

# Employer discriminated against employee because of perceived disability

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An employer was found to have directly discriminated against an employee on the basis of a hearing disability it perceived that employee to have.

The Employment Appeal Tribunal stated that the evidence clearly showed that the Acting Chief Constable was concerned that Mrs Coffey had a hearing condition which could progress

to the extent that she would have to be placed on restricted duties. Therefore, the perception was that Mrs Coffey had a progressive disability.

Mrs Coffey was a police constable in the Wiltshire area. She suffered with some hearing loss which, whilst it did not amount to a disability, put her just outside of the national standards for hearing loss for the police. When Mrs Coffey joined the Wiltshire Constabulary, her hearing loss had been flagged during an initial test, but she passed a practical functionality test showing that she was able to work as a constable without the need for any adjustments.

She later applied to transfer to the Norfolk Constabulary. As before, her hearing was tested and the same level of hearing loss was identified. The Acting Chief Inspector of Norfolk rejected Mrs Coffey's application on the basis of that hearing test, and did not arrange a practical functionality test.

Mrs Coffey brought a claim for direct disability discrimination on the basis that her application was rejected because of a perception that she had a hearing-based disability.

The Acting Chief Constable denied discrimination; instead, she said her decision to reject Mrs Coffey was influenced by the significant resourcing and cost pressures her Constabulary was facing, in that she could not justify appointing someone who may not be fully operational.

*Chief Constable of Norfolk v Coffey UKEAT/0260/16*

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