

# Reproductive Health – Guide for Employers

Issues around reproductive and hormonal health, such as, menstruation and menopause are often a taboo subject in the workplace. This leads to employers, and specifically managers, not recognising symptoms of reproductive health issues (such as migraines, hot flushes, mood swings, anxiety, difficulty concentrating and fatigue) or understanding how these symptoms can affect an employee's performance and ability to do their job.

Employers and in-house HR professionals need to understand that this can leave their business open to reduced employee engagement, reduced retention rates and to significant risk of discrimination claims, such as:

- Direct and indirect discrimination claims in relation to sex, age, disability and gender reassignment, for example, a woman going through the menopause may argue she is being treated less favourably than a male colleague as she is unable to meet the performance targets due to the effect menopause is having on her. It is important to remember that this is not just an issue affecting women, but transgender men, people who are intersex or identify as non-binary may also experience reproductive health issues.
- There could be a duty to make reasonable adjustments, where it meets the definition of a disability under the Equality Act.
- There could also be harassment claims, where their 'banter' or jokes relating to reproductive health are made in the workplace.
- Managers and colleagues can have discrimination and harassment claims brought against them personally, and employers can be held responsible for the actions of their employees through 'vicarious liability' claims.

## What can employers do?

1. **Training:** Managers should be trained to recognise the symptoms and understand the impact of these issues on absence levels and performance. This will help managers avoid discriminatory practices and it will help employers in defending a vicarious liability claim by demonstrating that they have put training in place to try and prevent discrimination from happening.
2. **Policies:** Have a policy on reproductive health or include reproductive health issues in sickness absence policies and capability/performance management policies. This will encourage an open and supportive environment for employees, and they will be more inclined to discuss the real reason for absences and performance issues and this will help with putting reasonable adjustments in place. It will also help employers in defending a vicarious liability claim by demonstrating that they have put policies in place to try and prevent discrimination from happening.

3. **Be supportive:** It is important that employees feel they can be open and honest about why they are absent or why they are struggling with performance. Having various support options will help with employees who do not feel comfortable discussing the issue with their manager.
4. **Adjustments:** Sickness absence procedures could have more flexibility to discount reproductive health absences where they are not detrimentally impacting the business. Working arrangements could be adjusted to allow more frequent toilet breaks or other breaks and considering the possibility to work from home.
5. **Risk assessments:** Health and safety risk assessments can be carried out to identify if symptoms are being made worse by the work environment and appropriate adjustments can be put in place such as, better ventilation/providing fans and providing access to reproductive health products.
6. **Seek medical advice:** if an employee is suffering with severe menstrual pain or other symptoms which are having a significant effect on their ability to carry out their job, an employer can seek medical advice to understand if there is an underlying medical condition, such as endometriosis, and whether it would meet the definition of a disability under the Equality Act and if any reasonable adjustments can be put in place.

## Conclusion

Employers and in-house HR professionals should be alive to the issues around reproductive health, especially with current recruitment and retention issues that employers are facing and the fact that women over the age of 50 are the fastest growing portion of the workforce. There could also be significant legal implications of keeping reproductive health issues a taboo subject.

Overall, employers should create an open and supportive environment, encourage employees to discuss the reasons for absence or performance issues and train managers to recognise reproductive health issues and adjustments that can be put in place.

Please contact a member of our [Employment team](#) for further information on what you can do as an employer or should you require support with introducing a policy or to deliver training.