A Barbour Guide

Menopause and the Workplace

barbour
safe in our knowledge

Introduction

The menopause has become an important issue for employers of all sizes, with unions and employment organisations calling for more support for women adversely affected by menopause symptoms.

Although the issues around menopause, the lack of research and impact on daily life had begun to appear in the mainstream media previously, it was Davina McCall's Channel 4 documentary in 2022 "Sex, Mind and the Menopause", which created a shift in the way the subject was treated in the UK. The resulting open conversation in society instigated action by the government, employers and others.

In launching its cross-party report on the subject in July 2022, the House of Commons Women and Equalities Committee stated "Employers' lack of support for menopausal symptoms is pushing 'highly skilled and experienced' women out of work, with knock-on effects on the gender pay gap, pension gap and the number of women in senior leadership positions."

The meaning of menopause is when a woman stops having periods

Impact on the Workforce

Just under half of the workforce in the UK is female and 11% of the whole workforce, i.e. 3.5 million, are in the age category 45 to 54 years old (Labour Force Survey 2021).

The menopause has gained momentum as a workplace concern due to the media, and possibly because of the increase in women at work. According to the Office for National Statistics (ONS), 72% of UK women aged 16 to 64 were in paid employment as of July 2022, compared with just 66% in 2012, ten years previous.

Women aged 45 to 55 are in the age group most likely to go through the menopause (Source: NHS). The meaning of menopause is when a woman stops having periods. Perimenopause is the term used to describe symptoms linked to the menopause occurring before periods cease.

When considering policies for the menopause, employers should have regard to the fact that symptoms can occur before the age of 45, whether naturally or linked to surgery, chemotherapy and other medical causes. Employers should also be aware that menopausal symptoms can be experienced by those who are trans or who identify as intersex or non-binary.

Adverse menopausal symptoms which may particularly affect working life, include: anxiety, depression, loss of confidence, hot flushes, mood swings, panic attacks, problems with memory or concentration, sleep difficulties, headaches, migraines, palpitations, muscle aches, sweating, dry eyes, dry skin, heavy bleeding, unpredictable periods, and urinary tract infections. These symptoms vary in number and severity between individuals therefore adjustments to work must also be assessed on a case-by-case basis. It's also important that one individual's limited experience of the menopause does not cause the issue to be underrated or dismissed. Menopausal

symptoms may continue for years after a woman has reached her menopause[2]. Examples of the impact on working life include difficulties in coping with normal workplace temperature, inability to cope with work pressure or long shifts, needing more frequent toilet breaks or needing to change clothing during a shift.

The Menopause and the Workplace report by the Fawcett Society and Channel 4[5], found that 10% of women in the 45–55 age group had left a job because of symptoms of the menopause. 44% also reported that their ability to work had been adversely affected.

Legal Requirements

There is no specific requirement in law for employers to have policies and procedures to help those suffering with menopausal symptoms. However, if an employee or worker is put at a disadvantage or treated less favourably because of their menopause symptoms, it could be regarded as discrimination under the Equality Act 2010, whether due to the individual's sex, age, disability or gender reassignment.

Some cases have already made their way to court, with outcomes demonstrating that employers may be guilty of discrimination if they fail to take proper account of menopausal symptoms.

In the case Merchant vs BT plc 2012 (Employment Tribunal/1401305/11), Ms Merchant had been under warning for poor performance. However, no account had been taken of a letter from her GP, which explained to her manager that she was going through the menopause and this was affecting her level of concentration. However, the manager, influenced by experiences of the menopause by his wife and a colleague, undertook no further investigations and dismissed her without offering an occupational health assessment. His actions were in breach of BT's performance management policy. The Employment Tribunal upheld her claim of direct sex discrimination and unfair dismissal, stating that the company would not have treated a male employee presenting with the same symptoms, in that way.

A later case in the Scottish courts, also found that some women experiencing the menopause could be considered "disabled" in terms of the Equality Act 2010. The case, Davies v Scottish Courts and Tribunals Service 2018, concerned the dismissal for gross misconduct of a court employee. The employee had various peri-menopausal symptoms including depression, cystitis, gynaecological issues which caused excessive bleeding and anaemia. The anaemia could lead to periods of feeling faint and losing concentration. The dismissal occurred following events in court which disrupted proceedings. The employer was found not to have taken into account the employee's disability and was required to reinstate her position.

