

EMPLOYMENT & INCENTIVES

## Menopause and the world of work

Gone are the days when the menopause was discussed in hushed tones as 2021 signalled a marked increase in debate and awareness around the topic.

Celebrities such as Mariella Frostrup and Davina McCall wrote about their struggles with the menopause, while the UK Government announced the introduction of a Menopause Taskforce and legislation to abolish prescription charges for HRT (albeit prescription charges for HRT don't apply in Northern Ireland).

2 MIN READ



### Introduction

The inevitable impact of the menopause on the world of work is prompting studies which highlight the struggles experienced at work by many women going through the menopause. A study published in 2021 by the healthcare provider Benenden surveying 2,000 employees and 500 business owners found that 23 per cent of women who have been unwell as a result of the menopause have left jobs, of the individuals who have suffered ill-health as a result of the menopause 18 per cent said they were not given a pay rise or promotion and 13 per cent said they had to go through a disciplinary procedure.

### Legal Position

The legal position is far from satisfactory however given that the menopause is not a stand-alone protected characteristic under NI law. Typically, employees will rely on the Health and Safety at Work (NI) Order 1978 and/or argue that they have been discriminated against on the grounds of age, sex, disability or gender reassignment. Many would argue that it should be a protected characteristic in its own right and question why it should be necessary to bring a disability claim and plead that it is an “impairment” when the menopause is a natural process as opposed to an illness. The outcome of the House of Commons Women and Equalities Committee inquiry into the issues surrounding the menopause in the workplace will be eagerly anticipated as

the chair of the Committee has stated that changes to equality legislation should not be ruled out.

Nevertheless, the number of menopause related claims is on the rise with latest UK data indicating that there were 5 employment tribunals referencing the claimant’s menopause in 2018, six in 2019, 16 in 2020 and 10 in the first six months of 2021 alone.

Given the increased focus on this issue it is inevitable that the number of claims will continue to increase and there have been some recent decisions of note. From a disability perspective, In *Donnachie v Telent Technology Services Ltd* (2020) the Employment Tribunal concluded that the symptoms suffered by the claimant had a substantial effect on her “normal day to day

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activities” and so met the definition of a disability under the Equality Act 2010. The judge stated that they could see no reason in principle why menopausal symptoms cannot have the relevant disabling effect on an individual. Likewise in *Rooney v Leicester City Council* (2021) the original Employment Tribunal’s decision that the claimant’s symptoms did not amount to a disability was overturned on appeal to the Employment Appeals Tribunal (EAT). Claimants have also relied successfully on sex and age discrimination and in *A v Bonmarche Ltd* (2019) the Employment Tribunal found that the claimant had been treated less favourably than someone who was not female of menopausal age.

The Equality Commission for Northern Ireland, the Northern Ireland Committee of the Irish Congress of Trade Unions and the Labour Relations Agency (LRA), have produced a guide which is useful and includes a checklist to enable employers to assess the extent to which their current policies and procedures meet the needs of women with menopausal symptoms

### What should employer’s do now?

The fastest-growing economically active group in the UK, are women in the 50 to 64 age bracket. It makes sense for employers to acknowledge this issue and provide support so that businesses can retain women, many of whom are at the pinnacle of their careers.

We recommend that employers should raise awareness, carry out risk assessments, deliver training and review policies and procedures so that the menopause is on the equality agenda and menopausal employees truly believe that they are supported in the workplace and have a voice.

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## Key contact



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