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Burness Paull

How to handle employees whose health condition or medication impact their communication and capacity to participate in performance-related meetings

White Paper HR Conference

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AGENDA

- Participation Issues
- Reasonable Adjustments
- Performance Management
- Case Studies

Performance Management, Disability and Legal Implications

Participation Issues

NOTES OF CAUTION

- Importance of not ignoring signs:
 - *Legal obligations are engaged when an employer knows or ought to know of a disability.*
- Importance of confidentiality:
 - *Respecting employees' confidentiality is paramount.*
- Importance of keeping records:
 - *Disclosures and steps should be documented.*
- Importance of obtaining medical information
 - *Don't assume to know the medical position – Tribunals expect expert input*

POTENTIAL WARNING SIGNS

- Cognitive:
 - *Difficulty focusing*
 - *Memory issues*
 - *Confusion*
- Emotional and behavioural:
 - *Anxiety*
 - *Irritability*
 - *Anger*
 - *Withdrawal*

POTENTIAL WARNING SIGNS

- Physical:
 - *Fatigue*
 - *Speech impairment*
 - *Limited mobility*
- In meetings:
 - *Difficulty articulating thoughts*
 - *Difficulty retaining feedback*
 - *Difficulty following action points*
 - *Overwhelmed by stress or pressure*

Reasonable Adjustments

REASONABLE ADJUSTMENTS IN PERFORMANCE MANAGEMENT

- The duty to make reasonable adjustments:
 - *Substantial disadvantage by a provision, criterion or practice.*
 - *Substantial disadvantage by a physical feature of the premises.*
 - *Substantial disadvantage if not provided an auxiliary aid.*
- Collaborating with the employee:
 - *Identifying specific, individual adjustments that could facilitate engagement. Seek OH input in appropriate cases.*

REASONABLE ADJUSTMENTS IN PERFORMANCE MANAGEMENT

- Adjusting the meeting format
- Providing agendas or notes in advance
- Offering a written summary of key decisions or actions
- Allowing them to bring a colleague for support
- Breaking down complex information into smaller chunks
- Adjusting meeting times and/or locations
- Offering additional training, if relevant to the situation
- Offering regular breaks
- Providing a quiet space for decompressing

Performance Management

DURING THE PERFORMANCE MANAGEMENT PROCESS

- Do not ignore performance management issues
 - *Formal action may be necessary, even when a health condition is present.*
- Tailor the process
 - *Beyond reasonable adjustments, ensure the process is accessible.*
- Maintain open communication:
 - *Be empathetic, specific and objective throughout.*
- Seek external guidance, when necessary:
 - *From legal, medical or HR colleagues or professionals.*

AFTER THE PERFORMANCE MANAGEMENT PROCESS

- Monitoring:
 - *Action should not be avoided if anything changes*
- Feedback:
 - *Feedback should be offered on improvements or ongoing challenges*
- Flexibility:
 - *Willingness to adapt if reasonable adjustments need to be changed*

SUMMARY

- Don't avoid warning signs
- Keep records
- Make reasonable adjustments, collaboratively
- Don't avoid performance management
- Be empathic, specific and objective
- Review progress and reasonable adjustments

CASE STUDIES

Q&A



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