Where a person's menopause symptoms would amount to an impairment with substantial and long-term impact on their ability to carry out normal day to day activities, they are, like Davies, considered to be disabled. In these cases the employer has a duty to provide reasonable adjustments. The TUC however, has found that it is a struggle to get employers to accept menopausal symptoms as a disability[3].

It's of note that the cross-party House of Commons Women and Equalities Committee has called for an amendment to the Equality Act to introduce menopause as a protected characteristic and to include a duty for employers to provide reasonable adjustments for menopausal employees[7]. However, it appears from its response to the report that the government does not intend to make these amendments, stating that there is already sufficient provision under the act to protect women[8].

Aside from the duties under the Equality Act there is other legislation of relevance: The Health and Safety at Work etc. Act 1974 requires that employers ensure the health, safety and welfare at work of all employees. The Management of Health and Safety at Work Regulations 1999 add to this general duty, requiring that the employer assesses the risks to health and safety and implements suitable risk control measures. The assessment must take into account those who are more vulnerable to harm.

Information

Menopause Policies

Studies on the menopause at work show that women feel treated unsympathetically by their peers and managers. The term “gendered ageism” is used to describe this underlying prejudice[1].

Having a menopause policy is regarded by most influencers, e.g. ACAS and worker’s unions, as an essential step in providing a level playing field. ACAS, 2022, says[4] that a policy specifically on the menopause will help staff feel supported, will aid understanding by all staff and will guide managers in their attitude and approach when assisting staff experiencing menopause symptoms.

It is recommended that the policy makes it clear that a range of persons are affected by menopausal symptoms including those who are younger than the age bracket for which menopause is most common, trans people and those who identify as intersex or non-binary. It should explain the support which will be provided by the organisation and provide a point of contact for queries and concerns. It should also describe the training which will be provided to managers and others.

Barbour has produced a template policy which can be found under our menopause topic.

Once a policy has been developed, it should be shared widely and efforts made to encourage acceptance and non-discrimination amongst the whole workforce. It’s likely that other HR policies will require amendment to take into account any new menopause policy, particularly those covering sickness reporting, absence management, diversity and inclusion, and flexible working.

Culture

A review of evidence “Menopause Transition: Effects on Women’s Economic Participation” produced for the Department of Education in 2017[1] makes a number of observations about the organisational culture which is needed in order to support staff affected by menopausal symptoms. In the worst examples women reported being ridiculed and belittled for their symptoms. Toxic cultures prevent women from adapting during their transition and may lead to them leaving their job. The paper concludes that “gendered ageism seems to be the cause of many of the problems which working women experience during transition”.

A policy alone will not change the culture. Therefore more needs to be done by employers to ensure that the workplace culture does not undermine the policy message and intentions. The culture needs to have the right values, beliefs and normal operating practices to enable women to discuss transition symptoms they are experiencing, at least with their manager, and preferably colleagues.

Women need to feel that their career will not be disadvantaged by being open about their struggles. For this to be successful, the authors of the report[1] highlight that menopause is a natural process, just like pregnancy, and in the same way colleagues should be minded to support those who request adjustments to their work or working conditions. They suggest that general awareness of the needs of those in transition is therefore an intrinsic part of the culture change.

Occupational health campaigns could be used to sensitively increase awareness of menopause struggles, to challenge negative stereotypes and promote the support available. Additionally, employers should consider what additional one-to-one support can be made available to those in transition, including occupational health, counselling and employee assistance programmes.

Occupational health campaigns could be used to sensitively increase awareness of menopause struggles

Conversations with Staff

It can be difficult for staff to raise their concerns about menopausal symptoms due to embarrassment, concern about confidentiality, anticipation they will not be taken seriously etc.

As described by ACAS[4], conversations between managers and their staff about medical matters should always be private and the outcome treated in confidence. Nothing should be disclosed outside of the meeting without the individual’s permission.

In such conversations managers should provide the opportunity to talk, but not lead the conversation, for example by asking open questions about any health struggles which may be impacting daily work. Managers should never ask directly if a staff member wishes to talk about the menopause. As illustrated in the case Davies v Scottish Courts and Tribunals Service 2018, managers should avoid making any assumptions whatsoever about symptoms or their severity as each person's experience is different.

