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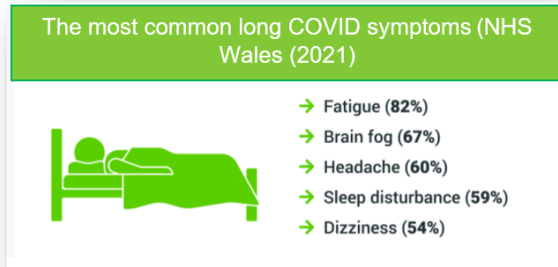
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Long Covid is the condition where individuals continue to experience negative long-term symptoms after an initial COVID-19 illness (CIPD, 2021). The virus's adverse effects can last for an extended period and significantly affect work performance (ACAS, 2022).



Other common symptoms are (NASUWT, 2021):

- Problems with memory and concentration (Mastersons, 2021),
- Body and joint aches, muscle weakness,
- Anxiety or depression, cognitive difficulties,
- Shortness of breath

LONG COVID IS LIKELY TO BE CLASSIFIED AS A DISABILITY.

Long COVID is a relatively new condition. Therefore, it is not formally accepted as a disability. However, the long COVID symptoms negatively impact on the employee's day-to-day activities, and symptoms can last 12 months or more. An Employment Tribunal could view an employee with long COVID symptoms as disabled, according to the Equality Act (NASUWT, 2021).

Lo and Dayoub (2022) suggest, that long COVID should be formally included in the HR policies as any other disability or chronic disease.

Local Government Association (2021) stresses that long COVID takes various forms. However, from an employment perspective, the employee might be unable to work or perform duties due to their health condition for some period of time.

IMPORTANT:

There is a possibility that employees suffering with long COVID may be considered as disabled. Therefore, management should be mindful how those employees are treated.

DO NOT discriminate, victimise, or harass employees on the basis of their health.

Potential risk of neglecting long COVID conditions.

Employees who suffer from the effects of long COVID are similar to employees with other long-term conditions and may be protected by the Equality Act disability definition (CIPD, 2021). CIPD (2021) warns that the organisation can face direct disability discrimination or discrimination arising from disability claims if employees with long COVID are treated less favourably because of their health conditions (NHS Employers, 2022).

If an employee with the long COVID condition is discriminated against, the organisation may be at risk of (Owen, 2020):

- Damage workforce relations,
- Decrease employees' engagement and productivity,
- Organisational reputation damage, and issues with recruiting new employees,
- Disability discrimination claims at an employment tribunal,
- Expensive compensation fees,
- Negligence claims and breach health and safety regulations in critical roles, such as operating heavy machinery,
- Unlawful dismissal cases if manager considers terminating the contract based on absence or underperforming.

Negligence claims and breach health and safety regulations in critical roles.

CIPD (2021) points out that the organisation has to provide a safe working environment under the health and safety legislation. Employees with long COVID symptoms might be unable to perform at their usual level and undertake duties, especially the heavy ones or involving operating heavy machinery (Owen, 2020). Woods and Cope (2021) warn that a failure to adequately assess an employee who suffers from long COVID conditions and is not fit to work may result in injuries. The company is responsible for these injuries, which may occur as a result of the poor health condition of the employee. This may lead to personal injury claims and losses attributable to that failure. Additionally, this could be considered as a breach of the employer's duty of care towards employees.

Disability discrimination claims

Employees have the right not to be discriminated against on the basis of a protected characteristic, including long-term illnesses. CIPD (2021) warns if employees suffer with long COVID and manage to prove discrimination at work, the company will be obligated to pay compensation. CIPD (2021) points out that there is possibility of compensation for injury to feelings, including depression, mental distress, or aggravated damages if management unfairly and poorly treated employee suffering from long-term conditions in extreme circumstances.

When considering dismissing the individual because of his/her inability to perform work well, managers must remember to follow fair processes. Failure to do so may result in discrimination or unfair dismissal claims at the employment tribunal. The employer must carry a full and fair disciplinary and capability procedure (ACAS, 2022) and offer reasonable adjustments to enable employees to carry out their duties efficiently before considering the contracts termination (CIPD, 2021).

Practical steps for managers to support employees with long-term health conditions, Long-COVID.

NASUWT (2021) points out that once an employee meets the definition of disability, their company is legally obliged to remove or minimise substantial disadvantages suffered by employees due to their protected characteristics. The company must conduct a risk assessment and provide any reasonable adjustments needed to perform its work (UNISON, 2022).

Local Government Association (2021) with all long-term or possibly persistent intermittent sickness cases, an organisation should consider what adjustments can be made to the employee's role to perform it on a full or part-time basis.

Easy steps to follow:

- **Engaging with Occupational Health providers.**

When there is a concern for an employee's ability to fulfil the work, there should be a referral to Occupational Health. Occupational Health provides medical advice and support (SOM, 2021, p.5) to fully comply with the Health and Safety at Work Act (1974). The Occupational Health assessment should be undertaken to ascertain whether any reasonable adjustments should be applied to assist an employee in fulfilling their role safely (NASUWT, 2021).

- **Engaging with the employee, wellbeing conversations, wellbeing support (SOM, 2021, p.5)**

(NHS Employers, 2022) the long COVID symptoms are varied. Therefore, for health and safety reasons, there is a need to consider each employee's circumstances individually. On a case-by-case basis, an approach means conducting individual consultation to ensure that each employee receives adequate support to continue working safely (Owen, 2020). NHS Wales (2021) recommends reasonable workplace accommodation for individuals with long-term symptoms:

- Fatigue management strategies (UCL, 2022):
 - Regular rest breaks,
 - Temporary reduction in workload and the physical demands associated with the job,
 - Support with prioritisation of tasks,
 - Adapt work tasks.
- Work system adjustments:
 - flexible work arrangements are necessary (ACAS, 2022).. Flexible work arrangements could include UCL (2022):
 - Facilitate working from home or a combination of home and office-based work if the remit of the role allows that
 - Adjust work hours to avoid travelling at peak times
 - Offer part-time hours ACAS (2021)

Extra time off work enables employees to attend medical appointments or hospital treatments without detriment to their pay (NASUWT, 2021).

Local Government Association (2021) suggests relocating employees to different roles that their health allows them to perform. For example, home working or flexible hours.

GOV.UK (2021) In circumstances where the employee cannot perform their job because of their illness and there are no reasonable adjustments that can be provided, it may be fair for an organisation to dismiss them, even if they are disabled. Therefore, Occupational Health assessments are very important before terminating an employee.

Ultimately, similarly to all long-term sickness cases it may be necessary to consider terminating the employee's employment. While considering dismissing employees with long COVID because of their absence or their inability to do their work, management will need to follow a capability process and consider medical evidence, as well as considering whether reasonable adjustments could be implemented to assist an employee in their work or the availability of any alternative roles (Woods and Cope, 2021).