

# **SUPPORTING MEMBERS WITH MENTAL HEALTH CONDITIONS AND ISSUES**

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# 1. INTRODUCTION

This toolkit has been produced by the UCU Disabled Members' Standing Committee. It aims to provide practical guidance to reps in dealing with mental health issues, and is a companion to UCU's publication on mental health in the workplace "1 in 4"<sup>1</sup>.

- **One in four people will experience a mental health issue in any one year.**
- **One in six people in employment are experiencing a mental health issue right now.**
- **A Health and Safety Executive study concluded that teaching was the most stressful profession.**
- **Half of all reps who responded to the TUC Equality Audit 2012 said that they had represented members with mental health issues in the last year.**
- **Every one of the 92 UK universities represented in the 2012 UCU Stress Survey had a higher than average stress level than the level for the British working population as a whole.**

UCU members work in one of the most stressful and pressured working environments in the UK. Issues<sup>2</sup> relating to our members' mental health are amongst those most frequently encountered by UCU Reps. The UK overall has seen a rapid increase in instances of issues relating to mental health over the past few

years, as Government austerity measures have begun to bite.

***"Compared to my previous experience in another Union there has been a far higher percentage of cases involving mental health issues here" – UCU Official***

Further and higher education workers who experience issues relating to mental health face ignorance, discrimination and stigma from their managers and colleagues. Negative and inflexible attitudes can often exclude those with mental health conditions from being able to do their job. Often these attitudes can intimidate a person away from feeling able to disclose<sup>3</sup> their mental health condition at all. Many feel that they have nowhere else to turn but their union. But with the right attitudes, support and adjustments, the vast majority of people who are experiencing mental health issues can continue to carry out their work fully.

***"I work long hours and achieve a lot, but I am only able to do this because my colleagues understand my condition, and because my company has been able to adapt my working conditions to work around the challenges that my condition presents" – Mark Brown, Editor of One in Four Magazine***

Trade Unions look at mental health conditions in the same way that they would any disability – using the social model. That states that a person becomes disabled by the environmental and attitudinal barriers that they encounter, not by their medical condition. Mental health conditions are no less serious than any other physical health impairment. They are

1 [http://www.ucu.org.uk/media/pdf/r/q/ucu\\_1in4\\_mentalhealthatwork\\_jun11.pdf](http://www.ucu.org.uk/media/pdf/r/q/ucu_1in4_mentalhealthatwork_jun11.pdf)

2 Throughout this guidance the words "condition" and "issue" are used to differentiate between what a member may be experiencing with their own mental health, and the issue that has arisen at work that they may subsequently need assistance with.

3 UCU Guidance, Disclosing a Disability: [http://www.ucu.org.uk/media/pdf/m/n/Disclosing\\_a\\_disability.pdf](http://www.ucu.org.uk/media/pdf/m/n/Disclosing_a_disability.pdf)

sometimes more serious. They are also, in some cases, preventable.

***“By putting mental health on the bargaining agenda, reps can persuade managers to adopt a less prejudiced attitude to mental health” – Equality & Human Rights Commission Campaign Pack***

This toolkit has been produced to equip you with the confidence to challenge and change attitudes to mental health in the workplace, to work on behalf of those who are experiencing an issue with mental health at work, and to better understand and educate others about specific mental health conditions. It examines how legislation can protect and empower those with mental health issues, and aims to support reps in campaigning, collective bargaining and negotiations around mental health issues.

## **WHY IS MENTAL HEALTH A TRADE UNION ISSUE?**

People experiencing issues with mental health may:

- **Encounter discrimination and negative attitudes at work**
- **Need help in negotiating adjustments to their working practices**
- **Feel misunderstood by management or colleagues, be unsure of their rights or what to do**
- **Feel unable to disclose their condition to their employer or trade union**
- **Find themselves subjected to inappropriate disciplinary action**

In all these examples, a person with a mental health issue is left feeling isolated. Trade Unions are here to make sure that members need not feel alone in dealing with any issue they are experiencing at work. A survey of 1,822 UK employers by online counselling firm Mentaline recently found that one

in five employers would be less likely to employ somebody it knew had a history of mental illness. Two-thirds said they would be more sympathetic towards an employee with a physical than a mental illness. And 39 per cent of employers said that they “struggled to take mental health issues seriously” (Source: TUC Equality Audit 2012). There is clearly much to be done by trade unions in tackling the stigma and discriminatory attitudes toward mental health issues at work.

There may be common issues arising which can create a collective campaign to raise awareness and challenge discriminatory practices towards mental health conditions. Members with mental health conditions and issues will feel more supported if there is open support from the branch to tackling mental health at work. Individual cases can often make a member feel isolated and the only person dealing with an employer on these issues. The resources in this pack will provide materials and information for a collective campaign.

UCU campaigns for fair policies on sickness and disability, regular monitoring of mental health levels, routine risk assessments and proper training programmes for management and staff. It is vital that we fight on behalf of individual members with mental health issues who want to work but face unnecessary barriers.

***“If in the process of resolving mental health issues in the workplace, reps can persuade managers and employers to adopt a less prejudiced attitude to mental health in general, they can also be part of changing the overall picture for the better” – Brendan Barber, General Secretary of the TUC***

## **FIGHTING FOR CHANGE**

Trade Unions also have a vital role to play in resisting Government policies that serve to increase mental health issues and decrease mental healthcare. As

spending on the NHS is slashed, Mental Health Trusts are cutting 15% of their workforces (Source, LRD, Stress and Mental Health at Work), against a backdrop of widespread redundancies, wage cuts, and mounting workloads in Further and Higher Education.

Typically, funding levels at colleges for 2012-13 are being cut by between 7 and 12 per cent. Two-thirds of all universities are considering job cuts. Teachers are being sacked for reasons as spurious as their students' results falling below the national average, regardless of the lack any demonstrative lack of competence. On top of this, ideological changes are moving education increasingly towards marketisation. A recent survey of more than 14,000 higher education staff in the UK carried out by UCU has found that academics and academic-related staff feel

increasingly stressed by a feeling of loss of control over the way they work.

***“Stress is a particular challenge in the public sector where the sheer amount of major change and restructuring would appear to be the root cause” – Jill Miller, Chartered Institute of Personnel and Development***

Staff feel over-worked, under-appreciated and insecure. At a time when impartial bodies such as the Equality and Human Rights Commission (EHRC) are being rendered powerless by funding and power cuts, and the Government attempts to repeal swathes of equality and human rights legislation, trade unions increasingly offer a voice in protecting, educating and campaigning on behalf of those experiencing mental health issues.

