

## **A Woman v The Chief Constable of the Police Service of Northern Ireland**

Sex and disability discrimination proceedings brought in the Industrial Tribunal which settled on 7 May 2015.

### **Summary**

The Claimant is a female police officer with the PSNI since April 2005. The Claimant believed that the treatment that she received from the Respondent when she returned from sick leave with a pregnancy-related condition amounted to sex and disability discrimination.

Following the birth of her child the Claimant was on sick leave between 25 October 2013 and 9 April 2014 with post natal depression and joint pain. In January 2014 she was diagnosed with inflammatory polyarthritis which is a progressive disease and causes joint pain and her consultant has advised her that this was a pregnancy-related condition.

When the Claimant returned to work in April 2014 the Claimant was put on adjusted restricted duties which meant that she was given duties which she was able to perform which were mainly office-based. She was called before an Attendance Management Panel (AMP) to discuss whether or not her pregnancy related sick leave was unsustainable or unsatisfactory. The AMP meeting was held on 15 April 2014. She found it intimidating, degrading and humiliating. The panel was made up of three men. She was told that the panel had access to all of her Occupational Health medical notes, regardless of their relevance. She found this embarrassing that the panel had access to her notes which included notes in relation to mental health issues as well as pregnancy related complications.

On 21 April 2014 she received an informal warning for unsustainable absence. She appealed the decision and a female Chief Superintendent rescinded the initial decision and directed that a new panel should sit on the basis that an all male panel sitting in relation to gender-specific medical conditions may be "more difficult" than a mixed panel.

On 5 September 2014, after a delay of 5 months, a second AMP was held. This delay caused the Claimant distress. The Claimant alleged that the male Superintendent, who chaired the panel, was immediately confrontational. She informed him that it was on her records as marked by OH that the DDA applied. She alleged that he replied "Not as far as I am concerned". The Claimant believed that they did not follow the guidelines for the "Role of an AMP".

On 18 September 2014 the Claimant was informed by her line manager that the panel had concluded that her absence was unsatisfactory. An informal note of concern was issued and an Ill Health Capability Process was to be commenced. The informal note of

concern was to remain live for a 2 year period and for the first 6 months the Claimant was precluded from consideration of appointment to a specialist post, temporary promotion and unable to apply for a promotion competition.

On the same date she attended a seminar hosted by the same male Superintendent who chaired her second AMP. A Sergeant who was speaking about his team's progress finished his speech with "We shouldn't have to carry people who are on restricted duties". This upset the Claimant as she had been on restricted duties since her return to work. The Claimant was disappointed that the Superintendent did not challenge this Sergeant's comment.

The Respondent agreed to pay the Claimant without admission of liability £11,250. The Respondent undertook to make the following necessary reasonable adjustments:-

- (i) Expunge from the Claimant's personnel records including her SAP record the informal note of concern issued under the Unsatisfactory Attendance/ill Health Capability process.
- (ii) Mitigation in full of the period of absence from the 25.10.13 to 09.04.14
- (iii) Adjustment of the Claimant's Bradford Trigger Score to take account of her permanent disability.
- (iv) Permanent adjustment to the Claimant's duties in liaison with OHU to take account of the nature and extent of the Claimant's disabilities. The adjustments will be kept under review by OH and any modifications made will be in accordance with the OH reviews.

The Respondent regretted the distress, upset and injury to feelings suffered by the Claimant as a result of subjecting her to an Absence Management Panel in circumstances where she was disabled and the management by the Respondent of her disability-related sickness absence.

The Respondent affirmed its commitment to the principle of equality of opportunity in employment and to ensuring that its policies and procedures comply in all respects with the provisions of the Disability Discrimination Act 1995 as amended and the Disability Employment Code of Practice. The Respondent undertook to meet with the Equality Commission to review the application of its policies, practices and procedures to ensure that they are effective and conform with the requirements of the Disability Discrimination Act 1995 as amended and to take steps to consider any reasonable recommendations the Commission may make, including any regarding training of those administering the Absence Management Policies and Procedures. The first named Respondent agreed to ensure that the issues highlighted by this case in respect of the consideration and implementation of reasonable adjustments in the workplace will be brought to the attention of Human Resources staff.

