

THE MENOPAUSE

Introduction

There are currently over 3.5 million women over the age of 50 in paid work across the UK economy. Employers have generally taken the view that menopause is a private matter that should not concern them. As a result, it is rarely discussed, usually not taken seriously by managers and not viewed as something organisations need to expend time, money and energy training their staff how to deal with – either on a personal or institutional basis.

This tends to mean women feel the need to hide their suffering and are unlikely to seek adjustments to deal with its affect.

An occupational issue

for some time women have made up almost half of the UK workforce. Like men, women get older. Unlike men, women's bodies lose the hormone oestrogen as they grow older. The hormone loss has a variety of both physical and psychological impacts. Those impacts can affect their working lives.

In some sectors of the economy women make up the majority of the workforce, albeit generally in the lower paid, lower status roles. While that is not the case in the transport sector,

there are still a significant number of women working throughout the railways. All of them, sooner or later will experience the menopause.

This means employers will have to deal appropriately with those women as they face the menopause. The difficulty for employers – and for the women affected – is that the impacts vary enormously.

Menopause symptoms

For a few women there are little or no symptoms, other than the loss of their periods. However, at the other extreme, the physical and psychological symptoms can be disturbing and debilitating. They are, though, temporary, though not necessarily short lived.

There are a variety of symptoms, although each woman's experience will be different, and may include some or all the following:

- hot flushes – can start in the face, neck and chest before spreading upwards and downwards. At night they are felt as night sweats. Most last only a few moments and the heart rate can become quicker or slower
- sleep disturbance – can be caused by night sweats but can also be

caused by anxiety about the menopause itself

- urinary problems – may occur and some women have lower urinary tract infections such as cystitis. Some women need to pass urine urgently or need to pass it more often
- heavy periods – clots are common, and some periods may last longer than usual. Most women find periods are more irregular, making them harder to predict, and therefore harder to prepare for
- vaginal symptoms – dryness, itching or discomfort are not unusual
- mood disturbance – emotional swings, anxiety attacks, fatigue and poor concentration can occur.

Menopause – as a disability

The definition of a disabled person within the Equality Act 2010 (EQA) is one that has a physical or mental impairment that is long lasting and has a substantial impact on the ability to carry out normal day to day activities. Long lasting in the statutory definition means has lasted, or is likely to last, more than 12 months.

For some women, therefore, it may be possible to argue that for the duration of the menopause, and when the symptoms are sufficiently debilitating, she is a disabled person. As such the employer must not discriminate against her in any way.

There are various types of disability discrimination, as explained below. For all of them the protected characteristic is a woman experiencing the menopause. Potentially, therefore, two protected characteristics (See Reps

Bulletin EQA/002 for the list of protected characteristics) are in play.

Direct discrimination – provides that: “A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”

Indirect discrimination - occurs where a provision, criterion or practice (a general rule) is applied to all employees but has a substantial adverse impact on those with a protected characteristic.

Harassment – occurs where the employer, or someone within the organisation, acts in a way that makes the working environment hostile, intimidating or otherwise unpleasant relating to a protected characteristic. It matters not whether they do so intentionally or simply that it has that effect on the person.

Victimisation – occurs when an employee suffers a detriment because they have taken some sort of action about a protected characteristic, such as raising a grievance or submitting an employment tribunal claim for discrimination.

Discrimination arising from a disability – occurs when a person (A) discriminates against a disabled person (B) if A treats B unfavourably because of something arising from their disability.

Failure to make reasonable adjustments – arises when an employer knows, or could reasonably be expected to know, that an employee has a disability. In such circumstances the employer is under a

duty to make adjustments to some aspect of the person's working environment or system of work that will enable them to remain in employment, and to fulfil their full contractual duties.

Therefore, in relation to the menopause, in a situation where she is suffering serious enough adverse effects of the hormonal changes that are occurring, and they have lasted more than a year, and where there is an impact of her working life and capability, she may be – albeit temporarily – characterised as disabled and can rely on the protections of the EQA.

The most likely forms of discrimination will be harassment or failure to make reasonable adjustments.

Harassment might well come from insensitive colleagues who make unwanted jokes and comments about the symptoms she is experiencing. There is not a list of adjustments to the workplace that can be drawn up because the impact of the menopause varies so much between women as they go through “the change”. What is true, though, is that when it hits, women need their manager, and/or HR, to recognise they are suffering, in what ways, and to seek the adjustments that will help her to get through the distressing period.

What employers can do

In addition to their duties under EQA detailed above, employers have a general duty under the Health and Safety at Work Act 1974 to ensure the health, safety and welfare of all employees. They are required to carry out risk assessments under the

Management Regulations, and so can be asked to carry out specific ones for their women workers and employees undergoing the menopause. Risk assessments specifically for menopausal women should include considerations of temperature, ventilation and access to water. Women experiencing the menopause need support from their line managers, just as they would for any other long or medium-term health condition. This is because work can affect menopausal women in various ways, especially if they cannot make healthy choices at work. For instance, in some workplaces windows cannot be opened for ventilation.

Women may need time out to change their clothes, and if possible for somewhere to store a change of clothes. That may be more problematic, of course, where women are required to wear a uniform.

Generally, employers should ensure their line managers are aware and, preferably, trained about the impact of the menopause, and what they can do to assist the women in their teams.

Employers could run general occupational health awareness sessions for all staff, highlighting the impacts of the menopause, amongst other issues. There could be an HR referral point, with an individual or team specifically trained to support women during their menopause.

The sickness absence procedure could be temporarily relaxed to give greater leeway for menopausal women for a limited period. Managers could take a relaxed view if a member of

their team needs more frequent breaks, or even to go home.

The health and safety committee could have menopause issues as a permanent agenda item to ensure it can be raised at any time if a specific difficulty arises for any woman.

Reps action

This Bulletin seeks to build on the advice contained in an earlier Bulletin (EQA/006/2011).

As with any workplace issue reps' approach can be either, or both, individual and/or collective.

Collectively you could seek to agree a protocol or policy with your management about how problems caused by the menopause will be dealt with. TSSA has, for instance, negotiated a policy with one of the TOCs covering risk assessments, occupational health and colleague assistance, sickness absence and where to access additional information about the menopause.

H&S reps can request menopause become a permanent agenda item for the H&S committee. It may well be the case that there is often nothing to discuss, but it would serve to keep the issue in the minds of management.

Acknowledgments and further information

More information on this and other employment rights matters is available from:

- Val Stansfield, Employment Rights Adviser at stansfieldv@tssa.org.uk or 020 7529 8046

- TSSA Helpdesk – 0800 328 2673

The information given here is for general guidance only and should not be regarded as a complete or authoritative statement of the law.