## 2. MENTAL HEALTH ISSUES

This section examines specific mental health issues and conditions, and different ways of understanding them, drawing on feedback from experienced UCU officials. The terms contained in this section are medical definitions, but it should be remembered that trade unions use the social model of disability, and that mental health conditions and issues exist on a sliding scale. It is frequently difficult to define, and unhelpful to pigeonhole or categorise mental health conditions.

### EXPLORING THE SOCIAL AND MEDICAL MODELS

Attitudes towards people with mental health conditions affect the way in which they are treated.

Employers and colleagues shape their behaviour in reacting to mental health issues according to their model of understanding, and the way that they frame and define disability.

There are two distinct models of how disability and mental health issues are understood; the medical model and the social model. The trade union movement supports the social model. As trade union reps it is important to have an understanding of the two, and particularly why we favour the social model to inform our negotiations.

## THE MEDICAL MODEL OF DISABILITY

The Medical Model is the prevailing model of disability in society. It is the model that primarily influences mainstream attitudes, and that has informed the development of current legislation, such as the Equality Act 2010. The medical model states that a person's disability is the reason that they are not able to fully take part in society. The focus is placed on what a person is unable to do.

In the medical model issues are identified as being caused by a person's mental health condition, rather than societal and / or organisational environments. An example of an attitude informed by the medical model of disability would be:

***“She cannot fulfil her duties at work due to her anxiety, which prevents her from taking part in team meetings”***

In this case, inflexibility about one aspect of the employee's duties and working environment are causing her to be excluded from her job.

## THE SOCIAL MODEL OF DISABILITY

***The social model has been the theoretical foundation of disability liberation for the last 30 years. While the medical model says that disability is caused by impairment, the social model insists that people are dis-abled by society that refuses to accommodate their needs (for a decent income, accessible transport, buildings etc). Medical model thinking is always focused on our individual impairments, and how we can overcome them.- Disabled People Against the Cuts***

Trade unions support the social model. Using the social model Trade Unions advocate that, in the example above, the employer should make reasonable adjustments to the employee's working

conditions to enable her to continue to fulfil her work commitments. If the issue is with communication in group situations, removing the requirement for her to engage in that situation and finding other ways to communicate amongst colleagues would enable the member of staff to continue fulfilling her work duties.

The social model puts the emphasis on the obstacles placed upon a person with a disability by society and their environment. Understanding a mental health condition through the social model of disability therefore seeks to enable a person experiencing mental health issues to take a full part in society by removing the barriers they encounter. It encourages proactive action by others to change external factors that prevent inclusion.

Reps should try and identify if there are barriers, practices or environmental factors that prevent members experiencing mental health issues from doing their job. In interviewing members they should work with the member to understand the nature of their mental health issue, and if a reasonable adjustment made by the employer would enable them to continue their duties.

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## CASE STUDY

The following case study demonstrates how the law can be used to argue for the social model of disability.

**Taken from Equal Opportunities Review, 1/07/2010**

**Chief Constable of South Yorkshire Police v Jelic**

*An EAT upheld an employment tribunal finding that it would have been a reasonable adjustment to swap the job of a serving police officer with chronic anxiety syndrome with that of another police constable.*

*The claimant was a police constable who developed chronic anxiety syndrome. As a result, he had periods of*

sick leave for stress-related illness. When he returned to work, he was assigned a desk job. A series of reports from the force's occupational health adviser said he was not fit to return to front-line duties. Eventually, it was decided to medically retire him because he was carrying out the duties of a staff operator and was permanently disabled from performing the full duties of a police officer.

An employment tribunal upheld a disability discrimination claim, finding that in the particular circumstances of the case it would have been reasonable to swap the jobs being undertaken by the claimant and another police constable. The tribunal identified a particular constable whose job was suitable and suggested that, if necessary, in a service accustomed to discipline, the other police officer could be required to switch jobs.

Mrs Justice Cox said: "Since each case will turn on its own facts, we recognise that the scope of the duty of reasonable adjustments on employers cannot be precisely defined. However, the duty to act reasonably towards employees is not an unfamiliar concept in employment law. In the field of accommodating disabled employees we consider that certainty for employers is sufficiently achieved by the application of objective standards of reasonableness in the particular circumstances of each case. It must be assumed that reasonable employers will wish to comply with the legislation and therefore to take all reasonable steps to accommodate those amongst their employees who are, or become, disabled and are thereby disadvantaged at work."

You can read more about reasonable adjustments and how they might apply to mental health conditions in Section 6, Legislation.

## MENTAL HEALTH CONDITIONS

This section will examine some common mental health conditions, including those that arise frequently.

When we asked UCU staff which mental health issues they commonly encountered through casework, their responses were:

- **Stress**
- **Anxiety**
- **Depression**
- **Cyclical depression**
- **Bipolar**

Every mental health issue is different. A person may have their condition diagnosed or they may not. They may be suffering from several mental health conditions at once. It is common for there to be a sliding scale of symptoms and conditions, rather than clearly defined boundaries.

It can be hard to judge when stress becomes a more serious or separate mental health condition, and as a rep it is not your job to diagnose.

Here are some definitions and further reading around some of the most common mental health impairments.

### STRESS

Loosely defined, work related stress is the adverse reaction people have to excessive pressures or other types of demand placed on them at work. A survey carried out by UCU of 14,000 higher education academic and academic-related staff found their stress level from intense workload considerably higher than that of the general British working population. Workplace stress can lead to more serious mental health issues if it is allowed to continue

***“As increased pressure is put on staff to deliver results with fewer resources it is much more likely that staff will suffer from mental health issues, particularly those exacerbated by stress. In addition it becomes more difficult to argue for reasonable adjustments as employers are less likely to want to take the sort of measures necessary to support staff with mental health issues” – UCU Official***

Both UCU and the Health and Safety Executive advocate a policy of primary intervention, ensuring wherever possible that stress does not occur in the first place. Stress is preventable, and it makes sense for any employer to limit the amount that their employees are experiencing. The CBI has put the cost of stress problems to employers at £5 billion per year, while the Institute of Management has estimated that 270,000 people take time off work every day due to work related stress. In the current economic climate, not only are stress levels increasing, but with increasing fear over job security, many are reluctant to disclose or seek help for stress, leading to ever spiralling poor mental health.

***When people are scared and conscious of potential threats of redundancy, they are also more likely to hide their mental health conditions as they will worry that it will be seen as a negative against them and make them more vulnerable in unstable working conditions” – UCU Official***

As a rep you should be aware of the need to monitor and reduce levels of stress in your workplace. Use the resources in the UCU Stress at Work Toolkit to find out about how you can implement measures like encouraging the adoption of a stress at work policy, surveying the stress levels of colleagues, and making sure there are regular risk assessments on your working environment. If you can minimise stress as a workplace hazard, then you can minimise the knock-on effects that stress often causes, such as heart disease, fatigue, increased use of alcohol or tobacco,

and the depression and anxiety that can develop into serious health issues.