It's advisable for managers to keep a written record of the employee's wishes about disclosure of information to colleagues including what they do and do not want their colleagues to be aware of and how they will be told.

Not all staff will feel comfortable to talk with their line manager and its therefore good practice to offer an alternative, such as an employee within HR, a trade union representative or occupational health. The person sign posted for these conversations will need to have sufficient awareness of the issues to handle the discussion sensitively. At the end of the conversation, it will be necessary to inform the employee that any changes to the workplace or working conditions will need to be agreed with management, however, this should be achievable without the need to pass on medical details which the individual wishes to remain private.

Women have long been educated to keep matters involving their reproductive lives separate from the workplace. Managers sincerely wishing to reach out to menopausal colleagues and help them at this time will have to consider how the organisation will signal that they are open to these conversations and willing to make adjustments as necessary. A well-advertised internal campaign to promote awareness of menopausal issues will help with this. Such a campaign could include:

- Launch and awareness raising of a new Menopause Policy.
- Provision of helpful information about menopause on work intranet pages to all staff.
- Launch of new training programme regarding Menopause to all line managers.
- Provision of in person or menopause training for all staff.
- Formation of a peer-to-peer workplace Menopause support group (perhaps launched by a senior manager, or HR / Occupational Health) to encourage staff to develop supportive networks.

ACAS also point out that these types of conversation, when conducted with a person who is trans, non-binary person or a person with variations of sex development, will be especially sensitive. Someone may want their gender identity concealed, and it can be a criminal offence to disclose information about a person who has a Gender Recognition Certificate.

Training for Managers

The TUC carried out a survey of USDAW members in 2018 which it summarises in its guidance on the topic[3]. The survey found some common negative experiences of staff when dealing with managers over their menopause concerns:

- Feeling dismissed and ignored, it being "just a woman thing".
- Feeling too embarrassed to speak to their manager, expecting not to be taken seriously.
- A lack of empathy by male and younger managers.
- Managers and other staff laughing and making fun of symptoms.
- A lack of awareness about how the menopause affects workers, its varied symptoms and the impact on work.
- Being disciplined for errors which are due to brain fog i.e. poor memory or concentration.

The TUC and several other organisations, highlight the need for workplace training for all employees and managers in order to reduce the stigma around menopausal symptoms and challenge the negative culture which leads to discrimination. Training should not only cover the menopause and its impact but should also challenge negative views and encourage peer to peer support. It should signpost support which is available internally and externally to the

organisation. Managers should receive sufficient training to: understand relevant company policies; understand how the menopause relates to the Equality Act and the potential for discrimination if incorrectly handled; understand the range of staff who could be affected and that symptoms and their severity vary between individuals; hold sensitive conversations; maintain confidentiality; undertake risk assessments; review requests for reasonable adjustments; manage sickness absence, and; refer employees to occupational health support where available.

Risk Assessments

Work activities must be subject to risk assessments as per the Management of Health and Safety at Work Regulations 1999 and for those with five or more employees, the significant findings of the assessment / s must be written down. Within the risk assessment employers must identity groups of workers who are particularly at risk.

It may be possible to undertake a risk assessment for impact of the menopause, or it may make more sense for employers to review their existing risk assessments to identify any particular aspects of work activities or workplaces which could be a source of harm to those affected by menopausal symptoms. Equally where an employee presents with more severe symptoms it would be appropriate to undertake an individual risk assessment. Examples of risk control measures to highlight within risk assessments include temperature and ventilation management, access to toilet facilities, regular breaks, availability of cold drinking water, a place to rest, provision of training for managers, reporting routes for health concerns and support available such as employee assistance programmes and occupational health advice.

Managing Sickness Absence and Job Performance

In large organisations it's common to use a scoring system to evaluate sickness absence, assigning a negative score for frequent short-term absences, but allowing small numbers of longer absences without penalty. However, those with long term health conditions such as those going through menopause transition, are negatively impacted under these evaluations. Potentially very unfairly, the individual doing their best to manage their symptoms and attend work as much as possible, will be penalised relative to someone else taking several months off work. ACAS recommends that repeated short-term absences caused by menopause symptoms should be recorded separately as a single long-term health issue. The organisation warns[4] "*There may be times when it could be unfair or discriminatory to measure menopause-related absence as part of the person's overall attendance record*".

