

Are you a mental case?

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SUMMARY: The medicalisation of 'mental health' is entrenched in English Law. This article discusses 'mental impairment' in the workplace as understood by the Equality Act (2010).

KEY WORDS: Equality Act, common sense, discrimination, harassment

Are you a mental case? This rhetorical question is intended to draw attention to the way English law regards people with so-called mental health problems. As I will illustrate in relation to the Equality Act (2010), the Law likes to see itself as operating with 'ordinary' meanings and 'common sense'. Perhaps this works well enough when the body is dysfunctional or disfigured but the meaning of a mental cause is not so easy to root in colloquial discourse. For instance, when it is not possible to detect a physical cause for a disability, a person might simply be described as 'a bit mental'. One section of the Equality Act (2010) deals with discrimination (at work and elsewhere) that is directed towards a person with a disability. In certain circumstances, an employee can require an employer to make allowances for a disability that is caused by their 'mental impairment'. Before any reader of this article thinks that this could never apply to them, bear in mind that 'mental ill-health' at work is common, and that work may aggravate an 'impairment' or cause it. Around 7% of employees have experienced a grievance due to harassment or bullying at work (ACAS, 2018). Work stress appears to be the main reason for people to visit their general practitioner (CIPD, 2011). 'Mental

Richard Hallam spent his career in the NHS combined with teaching clinical psychology at a postgraduate level. He has published on a variety of health-related topics.

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