial or minor  
Low threshold

SUBSTANTIAL AND LONG TERM  
ADVERSE EFFECT





Communicating with other people



Driving



Filling in forms



Following instructions

# EXAMPLES OF NORMAL DAY TO DAY ACTIVITIES



Getting washed and dressed

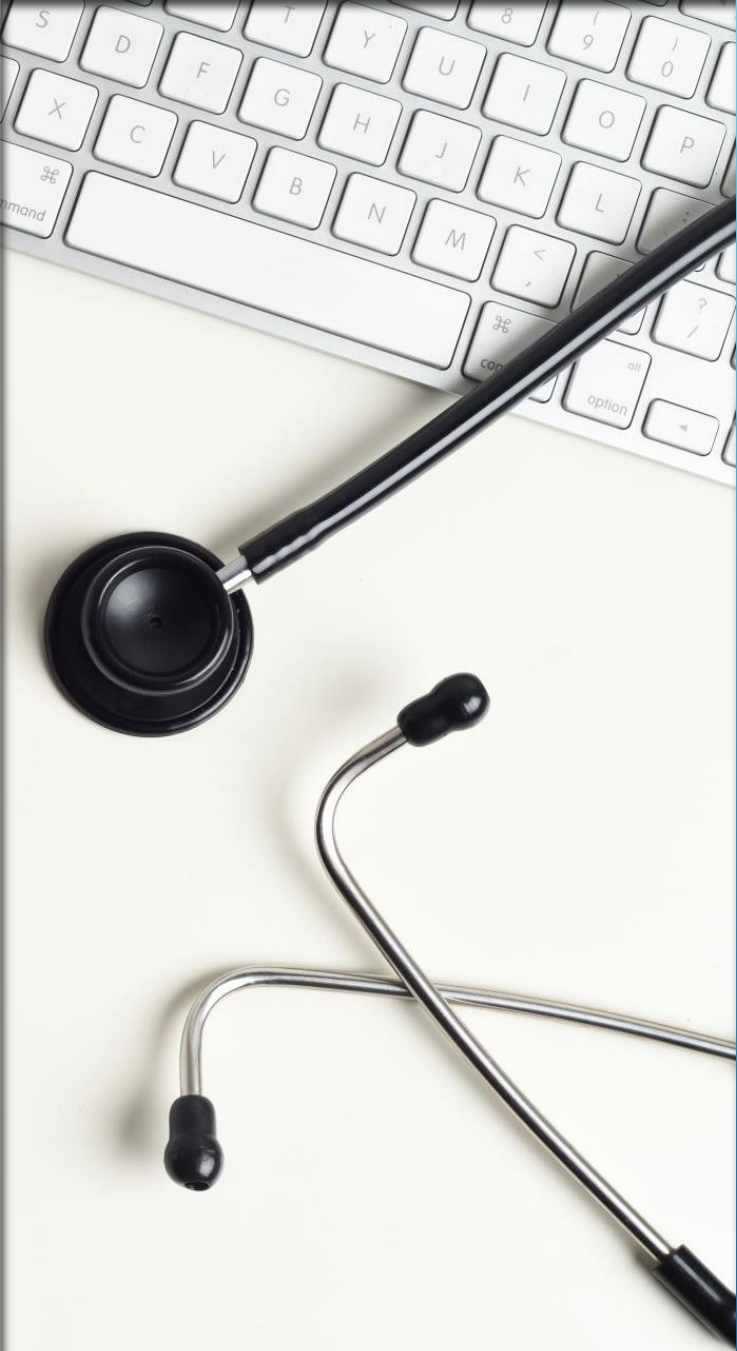
Going to the shops