ACAS also advises that employers work flexibly with staff who have made them aware of concerns, making changes to help them, and take into account that performance issues could be related to menopausal symptoms. Staff should also be given a reasonable amount of time to adjust to any changes made.

It's helpful to have a policy for allowing paid or unpaid time off to attend medical appointments which applies to all staff, including those needing to attend appointments for their menopausal symptoms.

Making Adjustments

Research on behalf of the Department for Education[1] identifies the primary work factors which make menopausal symptoms worse, these being: hot or poorly ventilated environments, formal meetings and deadlines. Of the struggles identified hot flushes and night sweats caused the most difficulties at work whether directly or due to the domino effect of nights sweats causing poor sleep and consequent concentration problems.

Hot flushes and night sweats caused the most difficulties at work

As described earlier in this guide, there are however, many symptoms and potential negative impacts on work. It's important that these are discussed with managers and that reasonable adjustments are sought, because evidence suggests that otherwise the coping methods employed by the individuals affected can lead to isolation and disengagement from their team and work.

Managers must understand that each woman will have a different experience of menopause. Many

women will not experience all or many symptoms and some women will not want help and support. The severity of symptoms will vary from one individual to the next.

With medical support when a woman wants to reduce her symptoms, she may choose to use hormone replacement therapy (HRT) or she may choose other therapies or lifestyle changes such as diet and exercise.

Note. Although HRT helps some women to manage the adverse effects of the menopause, it can cause unwelcome side-effects. Also, HRT is not available and must not be prescribed to women who have contraindications for the available medications. Managers can encourage an employee to see their doctor but should never suggest they need HRT.

The Department for Education report[1] highlights the following factors which have been found through studies, to cause difficulty for those going through the menopause transition. These are in priority order:

1. "Poor ventilation, high temperatures, humidity and dryness. (Affects hot flushes).
2. Stress related to workload, deadlines, responsibility, formal meetings—especially meetings involving senior colleagues—having to learn something new and / or presentations is linked to frequency of hot flushes.
3. Access to appropriate toilet facilities, cold drinking water or quiet rest areas and not being able to take regular breaks can make coping with heavy or irregular periods, hot flushes and transition-related fatigue difficult.
4. Confined work spaces or crowding can make the experience of hot flushes worse.
5. Working with men, clients and younger colleagues can cause mid-life women concern that they will not empathise or that symptoms will affect self-presentation.
6. Unsuitable uniforms, ties, suit jackets or other heavy, uncomfortable or cumbersome work wear can make the experience of hot flushes worse.
7. The physical demands of a job can make heavy periods harder to manage".

Each case should be treated individually, however there are some changes which an employer could consider to help workers through their transition:

- Flexibility over start and finish times, allowing additional breaks, allowing home working, all for the purpose of helping an individual to manage their symptoms. For example, deciding to work from home because they have slept badly.
- Flexibility in uniform requirements, lighter non-synthetic uniforms, and / or providing additional uniform so that an employee can change their clothes more often.
- Flexibility so far as reasonably practicable in work scheduling, which tasks are carried out and when.

NB. Where the above flexibilities can be offered as a default to all staff, this reduces the stigma around menopause.

- Allowing additional time off, if necessary, at short notice.
- Providing a private area to rest.
- Ensuring ready access to suitable toilet facilities including sanitary disposal bins and feminine hygiene products.
- Access to a private shower facility.
- Providing ready access to cold drinking water.
- Amending someone's duties where appropriate.
- Giving more control over the working environment, especially heating and ventilation. This might include providing fans, moving desk location to a window.
- Considering flexible working requests for those who want a longer-term change.
- Ensure that workload is effectively managed.
- Enable women to rearrange formal presentations / meetings where appropriate.
- Time off for medical appointments.
- Setting up, and promoting awareness of, a peer-to-peer menopause support group which has regular meetings during the year. This may help staff develop the confidence to discuss their

needs and symptoms, as well as provide an opportunity for mutual support and the sharing of coping strategies and solutions.

It is acknowledged that opening windows or reducing the thermostat can affect colleagues and therefore potential workplace tensions will need to be managed. This could mean for example that home working is chosen as the better option, or that additional arrangements are needed to balance the comfort of all workers. The need to discuss such changes with colleagues highlights the importance of a supportive culture.

