



## Employment alert

### Baldness not a disability rules Employment Tribunal

A teacher has failed in his disability discrimination claim against a school for failing in its duty to prevent him being bullied by pupils on account of his lack of hair. Mr Campbell (known to his pupils as "Baldy") said he avoided corridors where he would meet pupils and waited before leaving school each day according to a [BBC news report](#).

Regular readers of Employment News will not need to be reminded of the definition of a "disability".

- There is a green light for conditions such as cancer, blindness (including colour blindness), HIV or MS, which are automatically a disability.
- There is a red light for such things as tattoos, kleptomania, sexual perversions, addictions and hayfever, which are not a disability.
- Any other condition must be likely to last for 12 months or longer and have a "*substantial adverse effect on the employee's day-to-day activities*" (which need not be his activities at work).

The judge said that just because his baldness was used by others to taunt him, it did not mean it was a disability. That would open the door to "uglyism", which at the moment is not unlawful (although it could still lead to unfair dismissal claims, so we don't advise it).

Presumably (we have only the incomplete news reports to go on so far) the tribunal felt that baldness is not a physical "condition" (which would surprise us); or that it was too minor; or else that the baldness itself didn't cause the teasing.

For advice on male pattern employment claims (!) or any other matter please contact us on the details below.

### ACAS gives advice on health issues in the workplace

ACAS has given guidance on [spotting signs of depression](#) and [promoting health and wellbeing](#) in the workplace.

Apparently, research conducted for Depression Awareness Week shows that employers underestimate the incidence of stress, anxiety and depression and that almost 30% of employees will have a mental health problem in any year.

It is important for employers to keep their eyes open for mental and physical conditions in the workplace in order to satisfy their duties under the Disability Discrimination Act and avoid discrimination claims.

Employees often hide conditions from their colleagues, especially conditions felt to be embarrassing such as incontinence or mental health issues.

Employers often ask us whether they can still be liable for discrimination if they are unaware of a disability.

The answer is yes, where you could reasonably be expected to know of the disability. This will be the case where a reasonable employer would have found out about it by asking the right

questions. This will depend on the warning signs available to you in each case.

An example is a manager who sees an employee crying in the staff toilets. The manager could ignore it, supposing that it might be due to a relationship difficulty or a bereavement, which are not disabilities. Equally, though, it could be a sign of depression, which is potentially a disability. If this sign is ignored, the manager is putting his/her employer at risk of committing discrimination by not enquiring further and taking steps to help the employee in his/her work.



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