

DISABLED EMPLOYEE SHOULD HAVE BEEN OFFERED A DEDICATED PARKING SPACE

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The Claimant, Ms Linsley, had ulcerative colitis, which is classified as a disability. The condition can make individuals need to go to the toilet urgently, flare up and be aggravated by stress.

Ms Linsley worked at the HMRC and drove to and from work in her own car. HMRC has a national policy on the use of its car parks. Priority is provided to staff who require a parking space as a reasonable adjustment, whether or not they are blue badge holders.

Throughout the years, Ms Linsley underwent various occupational health assessments that stated she would benefit from a dedicated parking space which she was provided with for a number of years at various HMRC sites since 2012. In

November 2016, she moved to a new site in a different role and requested a dedicated parking space. However, instead, she was offered a parking space near the toilets if she failed to get a parking space near the building (and toilets) on a first come, first served basis. Alternatively, she could park in an unauthorised zone, incurring a small sanction which the employer would ensure would not apply to her, but she would also be required to move her vehicle later.

Ms Linsley was aggrieved that she did not receive a dedicated parking space and in early 2017 went off sick with stress. Reports from Occupational Health highlighted that stress was a trigger for her symptoms and as HMRC had not put in place the recommendations, this exacerbated her symptoms.

Ms Linley subsequently brought a claim for disability discrimination alleging that HMRC had failed to make reasonable adjustments. The EAT upheld her claim concluding that HMRC had failed to apply its own policy and it appeared that the relevant managers had acted in ignorance of it, which was not a good reason for failing to apply the policy. HMRC should have been aware that from around 2012 looking for a parking space was a source of stress. Employers are unlikely to be able to show that they have discharged their duty to make reasonable adjustments if they fail to follow their own policies unless they had a cogent reason for not doing so.

Mrs M Linsley v Commissioners for her Majesty's Revenue and Custom: UKEAT/0150/18/J0J

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