



HR Broadcast – Type 2 Diabetes

Type 2 diabetes is a condition that is estimated to affect around 3.2 million people in the UK.

On a previous occasion in April 2015 the Employment Appeal Tribunal (EAT) made it clear that the condition is not necessarily a disability unless it is controlled through medication. Where the condition is controlled through diet alone then this would not be a disability.

The case authority was *Metroline Travel v Stoute* where Stoute (S), who was a bus driver, had Type 2 diabetes controlled through diet. He alleged that his dismissal amounted to disability discrimination on the grounds of his diabetes. The EAT ruled that diabetes managed solely through diet is not a disability but where a person requires medication to control the condition they will generally be classed as disabled.

However in a new case that came before the EAT this decision has been considered again in *Taylor v Ladbrokes Betting & Gaming Ltd* 2016. Taylor (T) was diagnosed with Type 2 diabetes a year before his dismissal. Whilst he was prescribed medication to manage the condition, a specialist consultant indicated that, even if he did not take the medication, T's diabetes would have no adverse impact on his ability to carry out normal day-to-day activities. The Consultant stated that T's problems were the result of poor diet and lifestyle choices. As a consequence, the tribunal ruled he was not disabled.

T appealed against this decision to the EAT on a number of grounds, including the fact that diabetes is a progressive condition. He also argued that his diet and lifestyle choices should be disregarded when assessing whether or not he is disabled. The EAT accepted these arguments and remitted the case for a fresh hearing.

So, in conclusion, Type 2 diabetes is generally a disability where the person manages it through medication. If an employee with diabetes does not take medication they may have a disability depending on the likely progression and long-term effects. Consideration must also be given as to whether the condition is likely to get worse over time.

When requesting a medical report, it is therefore important to ask whether, in the opinion of the Medic, the condition is stable and ascertain how it is being controlled and what the long term effects may be.