Preparing and eating food

Sitting down and standing up

Using a computer



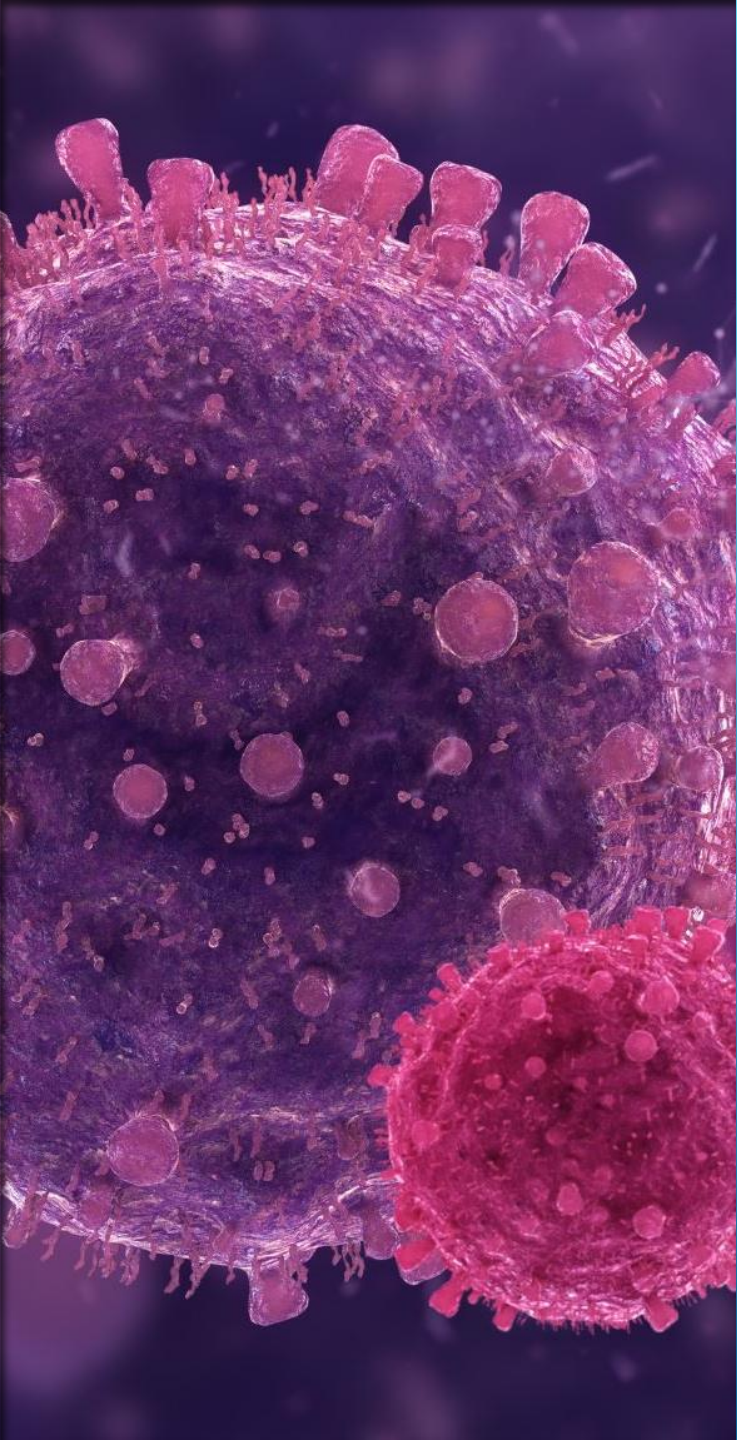


- ▶ **Assessed on a case by case basis**
- ▶ **For claimant to prove that they are disabled under s6**
- ▶ **In practice – impact statement and medical evidence**