In practice it is not always possible to prevent stress occurring in the workplace. Representing a member who is undergoing stress can be difficult. Stress can cause people to be inconsistent or to behave erratically. It is important to keep a written record of every contact to help support decisions being made by the member and yourself.

***“I’m currently dealing with a member who has had long periods of sick leave due to workplace stress. Her being signed off is presenting difficulties in terms of attending grievance meetings, and she sends lots of emails to me which are repetitive, dramatic and sporadic, which is difficult to deal with, but I recognise it is a symptom of stress” – UCU Rep***

You can read more about how to handle specific cases in section 5.

### **UCU Stress at Work Toolkit**

UCU has a number of publications relating to stress including research, guidelines and model risk assessments on its website at the following address <http://www.ucu.org.uk/stress>

### **UCU Workload and Stress Campaign**

<http://www.ucu.org.uk/index.cfm?articleid=5799>

### **TUC Stress Resources**

<http://www.tuc.org.uk/workplace/index.cfm?mins=173&minors=124&majorsubjectid=2>

### **Hazards – Worked to Death! Stress Information and Resources**

<http://www.hazards.org/workedtodeath/>

### **Mind, How to Manage Stress**

[http://www.mind.org.uk/mental\\_health\\_a-z/8045\\_how\\_to\\_manage\\_stress](http://www.mind.org.uk/mental_health_a-z/8045_how_to_manage_stress)



## DEPRESSION

Depression is a broad term that can mean many different things to different people. It can manifest itself mentally and physically to wide degrees of severity. The mental health charity Mind offers this broad definition:

***“Depression lowers your mood, and can make you feel hopeless, worthless, unmotivated and exhausted. It can affect sleep, appetite, libido and self-esteem. It can also interfere with daily activities and, sometimes, your physical health. In its mildest form, depression can mean just being in low spirits. It makes everything harder to do and seem less worthwhile. At its most severe, major depression (clinical depression) can be life-threatening, because it can make you feel suicidal or simply give up the will to live”***

According to the Royal College of Psychiatrists, at some point in their life, around one in five women and one in ten men will suffer from depression. At any given time, one in every twenty adults is experiencing a serious ‘major’ depression.

Depression can be cyclical or episodic. Cyclical, often referred to as “recurrent” depression, can have short or long term cycles with degrees of severity that can last throughout a person’s lifetime. Episodic can be temporary and treatable, and may be a reaction to a traumatic life event.

Many other mental health conditions such as anxiety, postnatal depression or Seasonal Affective Disorder are classed as forms of depression. Every rep is likely to come face to face with a member who is experiencing depression at some point.

***“In my region, members who bring cases relating to depression – in 99% of cases – will be doing so due to a work related issue, and their condition is likely to be described by doctors as stress/ anxiety” – UCU Official***

### **Mind, Understanding Depression**

[http://www.mind.org.uk/help/diagnoses\\_and\\_conditions/depression](http://www.mind.org.uk/help/diagnoses_and_conditions/depression)

### **Depression Alliance website, including research, guidance and contacts**

<http://www.depressionalliance.org/>

## POST-NATAL DEPRESSION

Post-natal depression is believed to affect between 8% and 15% of women. Post-natal depression is not the same as the ‘baby blues’, which are very common, but last only a few days. Post-natal depression often occurs when the baby is between four and six months old, although it can emerge at any time in the first year. UCU campaigns for proper maternity leave for new mothers but many are now returning to work duties within a few months or even weeks of the birth of their child due to pressure from employers. Modern technology means that employees are ever-more expected to work from home even if they are supposed to be on leave. There is strong evidence that women are very often reluctant to disclose or seek treatment for postnatal depression, as they fear being judged to be unfit mothers. If a member is experiencing post-natal depression they may turn to you as an impartial source of help or advice.

### **Mind, Understanding Post-Natal Depression**

[http://www.mind.org.uk/mental\\_health\\_a-z/8007\\_understanding\\_postnatal\\_depression](http://www.mind.org.uk/mental_health_a-z/8007_understanding_postnatal_depression)

### **Babycentre, Post-Natal depression**

<http://www.babycentre.co.uk/a557236/postnatal-depression-pnd>

### **Maternity Action**

<http://www.maternityaction.org.uk/>

## ANXIETY

Broadly speaking, anxiety consists of constant daily worry about any aspect of life. It may cause insomnia, headaches, shaking or nausea. Most cases of anxiety are short-term and caused by stressful life events, but when long-term anxiety develops it can lead to severe mental and physical health issues. In serious cases of anxiety a person may suffer panic attacks (one in ten people suffer from panic attacks at some point in their lives), develop depression or develop high blood pressure or a depleted immune system. Other specific conditions come under the umbrella of “anxiety”, such as Post-Traumatic Stress Disorder, phobias or Obsessive Compulsive Disorder.

### Mind, Understanding Anxiety

[http://www.mind.org.uk/mental\\_health\\_a-z/8001\\_understanding\\_anxiety\\_and\\_panic\\_attacks](http://www.mind.org.uk/mental_health_a-z/8001_understanding_anxiety_and_panic_attacks)

### NHS, Panic Disorder

<http://www.nhs.uk/conditions/panic-disorder/pages/introduction.aspx>

## CASE STUDY

### Taken from Equal Opportunities Review 01/08/2004

#### Hibberd v Royal Mail Group plc

*The Royal Mail discriminated against an employee with post-traumatic stress disorder when it told her that there were no alternative duties, a Bristol employment tribunal found.*

*Mrs Hibberd was employed as a postal worker based at the delivery office at Wootton Bassett. Following a serious motor accident in March 2001, Mrs Hibberd suffered post-traumatic stress disorder. This involved a phobic anxiety state that prevented her from travelling anywhere by any kind of motor vehicle or by bicycle. She lives within walking distance of the delivery office but her delivery round involved travelling by vehicle.*

*The rounds that could be carried out without going in a vehicle were allocated to existing postal workers, who regarded the rounds as belonging to them.*

*Mrs Hibberd was determined to return to work. The need to drive or be driven to her round put her at a considerable disadvantage because of her phobia. The tribunal found that the respondent initially made reasonable adjustments for her. It put her on temporary light duties on her return to work. Her manager approached employees about swapping rounds and one employee agreed to swap rounds for six months, beginning in January 2002 and expiring at the end of June 2002. The tribunal found that the respondent then treated her less favourably by threatening to withdraw the adjustment in a meeting in February 2002 and by starting the ill-health retirement process.*

