

Employees going through the menopause – what should SGBs be mindful of?

The UK Parliament's Women and Equalities Committee published a report in July 2022 which made a number of proposals including that the Equality Act 2010 be amended to include menopause as a protected characteristic.

The current protected characteristics under the Equality Act are: age, sex, sexual orientation, gender reassignment, religion/belief, marriage/civil partnership, disability, pregnancy/maternity and race.

Another proposal put forward by the Committee was that the Government should work with a large public sector employer to "develop and pilot a specific menopause leave policy." The Committee stated that the Government was making "glacial progress" on menopause support and highlighted the UK economy was "haemorrhaging talent" due to the menopause. The UK Government has rejected the proposals, along with other recommendations from the Committee. In its response, the Government made reference to its women's health strategy for England and that it was already focused on encouraging employers to introduce workplace menopause policies.

This response will be disappointing for many but even with no commitment to extending the scope of the Equality Act, there are a number of business reasons for providing appropriate support which include retaining talent and reducing absences from work.

There are a number of ways in which an SGB might support an employee going through menopause, some of which are outlined in ACAS's "Managing the effects of the menopause" which can be found here: <https://www.acas.org.uk/menopause-at-work>. This might include for example introducing a specific policy to deal with the menopause.

SGBs should also remember that under the current law, those women going through the menopause could potentially raise a number of different claims at the Employment Tribunal. For example, a person experiencing menopausal symptoms may satisfy the definition of "disabled" under the Equality Act. Therefore, a decision to dismiss them for poor performance for example, in a situation where the employee points to the symptoms of menopause affecting their performance, could give rise to a disability discrimination claim. It could also give rise to an age or sex discrimination claim, in addition to an unfair dismissal claim. With regards to the latter, whether or not dismissal was reasonable given the explanation provided by the employee would be considered by the Employment Tribunal.

What is clear is that SGBs who do not provide a supportive working environment for those going through the menopause expose themselves to the risk of losing talented employees, in addition to the risk of litigation and potential reputational damage.

Get in touch

SGBs can access the **sportscotland** legal expert resource helpline by email at sportscotlandinfo@harpermaclLeod.co.uk or by calling **0141 227 9333**.