**IS THE CLAIMANT  
DISABLED?**







- ▶ Cancer
- ▶ HIV infection
- ▶ Multiple sclerosis (MS)
- ▶ Visual impairment

DISABILITY -  
AUTOMATICALLY  
PROTECTED



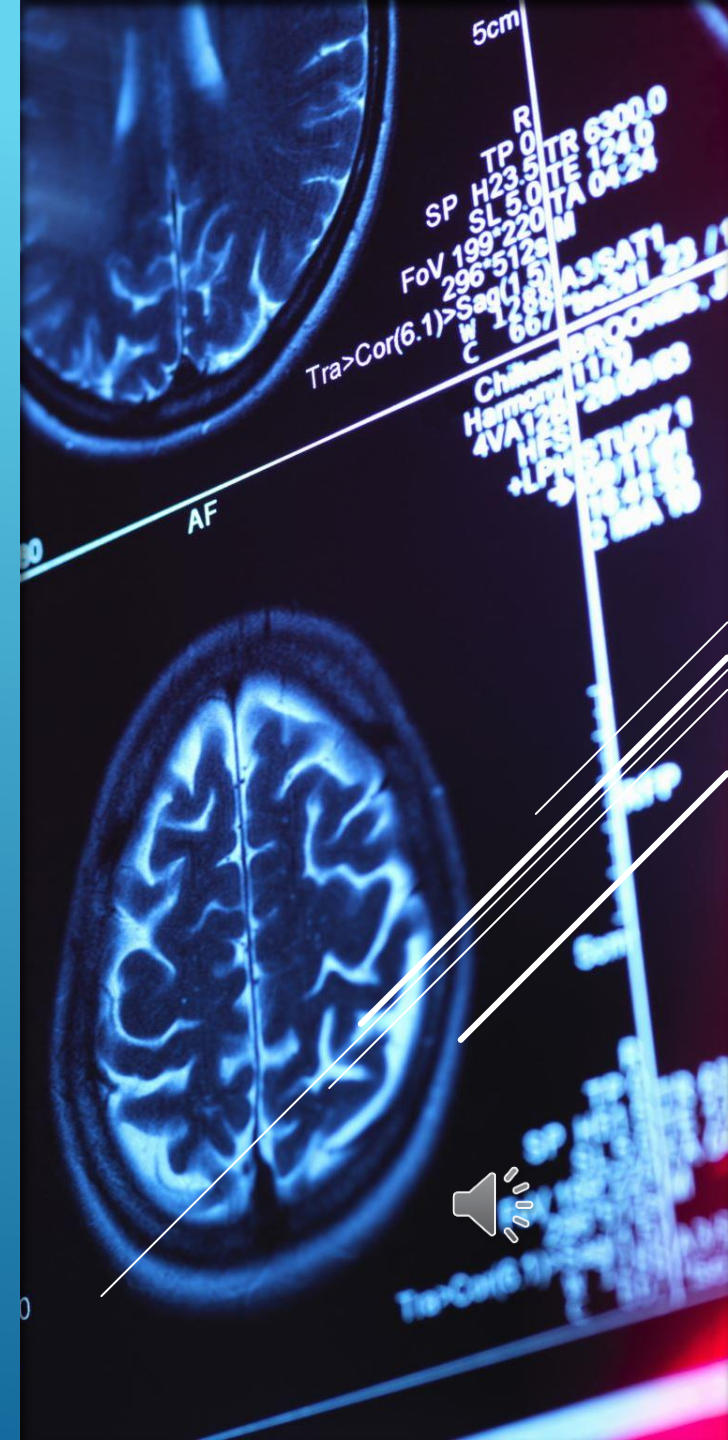
Examples:

- ▶ Alzheimer's disease
- ▶ Motor Neurone Disease
- ▶ Muscular Dystrophy
- ▶ Parkinson's

\*Considered to be a disability – as soon as it starts to have an effect on normal day to day activities (as long as it's likely to be long-term).

\*The effect does not have to be substantial as long as it is likely to be substantial in future

## DISABILITY – PROGRESSIVE CONDITIONS



- ▶ *(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.*

REASONABLE ADJUSTMENTS S.20 EQUALITY  
ACT 2010



- ▶ *(4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.*

REASONABLE ADJUSTMENTS S.20  
EQUALITY ACT 2010





- ▶ *(5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.*

REASONABLE ADJUSTMENTS S.20  
EQUALITY ACT 2010



Identify the PCP / physical feature etc



Identify the non-disabled comparator

Nature and extent of the disadvantage

Reasonableness of the adjustment

Employer's knowledge

KEY ELEMENTS  
S.20 EQUALITY ACT 2020



PROVISION,  
CRITERION,  
PRACTICE

Equality and Human Right Commission  
[EHRC]

*PCP should be construed as widely so as to include*

- ▶ *Any formal or informal policies*
- ▶ *Rules, practices, arrangements*
- ▶ *Criteria, conditions, prerequisites*
- ▶ *Qualifications, or provisions*



