

Legal Update How do Dyslexics Fare in the N.H.S.?

Not very well in some instances

By John Mackenzie

Debbie McCoy worked as an Art Psychotherapist with Northumberland Tyne and Wear N.H.S. Trust from January 2005 to July 2010, when she resigned. At a 5 day hearing the Newcastle Employment Tribunal held that the Trust had failed to make reasonable adjustments for Debbie's dyslexia and had constructively dismissed her.

Debbie declared that she was dyslexic when she joined the Trust. One of her references specifically drew the Trust's attention to Debbie's dyslexia in a reference that stated that Debbie would be a substantial asset but that her dyslexia must be supported. Debbie threw herself into her work and into a number of external activities, lecturing and addressing professional groups on her passion, which was the role of Art Psychotherapy in Mental Health Treatment.

Debbie needed additional administrative support for her dyslexia. Debbie modestly put the amount of support she needed at 1 hour a week. This was consistently denied to her by the Trust over a period of 4 years. In 2009 matters came to a head and in mid-2009 Debbie went sick with stress. Other than for a few days Debbie did not return to work until she resigned in July 2010.

The Tribunal was highly critical of the Trust. It held the Trust's grievance procedures to be wholly inadequate and criticised a senior manager's refusal to accept from Debbie an attempt to resolve her problems informally. The Trust was ordered to pay Debbie £60,000 in compensation.

There is a terrible irony in this depressing case: Debbie was a member of the Trust's Specific Learning Disabilities Team.

By the time the proceedings reached a hearing Debbie was suffering from Panic Syndrome, Agoraphobia and Obsessive Rumination, all debilitating disorders of substantial severity. She is depressed and hyper-ventilates.

She is resolved not to work in the N.H.S. again and does not expect to return to Art Psychotherapy. The N.H.S. has lost a dedicated and talented therapist through the incompetence and neglect of this Trust. Debbie faces a struggle to recover, now using the resources that she used to supply.

Conducting claims in the Employment Tribunal for dyslexics, I am repeatedly struck by how vulnerable dyslexics are to suffer a collapse of health from stress at work. In Debbie's case it was apparent that the Trust found it difficult to accept what a catastrophic impact their conduct had on Debbie's health. They did not

assist Debbie's recovery by fighting every aspect of the case, including contesting throughout whether Debbie was disabled, characterising her dyslexia as trivial, and only accepting that the Trust was on notice that Debbie was dyslexic at all when the reference specifically referring to Debbie's dyslexia was unearthed from their files on the last day.

Employers need to know that a failure to treat a dyslexic employee in accordance with their legal obligation will not just give rise to a token sum in compensation but may cause a complete collapse in the employee's health and necessitate a change of career. One might have thought that an N.H.S. Mental Health Trust would have known this to be so.