*The tribunal concluded that, by 2 April, respondent managers had decided that it would cause considerable problems to try to accommodate Mrs Hibberd any longer. There were concerns among the workforce that Mrs Hibberd was being given favourable treatment. The respondent decided to take the line of least resistance and try to retire her on health grounds on the basis that she could not do her normal duty, which involved travel by van. They incorrectly informed occupational health on several occasions that there were no duties that did not involve some requirement to travel in a motor vehicle. The respondent also treated Mrs Hibberd less favourably by not arranging for an occupational health physician to visit her at home but leaving her to walk for three-and-a-half to four hours each way to attend the appointment.*

*The tribunal rejected an argument that the respondent's actions were justified. The respondent knew, or should have known, that Mrs Hibberd was vulnerable and fragile and that she was desperately keen to remain in work. The tribunal commented that it had no business leading her to believe that her job was in jeopardy when there was plenty of time to look at other options.*

*The tribunal said it did not go so far as to say that, if the end of June had come and no alternatives were found, the respondent should have forced another employee to give up their round, whatever the consequences. The respondent said it had never forced an employee to give up a round as this would cause industrial relations problems. The tribunal said that in February, the temporary swap had only just begun. By the end of June, another could have been proposed. Consultation could have taken place with the union to see whether it would support another temporary swap. Mrs Hibberd might have recovered faster than forecast. Someone else might have left or taken sick leave. Mrs Hibberd might herself have become ill, which would avoid the necessity of finding her alternative work until she was better.*

*The respondent could not justify its actions in February or thereafter by the proposition that there was nothing else it could reasonably be expected to do. The tribunal, therefore, found unlawful less favourable treatment and a failure to comply with the duty to make reasonable adjustments.*

## PHOBIAS

Anxiety becomes a phobia when it becomes an exaggerated or unrealistic sense of danger about a situation or object. A phobia can lead to a person organising their life around this fear, making going about their regular work duties difficult. Phobias can cause physical anxiety when sufferers think about or encounter their fear, such as a racing heartbeat, shaking, nausea, dizziness, and fear of choking. Phobias can be related to the environment (open space, heights, driving), situational or social (meetings or large groups of people), or more specific (animals, objects). If a member develops a phobia relating to an aspect of work, it can be difficult for an employer to understand, but combination of medical treatment and reasonable adjustments can resolve the issue in the majority of cases.

### **Mind, Understanding Phobias**

[http://www.mind.org.uk/mental\\_health\\_a-z/8005\\_understanding\\_phobias](http://www.mind.org.uk/mental_health_a-z/8005_understanding_phobias)

### **NHS, Phobias**

<http://www.nhs.uk/Conditions/Phobias/Pages/Introduction.aspx>

## OBSESSIVE COMPULSIVE DISORDER

OCD is an anxiety disorder that causes people to experience repeated obsessions or compulsions. A person suffering from OCD will experience a repetitive single thought or carry out repetitive behaviour, for example repeatedly believing they are contaminated by dirt, or repeatedly washing their hands. OCD becomes a medical problem when the symptoms have become so serious that they have stopped a person from living their life the way they want to. OCD can also relate to the environment, and a failure by the individual to be able to control it. This may become an issue at work in relation to factors such as office space or other aspects of the working environment.

### **Mind, Understanding OCD**

[http://www.mind.org.uk/mental\\_health\\_a-z/7988\\_understanding\\_obsessive-compulsive\\_disorder OCD](http://www.mind.org.uk/mental_health_a-z/7988_understanding_obsessive-compulsive_disorder OCD)

### **OCD UK, supporting children and adults with OCD**

<http://www.ocduk.org/>

## BIPOLAR DISORDER (FORMERLY KNOWN AS MANIC DEPRESSION)

Bipolar disorder, also known as manic depression, is associated with severe mood changes that fluctuate from elation, over activity and sometimes psychosis (together known as mania or hypomania) to a lowering of mood and decreased energy and activity (depression). It is diagnosed after at least

two episodes in which a person's mood and activity levels are significantly disturbed, including mania or hypomania and, on others, severe depression and/or lack of energy. In many cases a person can recover completely between episodes.

There are different types of bipolar disorder which depend on how often these swings in mood occur and how severe they are. It is estimated to affect around 1% of the adult population.

### **Mind, Understanding bipolar disorder**

[http://www.mind.org.uk/mental\\_health\\_a-z/7916\\_understanding\\_bipolar\\_disorder](http://www.mind.org.uk/mental_health_a-z/7916_understanding_bipolar_disorder)

### **Bipolar UK**

<http://www.bipolaruk.org.uk/>

## **SCHIZOPHRENIA**

Schizophrenia is a somewhat controversial term, and one that attracts widespread debate, misunderstanding and unfair negative stigma. Symptoms may include confused or jumbled thoughts, hearing voices and seeing and believing things that other people don't share. If you have these symptoms you might also become confused and withdrawn. There is debate about whether it is one condition or a combination of other conditions. For further information, read the detailed guidance produced by Mind.

### **Mind, Understanding Schizophrenia**

[http://www.mind.org.uk/mental\\_health\\_a-z/8032\\_understanding\\_schizophrenia](http://www.mind.org.uk/mental_health_a-z/8032_understanding_schizophrenia)

## **FURTHER RESOURCES**

This is by no means an exhaustive list. Please consult the following resources for other mental health conditions and further contacts.

### **Mind, Introduction to Mental Health Problems**

[http://www.mind.org.uk/mental\\_health\\_a-z/8034\\_understanding\\_mental\\_health\\_problems](http://www.mind.org.uk/mental_health_a-z/8034_understanding_mental_health_problems)

### **The Mental Health Foundation Mental Health Handbook**

[http://www.mentalhealth.org.uk/content/assets/PDF/publications/fundamental\\_facts\\_2007.pdf?view=Standard](http://www.mentalhealth.org.uk/content/assets/PDF/publications/fundamental_facts_2007.pdf?view=Standard)

### **Mental Health Foundation Homepage**

<http://www.mentalhealth.org.uk/help-information/an-introduction-to-mental-health/what-are-mental-health-problems/>

### **NHS Guidance**

<http://www.nhs.uk/LiveWell/Mentalhealth/Pages/Mentalhealthhome.aspx>

# 3. MENTAL HEALTH IN THE WORKPLACE

## A) REPS ROLE (SEE ALSO SECTION 4, HANDLING CASES)

When representing members who are experiencing mental health issues it is important to remember what your role is. It can be challenging, sensitive and emotional.

***“The most distressing thing for both reps and staff is when a member is raising doing potential and imminent harm to themselves and what to do in those cases” – UCU Official***

A UCU rep is there to provide representation to our members on employment issues. It is not appropriate to offer counselling or medical advice, only to ensure that they are aware of any workplace or trade union support services or advice. It is also vital to be maintain confidentiality, especially in relation to any information of a medical nature which the member may wish to share (reps should not expect to receive any medical details unless absolutely necessary)

### **The Importance of Confidentiality**

Casework will almost always involve handling sensitive material and information – that is to say, material and information about a member who has a legitimate expectation that the information given is treated as strictly confidential.

