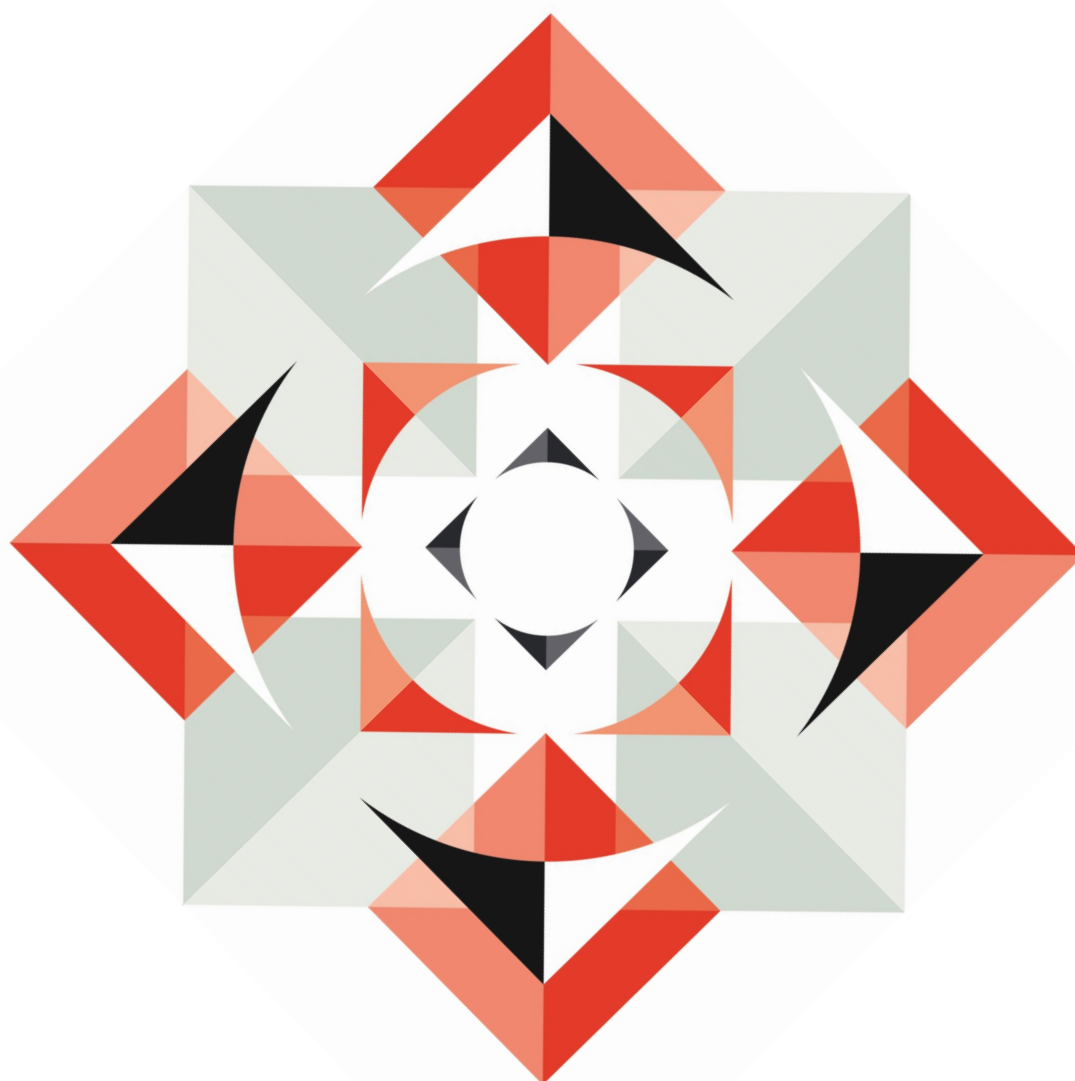


# Menopause and work



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## Introduction

Women over the age of 50 are the fastest growing group in the workforce. As more employees go through the menopause during their working lives, employers need to be aware of the impact in the workplace. This Inbrief explains the practical and legal issues associated with the menopause and offers guidance on what employers can do to ensure they are managing this issue sensitively.

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### What is the menopause?

