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Reflections on World Menopause Month: Growing Awareness of the Impact of the Menopause in the Workplace

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As World Menopause Month 2022 draws to a close we wanted to reflect on how the conversation around the menopause in the workplace has steadily gathered momentum.

In 2020 our article [Turn Up The Volume: It’s Time To Talk About The Menopause](#) we discussed the importance of starting a discussion around the menopause and in our subsequent 2021 article [Employment Law Update: Menopause, Discrimination & Workplace Disputes](#) we focused on developing case law and measures an employer may take to support employees in order to mitigate the impact of the menopause in the workplace.

Since then, and as expected, the menopause has continued to be a hot topic in the Channel Islands, and there has been an increasing awareness of the role that employers can play in making life easier for employees facing menopausal symptoms, and of the positive impact that doing so can have on their business.

During November 2021, the then UK Minister for Employment, Mims Davies MP, called on organisations to strengthen their support for woman who may suffer from serious menopause symptoms. This call to action followed the publication of an independent report which found, most worryingly, that one in four women leave work as a result of symptoms associated with the menopause. As the menopause affects woman between the ages of 45 and 60, this astonishing statistic is particularly concerning given the growing need for employers to attract and retain skilled senior employees in a deflated post-pandemic job market. Women leaving positions due to symptoms associated with the menopause may also impact an employer’s ability to meet its diversity targets for senior roles, negate efforts directed at reducing the gender pay gap and impact on the organisation’s operations and its profitability.

A number of organisations have heeded the call by, for example, signing up to the 51 Employers Pledge in Jersey or the Menopause Workplace Pledge in the UK. Employers that sign the pledge commit to recognising the menopause as a workplace issue, supporting employees affected by the menopause and promoting open, positive and respectful dialogue about the menopause. Many organisation have also appointed internal menopause and wellbeing champions that manage internal awareness initiatives and menopause related policies. We have been asked to prepare and review menopause policies for businesses in both Islands.

Many organisations have taken steps to create positive, supporting and more inclusive environments for those that may suffer from the symptoms related to the menopause. Recent data, however, suggests that there is more to be done.

The Fawcett Society conducted a study based on data from the largest ever survey of menopausal and peri-menopausal (the pre-menopause stage) women in the UK and found that 8 out of 10 employees reported that their employees had not trained staff or put in place a menopause absence policy in the workplace. Such steps can be very helpful to combat the prevailing stigma associated with discussing the menopause in the workplace. They also help educate employees on the severity and diversity of menopause related symptoms which may include: hot flushes, insomnia, night sweats, lower energy, mood swings, lack of ability concentrate and focus, feeling anxious, panic attacks, irregular and heavy periods, headaches including migraines, and taking longer to recover from illness. These symptoms – which could last up to ten years for many woman – may have a significant impact on an employee’s well-being.



Unfortunately, an apathetic and insensitive approach to the menopause in the workplace is not uncommon and it carries significant legal risk. In *Best v Embark on Raw Ltd ET/3202006/2020* for example, a UK employment tribunal held that the employee was entitled to compensation for, amongst other things, injury to feelings when her employer made unwanted and humiliating comments about her being 'menopausal' and judged that her conduct, which included making a protected disclosure, could simply be explained away as her experiencing 'stereotypical menopausal symptoms'.

The above case is by no means an outlier. There is a growing body of case law in respect of sex and age discrimination linked to the menopause. An analysis of court records show a 44% increase in cases which cited the menopause in 2021; the majority relating to disability discrimination and unfair dismissal. The increase in tribunal cases referencing menopause highlights the difficult reality and the potential prejudice women may encounter in the workplace, and the risks that employers face if they choose not to engage with the issues.

In a report published in July 2022, the House of Commons Women and Equalities Committee (WEC) highlighted the increased risk of discrimination claims and reputational damage for employers in managing menopause in the workplace. The report also highlighted the difficulty women may have in seeking redress as menopause is not expressly a protected characteristic for the purpose of discrimination claims under UK legislation. Similar concerns were raised in a report published in October 2022 by the All-Party Parliamentary Group on Menopause, which recommended that the UK Government support an employer led campaign to raise awareness for menopause in the workplace and promote guidance for employers on "best practice" on menopause at work policies and supporting interventions. The UK Government has acknowledged these concerns and although no changes to the Equality Act 2010 are planned, a UK Menopause Taskforce has been established with the aim of raising menopause awareness among employers and to assist them in supporting workers.

Jersey law already protects employees against discrimination on grounds of sex, disability and age, which are the characteristics most likely to be cited in a UK discrimination claim relating to menopause. Guernsey law protects employees against sex discrimination and will also protect employees against disability discrimination from 1 October 2023. Protection against age discrimination is likely to follow within the next few years. As such, the risk of litigation applies equally in the Channel Islands as it does in England and Wales.

If symptoms related to menopause fall within the definition of 'disability' (and they often will) employers will be required to make reasonable adjustments by, for example, being more flexible when dealing with menopause related absences; allowing employees to attend medical appointments related to the menopause; adjusting rest breaks and / or facilitating an employee's ability to receive the necessary external support.

A discussion about the menopause in the workplace has been long overdue but the focus on this issue is now steadily increasing, rightfully so. All employers will be well-advised to get the conversation started within their own organisation, if they haven't already done so, and consider whether it is appropriate for their organisation to put in place training or a formal menopause policy.

Further information

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