With this in mind, it is important to take stock of the arrangements you make when undertaking casework. For example, where do you meet the member, where do you store their information and how? A good trade union facilities agreement should address many of these issues, such as a locked office space and use of the employer’s network and email servers.

### **Example**

It is well known that you are the UCU representative for a particular department. A member, X, approaches you for support and you arrange to meet X in the staffroom or a local coffee shop to discuss X’s problem.

Meeting in a public space may compromise X’s expectation of confidentiality as merely being seen with the union casework representative is likely to reveal to onlookers that X has a problem at work.

By discussing X’s problem in a public space there is a risk that others may overhear what is being said.

### **Confidentiality and data protection**

Almost all casework will involve handling and processing data of some description, whether paper or electronic documents such as emails. With this in mind, UCU recommends that your basic setup should address how you keep information and data secure.

1. When not in use, paper documents should be kept in a locked cabinet/drawer at all times and the key held by authorised UCU reps only. Ideally, reps should have a secure place for their own case-work which is not shared with other caseworkers, or anyone else.
2. If you keep paper files at home, they should also be locked away securely.

3. Electronic files and emails should be kept in a secure manner<sup>1</sup>. If you use your employer's computer for holding electronic material this will pose special issues if the employer and/or its IT or other staff can gain remote access to the files on the hard drive, or you share your computer with others. However, some employers will not allow memory sticks to be inserted into computers. One option may be to use 'cloud' storage, eg Dropbox<sup>2</sup>, Google Drive<sup>3</sup> or similar. This also facilitates the sharing of files between the caseworker and member and avoids the need to email large attachments. However, if you use these services you must log in and log out every session to avoid unauthorised access to the files, and encrypt files which are stored there.
4. If you use a memory stick, it must be encrypted.
5. If you use a laptop, whether your own or your employer's, UCU recommends that the whole of the drive is encrypted, and certainly any files relating to UCU casework must be encrypted and kept separated from your employer's business files and folders.
6. Whatever you use, you should ensure that files relating to one member's case are not intermingled with another member's case (or your work files). Files should be strictly segregated and kept properly ordered.
7. If you use email to send and receive casework-related emails it may be appropriate to create and use a specific email account, rather than your work email account. Remember to check with the member which email address they would prefer you to use. It is usually best if you do not use their work email account.

8. When sending sensitive documents via email, it may be appropriate to send them using a secure method, such as an encrypted zip file. Using cloud storage applications does not obviate the need for additional security, such as encryption. We also recommend that you select the option to receive a 'delivered' and 'read' report.
9. If you access emails and documents on a smart phone/tablet, you must ensure the device is locked when not in use.
10. If you need to copy emails to others then you should consider whether you use the 'bcc' option which withholds the addressee's email address (particularly if the email address in question is a personal email address)

Your initial role should be to:

- **Listen and record the concerns of the member and offer initial advice only. Be guided by the member. Try to establish what they are seeking.**
- **Discuss how the issue could be progressed with the employer, either initially through discussion with management or colleagues, for example through existing grievance procedures.**
- **Provide union representation, where allowed, at any meetings the member has, particularly formal meetings such as a grievance.**
- **Think about whether the individual case may form part of an overarching collective issue in your institution.**
- **Involve others where necessary. They may include a more senior union official, the employer's occupational health programme, or other external sources of assistance wherever appropriate.**

Be aware of and recognise your limitations (including the demands on your time) and try to assess whether you need help from your regional office or other members in the branch.

***“Sometimes I have had cases where the condition has not been formally disclosed to me, or possibly even diagnosed, but I have suspected that there is an underlying mental health issue. As I am not a clinician I obviously can’t comment, but I think that these undiagnosed/undisclosed cases are really prevalent and often more difficult than cases with a clear diagnosis”***  
– UCU Official

You should be guided by the member experiencing stress or a mental health issue on how they articulate this as part of a case, for example whether they have visited their GP for advice or a service provided by an organisation such as Mind should be raised by the member first.

Avoid offering views or advice on the member’s health or wellbeing. For example, even though a member may appear to show the symptoms of stress, it would be inappropriate to offer views on the member’s state of mind or health. However, if the member themselves states they are feeling unwell, it would be appropriate to encourage them to seek the advice and support of a medical professional. Support services for staff in further and higher education (including one-to-one counselling) are available through the charity Recourse: <http://recourse.org.uk> and there is further guidance on representing members with a mental health condition on our website [www.ucu.org.uk/disabmem](http://www.ucu.org.uk/disabmem)

Understanding the whole picture will help but you are not there to give medical support. Your role is in ensuring their issue is not being exacerbated or directly caused by working conditions, and whether a change or reasonable adjustment may enable them to continue to work. In your role as rep you can raise with the employer any adjustments that may be

needed. Reps are not medical professionals, and it is not appropriate to offer direct medical diagnosis or advice.

Depending on the severity of the issue/and or the case, UCU will ensure that the health and wellbeing of all branch representatives is addressed by giving the necessary support via UCU regional and national offices.

## **B) RECOURSE**

***“Some (reps) have understandably fallen into the trap of becoming more a counsellor than representative. I’ve had to provide support to some reps to send to members who do not understand the role of the rep and the role of Recourse”*** – UCU Official

Taking on a case brought because of a mental health issue can be difficult and demanding for the rep as well as the member. You or a member can call Recourse for advice. Recourse provides free support services specifically for all staff working in adult, further and higher education in England and Wales. Supported by UCU, Recourse complements the work of the union offering information and advice, telephone counselling, online coaching and financial assistance. Recourse provides:

- **Counselling: confidential, solution-focused counselling on personal and workplace issues**
- **One-to-one coaching: personalised practical and emotional support via a secure email system**
- **Information, advice and support material: news, guides and factsheets on relevant topics such as well-being, work-life balance, workload problems, stress management, coping with bereavement, and dealing with difficult people**

- **Financial assistance: a needs-based grants and loans programme**
- **Money management advice: individually tailored strategies to address financial difficulties, restructure debt and secure benefits**
- **Signposting to relevant organisations: the information you need to take the next steps to a better future.**

All these services can be accessed online at the Recourse website <http://recourse.org.uk/>

or through a 24/7 telephone support line, on 0808 802 03 04.