Absence management policies

- Maintain level of attendance

Practice of not giving undertakings

- Employee asked manager for an undertaking – not to work with bullies

Policy for designated car space

- Allocated to senior manager

EXAMPLES OF PCP





ANY feature of the design/construction

Exit or access points

Furniture

Materials on premises

Steps, kerbs, gates, toilets, floor coverings

## EXAMPLES OF PHYSICAL FEATURES





Equality and Human Rights Commission [EHRC]

- ▶ Clear glass doors at the end of a corridor in a particular workplace present a hazard for a visually impaired worker.
- ▶ This is a substantial disadvantage caused by the physical features of the workplace.

**THIS IS AN EXAMPLE OF A  
PHYSICAL FEATURE**



Remove it!

Alter it

Provide a means of avoiding it



WAYS TO AVOID SUBSTANTIAL DISADVANTAGE – PHYSICAL FEATURE

- ▶ Technology / equipment intended to assist (hearing loop)
- ▶ Includes auxiliary service (sign language interpreter /support worker)
- ▶ Specialist equipment (adapted keyboard / text to speech software)

## EXAMPLES OF AUXILIARY AID



**Have to identify a comparator**

**PCP applies to the comparator and disabled person**

**No requirement that comparator's circumstances are the same/  
nearly the same**

**NON-DISABLED  
COMPARATOR**



- ▶ More than trivial /minor
- ▶ The threshold is low
- ▶ Tribunal will assess
- ▶ Objective basis
- ▶ Disadvantage must be identified

## SUBSTANTIAL DISADVANTAGE



# REASONABLENESS OF THE ADJUSTMENT

- ▶ Tribunal should ask itself:
- ▶ Whether the PCP caused a substantial disadvantage
- ▶ If so – what step would be reasonable for an employer to have taken to alleviate it