The menopause is said to have occurred when there have been no menstrual cycles for 12 consecutive months, but a woman can be affected by the symptoms for a long time before then. This perimenopausal period (typically referred to as “going through the menopause”) can last four to six years before the natural menopause.

Surgical menopause is where surgery to remove a woman’s ovaries begins the menopause process, regardless of the woman’s age. Transgender men and people who are intersex or identify as non-binary may also experience menopause and the symptoms that go with it.

Hormones can fluctuate during the menopause, leading to a variety of symptoms such as irregular and/or heavy periods, hot flushes, mood swings, anxiety, difficulty concentrating, migraines, fatigue and difficulty sleeping.

The average age to go through the menopause is 51, but there is a lot of variation. It can happen at any point between 30 and 60 years of age.

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### What are the practical issues?

In 2019, the [Chartered Institute of Personnel and Development](#) surveyed 1,409 women who were experiencing menopause symptoms. Three out of five (59%) said that menopause was having a negative impact on them at work. Of those who were affected negatively at work, they reported the following issues:

- > more than half (52%) said they felt less patient with clients and colleagues.
- > more than half (58%) said they experienced more stress.
- > nearly two-thirds (65%) said they were less able to concentrate.

Nearly a third of women surveyed (30%) said they had taken sick leave because of their symptoms, but only a quarter of them felt able to tell their manager the real reason for their absence. Privacy (45%) was the number one consideration for women choosing not to disclose. A third (34%) said embarrassment prevented them from saying why they had to take time off and another third (32%) said an

unsupportive manager was the reason.

The need for better support is further highlighted by the fact that more women say they feel supported by their colleagues (48%) when going through the menopause than by their managers (32%).

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### What are the legal issues?

#### Sex discrimination

Women who are treated less favourably than men can bring a claim of direct sex discrimination. Employment Tribunals (ETs) may find direct discrimination if menopause symptoms are treated differently from other medical conditions. For example, an ET found there was direct sex discrimination in a case where the employer did not consider whether menopausal symptoms were the reason for an employee’s poor performance, when a condition that affected both sexes (or a man suffering similar symptoms) would not have been ignored in the same way.

Employers should also ensure that any policies or practices do not indirectly discriminate against women who may be suffering from menopause symptoms, particularly in cases of performance management. For example, an employee who is finding it difficult to concentrate as a symptom of the menopause may not be able to meet certain performance targets as easily as her colleagues.

Workplace “banter” and jokes regarding the menopause should be treated just as seriously as if they were about any other protected characteristic, as this is targeted at women and so can lead to claims for harassment relating to sex. There have been successful harassment cases in the ET involving comments about hormone replacement therapy recommendations, and an individual’s behaviour being due to her being “in a menopausal state”.

#### Age discrimination

Given that perimenopause and menopause are typically age-related, employers also need to be aware of age discrimination risks affecting this group. It may be direct age discrimination or harassment to target unfair treatment at employees because they are of menopausal age. Similarly, it may be indirect age discrimination to have a policy or practice which disadvantages



people who are going through the menopause.

It is also possible to bring an age discrimination claim based on a perception, whether that is correct or not. For example, someone could claim that they were treated unfairly because of a perception that they belong to the age group most affected by the menopause.

### **Disability discrimination**

Whether or not menopause amounts to a disability will depend upon the individual's particular circumstances. Some may only experience minor symptoms, while others can be more severely affected. The legal definition of a disability requires an impairment which has a substantial and long-term (at least 12 months) adverse effect on someone's ability to carry out normal day to day activities.

ETs have accepted that serious menopause symptoms and effects - judged on a case-by-case basis - can constitute a disability. Employers therefore need to treat the menopause as a medical condition and ensure there is no unfavourable treatment as a result.

- > *Duty to make reasonable adjustments.*  
This duty arises where an employer is aware (or should reasonably be aware) that an employee has a disability and is placed at a substantial disadvantage as a result of an employer's policies or practices or a physical feature of the workplace. The obligation to make adjustments could, for instance, be triggered by an employee requiring menopause-related sickness absence, or a review of an employee's performance through a performance-management process. The employer's usual policies on sickness absence or performance may need adjusting to take account of the effects of the menopause. The physical features of the workplace may also require some adjustment for those who are suffering with severe menopause symptoms, which we explore further below.
- > *Discrimination arising from disability.*  
This occurs where an employee is treated unfavourably because of something arising in consequence of their disability, and the employer cannot

show that this is a proportionate means of achieving a legitimate aim. This is particularly relevant for employees with menopausal symptoms severe enough to meet the test for a disability. The menopause can cause many symptoms which could affect performance or conduct in the workplace. An employer who dismisses or sanctions an employee for poor performance or conduct without exploring whether there is any underlying cause could easily fall foul of this provision.