## **C) NEGOTIATING ON REASONABLE ADJUSTMENTS (SEE ALSO 5, LEGISLATION)**

In situations where a member has identified that they may need mental health support and have disclosed this to the employer, branch representatives can assist in the negotiation process by asking the employer to make reasonable adjustments such as:

- **Adjusting working hours: A member who had difficulty travelling in crowded trains could be allowed to start early and finish early, avoiding the rush hour.**
- **Allowing more frequent breaks than others: allowing a member to take breaks when feeling anxious is a simple way of assisting the individual handle their situation better. Branch reps can assist in negotiating a set time and or place to go.**
- **Providing a ‘workplace buddy’: A ‘buddy’ or ‘mentor’ or someone on a similar grade could be appointed as someone to talk to. A staff member who became particularly anxious could call a friend/support worker for reassurance.**

- **Changing how work duties are performed: Employers could consider reassigning tasks in agreement with other employees and in some cases additional training to undertake new tasks thus aiding low confidence in dealing with new work. It is important that there is a discussion with the employee about reassigning tasks as they may feel disempowered and, in some cases, a lack of explanation could aggravate an existing condition.**
- **Redeployment into a different role: If redeploying to another role and/or position, it is important that once there is agreement by all parties, adequate support and training is given to allow individuals to undertake their new role.**
- **All of the above examples require careful negotiations to ensure that other work colleagues are not at a disadvantage and any new arrangement is agreed by all parties, particularly the member.**

Any amendment or revision to existing safety and or occupational health policies should include:

- **Information regarding training of staff including those with specific responsibilities (ie managers) on managing disability which should give specific examples of behaviour which may indicate a mental health condition**
- **Disability awareness training for all levels of staff.**

## **D) EQUALITY IMPACT ASSESSMENTS**

Equality impact assessments are checks to ensure that new or existing policies and procedures do not have a disproportionate or adverse impact on any equality group. An impact assessment is the thorough and systematic analysis of a policy and/or practice to ensure it is not discriminating against any



particular group. This means that any new or existing policy and/or practice must be analysed in detail. You can use EIA's to assess the impact of the policies and procedures on members with mental health conditions or issues.

An impact assessment is:

- **a tool for delivering equality**
- **a key way of ensuring the college/university gives due regard to all aspects of equality**
- **part of good policy and service delivery arrangements**
- **a positive activity which should identify improvements needed.**
- **The impact assessment process involves gathering information to see if a policy and/or practice has any direct or indirect discriminatory elements to it, consulting with relevant stakeholders and then adapting policies and practices as necessary.**

UCU publication: Implementing the Equality Duties gives detailed information on

how to conduct equality impact assessments  
[http://www.ucu.org.uk/media/pdf/r/7/eqduties\\_tool.pdf](http://www.ucu.org.uk/media/pdf/r/7/eqduties_tool.pdf)

## **E) COLLECTIVE ACTION**

There are things that you can do collectively as a branch to make a difference on mental health issues. For example, you may notice that there has been an increase in instances of cases involving mental health issues. You should raise this collectively with the employer (being mindful of individual confidentiality), seeking to identify and eliminate the causes.

You may also want to consider running an awareness campaign on mental health, perhaps tying it in with a significant date such as World Mental Health Day, Mental Health Awareness Week, or European Depression Day. Arrange awareness and fundraising

events, and display and distribute information materials. You can link any such campaign to existing UCU campaigns, such as our campaign on workloads. Check the UCU campaigns website for details.

Your branch can also encourage the employer to arrange training on mental health issues, taking advantage of services like Mind's free online webinars for line managers and HR.

### **Mental Health Day/Week**

<http://www.mentalhealth.org.uk/>

### **European Depression Day**

[http://www.europeandepressionday.com/depression\\_day.html](http://www.europeandepressionday.com/depression_day.html)

### **Mind Mental Health Webinars**

[http://www.mind.org.uk/work/sign\\_up\\_to\\_our\\_webinars](http://www.mind.org.uk/work/sign_up_to_our_webinars)

### **UCU Campaigns**

<http://www.ucu.org.uk/campaigns>

# 4. HANDLING CASES

**The overriding aim of the rep is to work closely and collaboratively with the member in order to arrive jointly at a satisfactory solution. In no circumstance is the Union rep role a replacement for medical or counselling professional. Managing your role will be a challenge. Seek support from the branch or regional office if you are concerned about the case.**

In most cases the individual will be the best person to talk to about what the workplace issues are and how they relate to their mental health condition. Or they may have a workplace issue not related to their health condition, but their health is impacting on how they are able to deal with it.

Be honest – if you do not know what to say to that person about their health or how to respond – say so. The member needs to know you are there to support them at work but they may need to guide you in understanding their impairment. Do not be reluctant to ask about the language to describe their health. The member themselves may say ‘you must think I am mad’ but might not want this repeated back to them by others.

Do not make assumptions on what their health issues are from your experience of others with a similar condition or from example media reports but listen to the member.

Some conditions might make it difficult for the individual to make decisions or consistent decisions or be able to consider different perspectives to the workplace issue. Do not put all disagreements down to the mental health condition. As in all casework views will differ. You may both need time for reflection, and keeping notes to clarify decisions and

next steps with the member will support you both. It is important that you are fair, consistent, unbiased and open.

You also need to be aware whether the condition is covered by the Equality Act 2010. Under the Act, a person is defined as having a disability if:

- **they have a physical or mental impairment**
- **the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities**

Each element of this definition must be satisfied in order for someone to be disabled within the meaning of the act. This will mean that there are obligations on the employer and UCU to, for example, make reasonable adjustments and not to treat the member less favourably. Some examples of common, easy to implement reasonable adjustments include:

- **Making sure meeting venues are accessible**
- **Allowing extra time for meetings if a person needs breaks**
- **Ensuring any reading materials are accessible**

Remember to ask the member if they require any adjustments – it may not be obvious.

You will be keen not to discriminate so **seek advice** from UCU officials. It is good practice to alert your regional office to potential discrimination cases due to the tight time limits for employment tribunals.

You may not be the only person involved. Some cases may also involve the members GP and / or the organisations occupational health. If they want to involve others outside the union, agree with them how that will work in practice. You may want to

obtain permission of the member to contact/liaise with another person who is supporting such as family, friends or a medical professional.

Your key question is what does the member want to achieve? This may be difficult for the member to articulate and may take time for you to listen and understand their perspective. Try not to suggest what the problem is as this may undermine the members confidence in the process.

Sometimes the member will not wish to pursue matters but will be glad to have spoken to a representative of the trade union. These personal aspects are entirely legitimate and reinforce the need for discussion and consultation before agreeing on a course of action.

Any discussions about a GP or mental health professional must be handled sensitively. There may be times when this is highly appropriate. Questions such as 'have you talked about how you feel with anyone else?' provide room for finding out what support is being sought currently and 'have you considered telling anyone else about how you feel?' enable a relatively value free approach to possible referral.

