

Managing the menopause at work

October 2023



Wednesday, 18 October, is World Menopause Day.

World Menopause Day is held annually to raise awareness about menopause and the support options available for improving health and wellbeing. It is a term that most will likely recognise, but likely not all will understand. It is, typically, an inevitable part of ageing. What, though, is the relevance to employers and the workplace?

Managing the effects of menopause at work is important for both businesses and employees. Whilst there are no menopause-specific employment laws, existing laws on discrimination and unfair dismissal give some protection to employees in certain circumstances. It is readily clear from recent steps taken by the government that lifting the taboo and raising awareness on menopause comes high on its agenda. Businesses need to be ahead of the curve and create a supportive and inclusive work environment. Employment law issues will arise from menopause, including claims for age, disability, gender reassignment and sex discrimination, and unfair dismissal.

Figures released by the government in 2022 reveal that the employment rate for people aged 50 to 64 has increased by over 15% since 2019. Separate figures show that the employment rate has increased by almost 20% for women in that age bracket. More people than ever are now experiencing menopause during their working lives. It is unsurprising, therefore, to note a rise in claims before the Employment Tribunal, which cite 'menopause'. Employers need to understand menopause and its impact and take steps to change the current landscape.

The symptoms of menopause can impact an employee's performance, and, indeed, long-rooted assumptions and

cultural attitudes about menopause may negatively affect how employees are treated in the workplace.

What is the menopause?

All women will experience menopause at some point during their life. The NHS has explained that menopause occurs when periods have stopped for over 12 months due to lower hormone levels. Menopause can also impact trans and non-binary people and those with variations in sex development who may not identify as female. Therefore, it may not be obvious who, within the workplace, might experience menopausal symptoms. Most people who experience menopause will do so between the ages of 45 and 55. Some, though, will start experiencing symptoms much earlier. Menopause is preceded by the perimenopause, where the body prepares for menopause. As a result, perimenopause may involve similar symptoms to menopause and can last months or years.

People will experience symptoms of menopause differently and in different combinations, which may change with time. Symptoms include difficulties with memory and concentration, anxiety, hot flushes, sleep disturbance and headaches.

The menopause at work

The rise in those experiencing menopause during their working lives has not gone unnoticed by the government. Following a report published in 2017, there has been further scrutiny of how employers should support and manage employees experiencing menopause. A UK Menopause Taskforce has been established, which includes the Women's Health Ambassador for England sitting with the Minister for Employment to collaborate on employment-related issues.

The government has also appointed its first Menopause Employment Champion, who has called on employers to develop menopause policies and create workplace support.

Menopause and employment laws

In 2021, those cases before the Employment Tribunal citing menopause increased by 44%. Businesses need to be aware of potential discrimination and unfair claims which may arise due to the treatment of staff experiencing menopause. Claims can be complex, time-consuming and costly and are, ideally speaking, best avoided at all costs.

Unfair dismissal

If dismissing an employee who is experiencing menopause symptoms, it is important to keep in mind the [obligation to dismiss fairly](#).

The cases before the Employment Tribunal for unfair dismissal claims that cite menopause are largely employees who were dismissed for misconduct. For any misconduct dismissal, an employer must show that it carried out a reasonable investigation before deciding to dismiss. Suppose an employee under a disciplinary procedure raises concerns about the symptoms of menopause and the effect on their ability to work. In that case, it would be difficult for an employer to show that any later dismissal was fair without demonstrating it took steps to consider the employee's concerns. Employers should also take care when undertaking a capability procedure if an employee explains that symptoms of menopause have impacted performance at work.

Discrimination

Whilst the government does not intend to make any menopause-related changes to the [Equality Act 2010](#), depending on the circumstances, an individual experiencing menopause may be able to bring discrimination claims related to the protected characteristics of age, disability or sex. Trans people with menopause symptoms may also be able to bring discrimination claims based on gender reassignment. Where successful, there is no cap on compensation that an Employment Tribunal can award to a claimant in a discrimination claim.

Therefore, employers must know that the existing protected characteristics under the Equality Act 2010 can cover menopause.

Further, the [Health & Safety at Work Act 1974](#) provides for safe working, which extends to the working conditions when experiencing menopausal symptoms.

Managing menopause at work

Whilst the impact on an employee's experience at work with menopausal symptoms may have been overlooked for years, there has been a marked change in tide. It makes sense for employers, if they have not already done so, to ensure they have policies and procedures in place that accommodate and support employees working through menopause.

ACAS has issued helpful [guidance on managing and supporting Menopause at Work](#). Businesses should give thought to the following:

- Training managers. Various training providers offer short external courses;
- Carrying out health and safety checks;
- Developing a menopause policy.

In addition to training managers, it would make sense generally for employers to offer similar training to staff not in managerial roles to raise awareness of menopause. A menopause policy will ensure staff know where to find support and raise awareness amongst staff to understand what menopause is, what the symptoms are and that it affects everyone differently.

Employers must keep in mind that in severe cases, menopause may be a disability. In those cases, an employer is bound to make reasonable adjustments. Even if not a disability, employers will need to carry out a risk assessment. Again, ACAS guidance has helpfully suggested that a menopause risk assessment might include:

- Temperature and ventilation in the workplace;
- The material and fit of the businesses' uniform and whether it might make those experiencing menopause feel too hot or cause discomfort;
- Whether there is somewhere for staff to rest;
- Whether toilet facilities are easily accessible;

- Whether cold drinking water is available;
- Whether managers have been trained on health and safety issues relating to menopause.

The workplace should be an environment where staff feel comfortable having open conversations about menopause. To help remove the taboo around the topic, employers should discuss menopause alongside other diversity and health and wellbeing topics. Those experiencing issues will then be able to come forward as needed.

Speak to employment lawyer [Karen Cole](#) today about the changes you could implement in your workplace.

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Note: This article is not legal advice; it provides information of general interest about current legal issues.