ACAS recommends that changes once agreed are put in writing and that follow-up conversations should be scheduled to allow staff and their manager to discuss whether the changes are working in practice. Periodic reviews are likely to be necessary as symptoms change with time.

Key Actions

Employers can be proactive in their support of menopausal colleagues at work and depending on what is appropriate to their workplace could consider the following options:

- Write a menopause policy.
- Develop a workplace culture which encourages those who need help to reach out to their managers or another signposted individual (such as HR or Occupational Health) for reasonable adjustments and support. This could include establishing and promoting a peer-to-peer workplace menopause group for employees.
- Provision of a named confidential contact for support and advice for women at work who do not feel able to approach their manager directly.
- Increasing menopause knowledge of all those in the workplace by taking a lead on developing the conversation with all staff groups.
- Develop and deliver training materials for managers to increase their awareness of relevant issues, company policy and options available.
- Consider the employer's obligations in the context of health and safety requirements. This could include a general risk assessment for menopausal staff in the workplace. There is also a need to recognise that every woman's experience of menopause will be different. Thus individual risk assessments to enable tailored solutions for women presenting with greater need may sometimes be required.
- Review attendance management and performance management algorithms to ensure they are not biased against individuals with menopausal symptoms.
- Actively seek solutions and reasonable adjustments to enable menopausal colleagues to be supported at work and retained within the workplace.

Additional arrangements are needed to balance the comfort of all workers

Key Terms

ACAS: The Advisory, Conciliation and Arbitration Service is a Crown non-departmental public body of the Government of the United Kingdom.

Disability (in the context of ill health): Where a person's symptoms would amount to an impairment with substantial and long-term impact on their ability to carry out normal day to day activities, they are considered to be disabled.

HRT: Hormone Replacement Therapy.

Menopause: When a woman stops having periods.

Perimenopause: The term used to describe symptoms linked to the menopause occurring before periods cease.

Post-menopause: A woman is post-menopausal when 12 months have elapsed since her last period. Some women continue to experience symptoms.

Reasonable adjustments: Changes implemented to accommodate the needs of a disabled person under the Equality Act 2010. The purpose of the adjustments is to enable the disabled person to access the same opportunities and services as non-disabled persons. Reasonable adjustments may include (1) provisions, criteria and practices; (2) physical features; and (3) provision of auxiliary aids.

Related Documents and Further Information

ACAS:

- Menopause at Work[4].

Business in the Community:

- Becoming an Age Friendly Employer Toolkit.

CIPD:

- Menopause at Work: Guide for People Professionals.

Department for Education:

- Menopause Transition: Effects on Women's Economic Participation[1].

Department for Work and Pensions:

- Menopause and the Workplace—How to Enable Fulfilling Working Lives. UK Government Response to the Independent Report[8].

EUOSHA:

- Women and the Ageing Workforce: Implications for Occupational Safety and Health.

The Fawcett Society:

- Menopause and the Workplace[5].

House of Commons:

- Menopause and the Workplace[7].

NHS:

- Menopause[2].

TUC:

- Menopause and the Workplace[3].

Date of Issue: October 2022

Disclaimer

Barbour EHS Limited is a limited company registered in England and Wales with registered number 13425399. Our registered office is 20 Grosvenor Place, London, England SW1X 7HN.

It has published this Guide in order to help the promotion of good practice amongst knowledgeable and competent specialists in the subject covered by this Guide. By using this Guide, the user acknowledges, accepts and agrees to the following:

> Barbour EHS Limited does not give any condition, warranty or other term, or accept any duty of care or liability, in connection with the quality or fitness for purpose of this Guide, or any loss or damage resulting from reliance on it, and it excludes all these.

> When deciding whether or how to act, the user should always obtain appropriate professional advice and should not rely on any information, advice or recommendation in this Guide, however it has been expressed. The user is responsible for obtaining professional advice, and acknowledges that any defects in this Guide would be detected by a knowledgeable and competent specialist providing that advice.

> Any use of this Guide by any person is subject to Barbour EHS Limited's user terms for Barbour services, and by using it the user is accepting those terms, and agreeing to be bound by them, on behalf of the user and all other persons for whom the user undertakes any work.

> The user waives (and agrees to waive) all claims for loss or damage which it might otherwise have against Barbour EHS Limited in connection with this Guide other than those arising out of a liability which Barbour EHS Limited has for personal injury (whether fatal or otherwise) resulting from negligence.