Checking whether the individual has anyone who can go with them to see a GP or mental health professional is supportive. Knowing if there are family, friends or colleagues to support the member will support you and enable you to be clear about your specific role as trade union caseworker. Your role is to represent/support the member in the workplace.

It will be common for the rep to worry about the person's health and you may offer more support initially than you can offer in the long term. You being clear about your role and the member you are supporting being clear will prevent high expectations about your availability and relationship with the member. You may want to share your contact details, but make it clear that you will not be responding

in the evenings or at weekends unless agreed otherwise.

In a very few cases the member may react in a way which you may find extremely difficult such as threatening to harm themselves. You will want to react with compassion and you should do but remember you are not a mental health professional. Mind provide guidance on how to help someone who is suicidal. The main messages are: <https://www.mind.org.uk>

- **Always take the threats seriously**
- **Try not to act shocked and actively demonstrate that you are concerned**
- **Try to identify where proper support can be accessed**
- **Do not handle the situation by yourself**

You should make sure you inform someone else in the branch or regional/national office as this is a difficult situation for you to handle alone.

It might be difficult to identify what steps to take in **some** cases. Contact your regional office for direction. Reps should engage the support that is available even if it just to have a sounding board for the case or get the perspective of someone outside the situation. Some branches provide mentor or peer support to a caseworker who may be a more experienced caseworker or have a particular expertise. Encourage your branch to establish such a system. Remember the importance of confidentiality.

As in all cases members are not obliged to accept the union's advice and by the same token the union is not obliged to support members who reject competent advice offered in good faith. If the union's advice does not coincide with the members views this may unfortunately impact severely on the members well being. As with all casework you need to feel confident that UCU has supported and advised the member appropriately. Do not be tempted to adjust your advice to suit what the member wants to

hear. This will not be helpful in the long term. You will have made the reasonable adjustments to support the member but many aspects of the case will be following the usual process for handling casework.

**UCU is producing a guide to handling personal cases. This will be available soon.**

Cases related to mental health issues can be challenging for reps and it is important that

- **You know your role**
- **The member is clear on your role as a workplace union rep**
- **You have agreed who is involved in the case and confidentiality boundaries**
- **You have an agreed course of action**
- **You keep a record of the progress of the case**
- **You have an understanding of the member's mental health condition and how it may impact on the way the case is managed**
- **You have raised any reasonable adjustments with your employer which may be needed to participate in informal and formal meetings**
- **You have discussed additional support for the member within the organisation and may have a feel for what external support is available.**
- **You have followed regular casework procedures but made the adjustments for the member's condition.**
- **You have alerted the regional office to the possibility of a discrimination case.**

UCU is intending to provide training on supporting members with mental health conditions and issues. Information will be made available on the UCU website.

Please consider the following resources for further information and assistance around mental health cases.

- **Bipolar UK**  
web: [bipolaruk.org.uk](http://bipolaruk.org.uk)  
tel: 020 7931 6480  
Support for people with bipolar disorder (including hypomania) and their families and friends
- **British Association for Behavioural and Cognitive Psychotherapies (BABCP)**  
tel: 0161 705 4304  
web: [babcp.com](http://babcp.com)  
Can provide details of accredited therapists
- **British Association for Counselling and Psychotherapy (BACP)**  
tel: 01455 883 300  
web: [itsgoodtotalk](http://itsgoodtotalk)  
For practitioners in your area
- **The British Psychological Society**  
tel: 0116 254 9568  
web: [bps.org.uk](http://bps.org.uk)  
Produces a directory of chartered psychologists
- **Carers UK**  
advice line: 0808 808 7777  
web: [carersuk.org](http://carersuk.org)  
Independent Information and support for carers
- **Cruse Bereavement Care**  
tel: 0844 477 9400  
web: [crusebereavementcare.org.uk](http://crusebereavementcare.org.uk)  
Helpline and advice for those affected by a death
- **Depression Alliance**  
tel: 0845 123 2320  
web: [depressionalliance.org](http://depressionalliance.org)  
Information and support for anyone affected by depression

■ **Hearing Voices Network**

tel: 0114 271 8210

web: [hearing-voices.org](http://hearing-voices.org)

A support group providing information, support and understanding to people who hear voices and those who support them

■ **Rethink**

advice line: 0845 456 0455

web: [rethink.org](http://rethink.org)

Information and support for people affected by severe mental illness

■ **PAPYRUS** (Prevention of Young Suicide)

helpline: 08000 68 41 41

web: [papyrus-uk.org](http://papyrus-uk.org)

Advice for young people at risk of suicide

■ **Samaritans**

24-hour helpline: 08457 90 90 90

email: [jo@samaritans.org](mailto:jo@samaritans.org)

web: [samaritans.org](http://samaritans.org)

Freepost RSRB-KKBY-CYJK, Chris

PO Box 90 90

Stirling

FK8 2SA

Emotional support for anyone feeling down, experiencing distress or struggling to cope

■ **Survivors of Bereavement by Suicide (SOBS)**

helpline: 0844 561 6855

web: [uk-sobs.org.uk](http://uk-sobs.org.uk)

Emotional and practical support and local groups

## 5. LEGISLATION

The Equality Act 2010 drew together previous equality legislation including that relating to disability (Disability Discrimination Act 1995). Although weakened and under attack by the ConDem government, it remains a vital piece of legislation that can be used to support people who have a mental health condition and obliges institutions to protect and promote equality. The Equality Act prohibits discrimination because of a disability which can cover mental health conditions and issues.

### REASONABLE ADJUSTMENTS

Under the 2010 Equality Act, an employer must consider reasonable adjustments for a person defined as having a disability. The criteria by which the employer can decide whether an adjustment is “reasonable” are whether it is effective, whether it is practical, what costs are, the resources of the organisation and the availability of financial support for the adjustment. If the adjustment is reasonable

under these criteria and the employer does not make it, it can be seen to be breaking the law, and you may be able to take them to an employment tribunal. You can find an example of where an organisation has been taken to a tribunal under these circumstances below under “in practice”.