What is reasonable

- depends on all the circumstances of the individual case



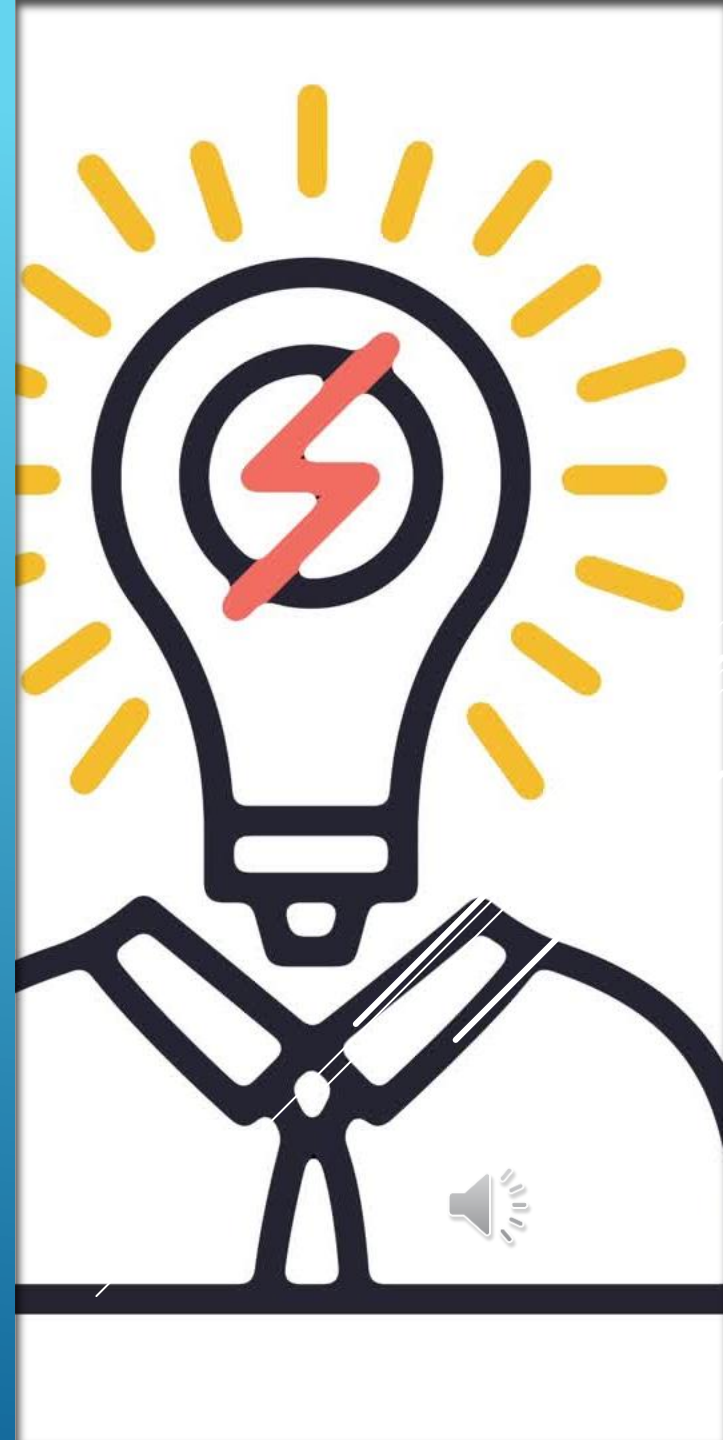
The duty only arises if

- ▶ the employer knew or ought to have known
- ▶ that the employee was disabled

AND that

- ▶ the employee is – or likely to be –
- ▶ placed at a substantial disadvantage

**EMPLOYER'S KNOWLEDGE**





Conduct a proper assessment

Look at what reasonable adjustments may be required

Implement any adjustments in a timely fashion

More than one adjustment might be needed

Agree adjustments with the disabled employee beforehand

# GUIDANCE



▶ CAUTION!

CAPABILITY /  
PERFORMANCE





Performance issue – drop in work quantity / quality



Issue with attendance



Issue with employee undertaking part /all of duties

CAPABILITY/PERFORMANCE  
PROCEDURE



Care must be taken where health issues are causing or part of the reason for the capability / performance issue

Engage the procedure for the right reason – not to 'manage them out'

Someone having a disability does NOT preclude an employer following their policies/procedures

BUT – consider if there are any reasonable adjustments which should be made to the process, to the policy or role

CAUTION





Ensure managers are aware of the policies



If you depart from a policy, explain the reasons to the employee



Meetings



Inform the employee of the concern



Consult the employee



Where appropriate – obtain medical advice

# TIPS TO MANAGE ABSENTEEISM / ILLNESS





STRESS LESS WORK  
MORE!



Most common  
cause of stress –  
work

13.7 million working  
days lost each  
year (stress,  
anxiety,  
depression)

Work related stress  
causes loss of over  
15 million working  
days and £5 billion  
per year

# CHAMPION HEALTH – STATISTICS 2023





Learn how to recognise symptoms of stress



Understand how to respond



Support employees to develop coping skills



Be transparent



Involve employees in decision-making



Offer training and development



Improve work environments

# GUIDANCE – REDUCE STRESS







TRY TO HAVE  
REGULAR HOURS  
AT WORK



HAVE SET TIMES  
FOR EMAILS, CALLS,  
MEETINGS ETC



TRY TO AVOID  
CHECKING EMAILS  
CONSTANTLY



HYDRATE AND EAT  
PROPERLY



TAKE REGULAR  
BREAKS



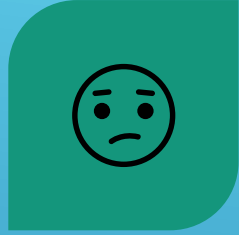
TAKE A LUNCH  
BREAK (SORRY!!)

# MANAGING OURSELVES!





FEELING  
OVERWORKED



FEELING  
OVERWHELMED



DON'T BE  
EMBARRASSED BY  
HOW YOU FEEL



YOU DON'T NEED  
TO BE PERFECT



YOU DESERVE  
RESPECT AND  
SUPPORT

# WHEN TO ASK FOR HELP





- ▶ Thank you for spending your lunch time with me
- ▶ Thank you for listening
- ▶ Thank you for attending
  
- ▶ Stay well

THANK YOU

