

**Poor performers suffering  
from work-related stress: do  
you treat these flowers  
delicately or grasp the nettle?**

by

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Contract

Unfair  
Dismissal

Disability  
Discrimination

Negligence

Lawful Dismissal

# Contract

- Paid sick leave
- Right to exhaust paid sick leave before dismissal?
- Right to remain employed whilst in receipt of PHI

# Unfair dismissal

## Potentially fair reason

- Capability
- SOSR

## Acting reasonably

- Medical position properly explored
- Reasons for ill health explored
- Employee's perspective gained through consultation
- Previous record considered
- Considered changes that could be made (especially if work is the cause)

# Disability discrimination

- Is the employee disabled?
  - Substantial
  - Long term effect (12 months+)
  - On ability to perform day-to-day activities
- Disablism
- Discrimination for reasons related to disability (such as extended sickness absence)
- Indirect discrimination
- Failure to make reasonable adjustments
  - Reduce working hours
  - Pay for counselling
  - Hold off performance management?

# Law of Tort: Negligence

- Duty of care
- Breach of duty
- Causation
- Reasonable foreseeability

# The end

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