### WHAT LEGALLY CONSTITUTES A DISABILITY?

The Equality Act 2010 states that a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- ‘substantial’ means more than minor or trivial

- **'long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)**
- **'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping**

## TYPES OF REASONABLE ADJUSTMENT

The vast majority of reasonable adjustments are simple, inexpensive and make good business sense. The code of practice for (employment) for the Equality Act gives the following examples of reasonable adjustments:

- **Making adjustments to premises**
- **Allocating some of the disabled person's duties to another person**
- **Transferring an employee to fill an existing vacancy**
- **Altering working hours**
- **Allowing absence for rehabilitation, absence or treatment**
- **Arranging or giving extra training**
- **Acquiring or modifying equipment**
- **Modifying instructions or reference manuals**
- **Modifying procedures for testing or assessment**
- **Providing a reader or interpreter**
- **Providing supervision**

## IN PRACTICE

The Employment Appeal Tribunal has given further guidance as to when a mental health condition is likely to be regarded as a disability under equality laws. In the case of *J v DLA Piper* (1 – 2 February

2010 Appeal No. UKEAT/0263/09/RN) it indicated that 'reactive depression', in the form of the "anxiety, stress and low mood" a person suffers as a reaction to adverse circumstances such as problems at work, is less likely to qualify, although each case must be examined on its own individual facts, in particular the severity of the condition. Meanwhile, 'clinical depression' will almost always be regarded as a disability. In practice, the requirement for a condition to be 'long-term' will often limit the scope for adverse reactions to life events to amount to disability. Impairment has a 'long-term' effect if it lasts for at least 12 months, or for the rest of the individual's life. Recurring conditions may amount to a disability if they are likely to recur.

The following case study demonstrates how employers must fulfil their duty to make reasonable adjustments for employees experiencing long-term mental health issues.

***Taken from Equal Opportunities Review, 01/08/2006***

***Brooks v The Secretary of State for Work and Pensions (21 Dec 2005; ET/2403254/04)***

*The Department for Work and Pensions "hopelessly failed" to make reasonable adjustments for a disabled employee, finds a Manchester employment tribunal (Chair: RP Cape) in Brooks v The Secretary of State for Work and Pensions.*

### **Facts**

*Miss Brooks was employed as an administrative assistant at the Fountain Street jobcentre in Manchester. She had a history of depressive illness. As the respondent made preparations to rebrand the Fountain Street jobcentre as a JobCentre Plus, Miss Brooks took on the role of "floor walker", dealing directly with the public, some of whom could be difficult.*

*Miss Brooks took an extended period of sick leave in the summer of 2003 due to depression. She was*

referred to the respondent's occupational health providers for a report, but this was not provided until December 2003. By this time, Miss Brooks was again off sick.

Miss Brooks made it clear she did not feel able to return to work at Fountain Street and that she felt unable to deal directly with the public. Her line manager tried unsuccessfully to get advice from HR. No attempt was made to carry out a structured analysis of Miss Brooks's needs and aspirations and her skills and knowledge, or to find out where she might find it convenient to travel to for work. It was wrongly assumed that Miss Brooks was seeking work only in the Manchester district. Two posts were identified but rejected by Miss Brooks as being unsuitable. There were other vacancies that were not in the Manchester district which she could have taken. Miss Brooks resigned.

### **Findings**

The tribunal concluded that the respondent's requirement that Miss Brooks continue to work with the public at Fountain Street placed her at a substantial disadvantage in comparison with those without her disability because, as a consequence of her disability, she could not cope with direct dealings with the public to any significant extent. There was a duty to make reasonable adjustments. The tribunal was satisfied that there were jobs available in the locality which Miss Brooks could have done and which ought to have been offered to her. She needed a transfer away from a public-facing role and needed help to cut through the red tape and access such jobs as were available. Given that there were suitable vacancies, it was reasonable to redeploy Miss Brooks.

The tribunal expressed dismay that the branch of government that exists to help people into work and which includes specialist advisers to help disabled people into work "hopelessly failed" to take the basic steps that would have avoided Miss Brooks's resignation. Primary responsibility for managing her sickness and return to work should not have been

left with her line manager. Miss Brooks should have been given a professionally conducted structured interview to determine what work she could do and where she could do it and the results of that interview written up and agreed. Positive steps were needed to look for alternative work, and artificial barriers to transfer between districts should have been swept away. Given their resources and skills, the respondent could not justify the failure to find Miss Brooks suitable employment away from Fountain Street and away from the general public. Miss Brooks was unlawfully discriminated against.

Most reasonable adjustments cost little or nothing to implement and serve to benefit the employer and fellow employees. Employers may also be entitled to help with funding through the Access to Work scheme. Consult the UCU briefing for more information.

### **UCU Reasonable Adjustments briefing**

[http://www.ucu.org.uk/media/pdf/2/1/Reasonable\\_Adjustments.pdf](http://www.ucu.org.uk/media/pdf/2/1/Reasonable_Adjustments.pdf)

### **Equality and Human Rights Commission guidance**

<http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/the-duty-to-make-reasonable-adjustments-for-disabled-people/>

## **DISABILITY LEAVE**

UCU policy is that absence from work due to a disability should be treated differently and distinctly to regular sickness absence, and have a separate agreed policy relating to it. This applies to any member who requires regular absence from work due to an ongoing mental health condition that could be classed as a disability.

UCU Disability Leave briefing

[http://www.ucu.org.uk/media/pdf/m/l/Disability\\_Leave.pdf](http://www.ucu.org.uk/media/pdf/m/l/Disability_Leave.pdf)

## THE PUBLIC SECTOR EQUALITY DUTY

The law is concerned not just with correcting and rectifying discrimination when it occurs. Your institutions should also be thinking about how they are creating the climate and the structure to prevent discrimination in the first place and also promoting equality. That's where the public sector equality duty comes in. The duty (at section 149 of the Equality Act) requires public bodies to consider the impact on all equality groups when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees. That includes employees experiencing mental health issues.

### The Equality Act 2010

The general equality duty is set out in the Equality Act 2010 (the Act). In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

### UCU Public Sector Equality Duty briefing

[http://www.ucu.org.uk/media/pdf/i/3/UCU\\_Equality\\_duty\\_toolkit.pdf](http://www.ucu.org.uk/media/pdf/i/3/UCU_Equality_duty_toolkit.pdf)

## EQUALITY ACT RESOURCES

### TUC Equality Act guide

<http://www.tuc.org.uk/tucfiles/130/guideequalitylaw2011.pdf>

### UCU Equality Act briefing

[www.ucu.org.uk/equalityact](http://www.ucu.org.uk/equalityact)

### EHRC Equality Act resources

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/>

# 6. RESOURCES

### UCU, One in Four, Mental Health at Work

[http://www.ucu.org.uk/media/pdf/r/q/ucu\\_1in4\\_mentalhealthatwork\\_jun11.pdf](http://www.ucu.org.uk/media/pdf/r/q/ucu_1in4_mentalhealthatwork_jun11.pdf)

### TUC, Representing and Supporting Members with Mental Health Problems at Work

<http://www.tuc.org.uk/extras/mentalhealth.pdf>

### ACAS, Promoting Positive Mental Health at Work

<http://www.acas.org.uk/media/pdf/j/2/Promoting-positive-mental-health-at-work-accessible-version.pdf>

### Mind, the Mental Health Charity

<http://www.mind.org.uk/>

## CONTACT YOUR LOCAL UCU BRANCH

<http://www.ucu.org.uk/yourcontacts>