### **What should employers be doing?**

There are several actions that employers can take to ensure that they support staff affected by the menopause.

#### **Training**

Line managers should be trained to understand the impact that the menopause can have on work and what adjustments may be necessary to support those affected. Some managers may have their own experience of the menopause or of others going through it but should be aware that not everyone experiences the menopause in the same way.

#### **Positive messaging and information**

Employers should ensure that menopause is treated as a medical issue and highlighted as such as part of any wider occupational health awareness initiatives. Guidance for both employees and line managers on dealing with the menopause should be freely available in the workplace. Talking openly and respectfully about the menopause can give employees the confidence to speak up if they are struggling at work because of their symptoms.

#### **Multiple channels for support**

The options for seeking support for any issues that arise as a result of the menopause should be made clear to affected employees. Women may feel uncomfortable going to their line manager – especially, perhaps, if he is a man – and the topic may be difficult to raise for employees who are transgender, intersex or non-binary. Ideally, multiple channels of support should be available.

Many employers have a menopause or well-being champion who can be a point of contact for both employees and their line managers.

Employee Assistance Programmes, if available, can also act as a go-between.

#### **Clear sickness procedures**

Sickness absence procedures should make it clear that they are sufficiently flexible to cater for menopause-related sickness absence.

#### **Flexibility**

Working arrangements should be flexible enough to ensure they meet the needs of menopausal employees, who may need to leave the workplace suddenly if they feel unwell. They may also need more breaks during the day - employers should, for example, avoid penalising staff who need to take more frequent toilet breaks.

#### **Menopause policy**

Some employers may want to consider adopting a specific standalone policy covering the menopause, directing employees to support channels or to HR if they feel some adjustments to their workplace or schedule could be helpful.

#### **Health and safety**

Risk assessments should consider the specific needs of menopausal workers and ensure the working environment will not make their symptoms worse. Issues that need consideration include temperature and ventilation. The assessments should also address welfare issues, such as toilet facilities and access to cold drinking water.

Improved welfare facilities could also include a quiet place to rest and easily adjustable temperature and humidity controls. Employers already have statutory duties to provide these facilities under the [Workplace \(Health, Safety and Welfare\) Regulations 1992](#).

The TUC's advice on the menopause (see below) reminds representatives that all workplaces are different. For example, in some workplaces it is not possible to open windows to improve ventilation. Employees who wear a uniform will be less able to change the type of clothing they are wearing when they are having hot flushes or sweating. Examples of how managers have adapted to the needs of staff with menopausal symptoms include:

- > allowing women to report sickness absence to female managers
- > taking the menopause into account in

absence policy

- > providing electric fans
- > providing cold drinking water
- > allowing time off to attend medical appointments during working hours.

The relevant health and safety legislation includes:

- > Section 2 of the [Health and Safety at Work Act etc 1974](#), which requires employers to ensure "the health, safety and welfare at work " of all employees.
- > The [Workplace \(Health, Safety and Welfare\) Regulations 1992](#), which place an overriding duty on employers to make workplaces suitable for the individuals who work in them.
- > The [Management of Health and Safety at Work Regulations 1999](#), which require employers to undertake a suitable and sufficient assessment of risks and take action to prevent exposure to risks.

In conclusion, there is much that employers could do to proactively support and value employees who are going through this natural process. Awareness of the symptoms of menopause and their impact on the workplace is increasing. Employers risk legal claims as well as employee discontent if they fail to manage menopause in the workplace with appropriate care and sensitivity.

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### Sources of further information

Acas - [Guidance for employers to help manage the impact of menopause at work](#)

British Menopause Society – [Menopause and the workplace guidance](#)

NHS Employers - [Menopause and the workplace](#)

UNISON – [The menopause and work](#)

TUC - [Menopause at work](#)

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