

## Menopause and the workplace Acas response

17 September 2021

This is the Acas Executive response to the [House of Commons Women and Equalities Select Committee's inquiry into menopause and the workplace](#).

### Our response

Acas (the Advisory, Conciliation and Arbitration Service) welcomes the opportunity to respond to the Women and Equalities Select Committee's inquiry into menopause and the workplace.

As you may know, Acas is a statutory, non-departmental public body with a duty to improve employment relations in Great Britain. In 2020 to 2021, Acas handled more than 700,000 calls from individuals and employers to our national helpline and our website received nearly 19 million visits from individuals seeking advice and support.

The coronavirus (COVID-19) pandemic has hit businesses particularly hard and as a result, demand for our services has been high. In March 2020 we had 3.4 million unique page views on our website compared to a normal average of 900,000 per month, and our helpline saw significant spikes from around 3,500 calls per day to 15,000 per day.

Acas also provides conciliation in collective disputes (approximately 500 in 2020 to 2021) and runs training sessions on a wide range of workplace-related topics. A considerable amount of Acas's resource, however, is devoted to providing early conciliation before individuals can bring a claim to an employment tribunal. Last year we received nearly 115,000 early conciliation notifications.

Acas has published [guidance](#) to help employers and managers support staff who are affected by menopause symptoms at work. Since its original publication in October 2019, it has received approximately 85,000 unique page views.

The total comprises the number of unique page views between October 2019 and April 2021 on Acas's previous website, and between May 2021 and August 2021, the number of click-throughs from a landing page on the new Acas website to the guidance temporarily situated on the UK Government Web Archive. It excludes the number of views of the guidance accessed directly by users on the [UK Government Web Archive](#). The guidance was migrated to the new Acas website in September 2021.

Acas also provides [training on menopause and the workplace](#) which covers areas including symptoms, misconceptions, legal considerations and action planning including creating a policy. Since the launch of the open access training in June 2019, we have held 62 events with a total attendance of 561 delegates. Additionally, Acas offers tailored training to individual organisations on the menopause.

Our response focuses on a number of specific questions posed by the inquiry, as set out in subheadings below.

### How can businesses factor in the needs of employees going through the menopause?

Acas's guidance makes clear that the menopause and the different stages and types can affect a large number of workers at any time: symptoms can fluctuate, vary from person to person and be long-lasting. While the menopause can clearly be an issue in the workplace, persistent stigma remains a barrier to disclosure and access to support, and this in turn impacts on individuals' health, wellbeing and productivity. These impacts can then have detrimental effects on colleagues, family members and partners who indeed

may be employees too.

The starting point for understanding the needs of employees is to create an open and trusted environment in which workers feel confident in talking about their symptoms without fear of judgement or reprisal. The very individual experiences of the menopause make this even more crucial. There are a number of proactive actions employers can take, including:

- developing a menopause policy and/or incorporating it into existing policies to demonstrate the organisation's commitment to taking the issue seriously, addressing any underlying stigmas associated with it, and highlighting the support available
- conducting regular health and safety risk assessments, in line with legislation, to ensure that symptoms are not made worse by the work environment, and that appropriate adjustments are made to help staff manage symptoms
- providing training for line managers, for example, on the nature of menopausal symptoms and how work might impact on individuals, and how to handle conversations fairly and sensitively and identify and regularly review necessary support
- introducing and training menopause and wellbeing champions to act as a further point of contact and source of advice

### **How can practices addressing workplace discrimination relating to menopause be implemented? For example, through guidance, advice, adjustments, or enforcement.**

At the heart of Acas's new strategy is our ambition to create fair and inclusive workplaces, and it is a visible thread through all our services, including our training and advice.

Acas's guidance on the menopause helps employers and employees understand the law and how discrimination and harassment may arise. This includes reference to how the menopause could intersect with protected characteristics under the Equality Act, namely age, disability, sex and gender reassignment.

Our guidance also advises employers to record menopause-related absences separately from others as this could potentially amount to unfair treatment or discrimination. A related challenge here is evidently the need to ensure that people feel able to disclose the reason for their absence.

### **How should people who experience the menopause but do not identify as women be supported in relation to menopause and the workplace?**

Acas's guidance makes it clear that individuals experiencing the menopause and its symptoms are not confined to those identifying as a woman. This is further reflected in our use of gender-neutral and people-centred language throughout. The guidance also includes examples of when menopause symptoms may arise for trans, non-binary and intersex people, for example, as a result of hormone therapy and/or surgery.

These groups may face additional challenges which could make it more difficult to open up about symptoms, for example, if in doing so they would disclose their trans status. This further emphasises the need for employers to build psychologically safe workplaces in which everyone is treated with dignity and respect and feels able to bring their authentic selves to work.

### **What is the nature and the extent of discrimination faced by women experiencing the menopause?**

As noted by the Committee and reflected in Acas's guidance, menopause discrimination is predominantly covered under three protected characteristics: age, disability and sex. This also aligns with an Acas analysis of Early Conciliation and Employment Tribunal case records.

Between April 2020 and August 2021, a total of 133 Early Conciliation and Employment Tribunal case records (comprising approximately 0.04% of all case records received in this period) referenced "menopause" in the notes recorded by Acas conciliators and/or Acas Early Conciliation Support Officers. 117 of these, or 88%, related to 'open' jurisdictional tracks which cover claims involving discrimination and harassment – in these cases, age, disability and sex. Some case records also cited jurisdictions other than

or in addition to discrimination on those grounds, for example unfair dismissal.

As there is currently no standalone jurisdiction under which an individual may claim discrimination or other detriment on the grounds of the menopause, it is not possible to ascertain the precise number of cases nor the full range of jurisdictions that may be used where this is seen to be a contributory factor or indeed the cause.

While Acas is unable to comment on the extent of discrimination faced by those experiencing the menopause, a random sample of 30 of the case records during the period April 2020 to March 2021 offer some insight into the nature of discrimination being alleged. Given the relatively small sample size, the analysis cannot be taken as representative of experiences of the menopause at work.

a) In one case a worker in an IT department in the automotive industry was experiencing menopause symptoms which subsequently impacted their performance at work. Their employer terminated their employment on the grounds of capability. The individual is claiming that the menopause is covered as a disability under the Equality Act and is alleging disability discrimination.

b) In addition to a number of examples alleging a failure by employers to make reasonable adjustments in relation to the menopause, other case records cited:

- the menopause as a mitigating factor in cases of misconduct, poor performance or attendance
- a belief that the menopause was the reason for redundancy selection and/or dismissal
- assumptions and derogatory comments made by others that the individual was experiencing the menopause
- general reports of unfair treatment as a result of symptoms
- how the menopause had exacerbated the symptoms of an existing disability

We hope that these comments are helpful and look forward to seeing the outcome of the inquiry in due course.

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