

Menopause in the Workplace: Employment Law Compliance and HR Best Practice

The CSO's most recent census statistics show there are 1,062,576 females in the state aged 45 and over, up 16% from 912,141 recorded in 2016. It is also estimated that the number of women in the workforce from this age bracket has increased by around 100,000. One of the workplace challenges facing female Employees in this age bracket is menopause. It is widely accepted that menopause affects women between 45 and 60 years of age, though some women will experience it at a younger age. The symptoms and side-effects of menopause can also lead to health and wellbeing challenges that impact women's working lives. Against this backdrop, there is also an opportunity for Employers to consider appropriate workplace supports to recruit and retain this experienced cohort of Employees.

Why Supports Are Needed?

Less than 20% of women currently experiencing menopause/perimenopause today describe it as a positive experience and the majority of people (82%) agree that menopause is not openly discussed. There is however a growing awareness of the challenges of menopause (including a Department of Health¹ campaign) which is increasing visibility of both the employment law compliance risks for Employers and the urgency of taking action to develop menopause supports to remain an Employer of choice in a competitive jobs market.

What are the Employment Law Compliance Risks?

There is no Irish employment law that addresses menopause directly. Women are however protected against unfair treatment under the Employment Equality Acts (EEA). Disability is broadly defined under the EEA as "both the total or partial absence of a person's bodily or mental functions" and "a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgement". In theory, this definition could include the medical symptoms caused by menopause but as yet there is no precedent for the assertion that menopause constitutes a disability within the scope of the EEA.

Although there have been relatively few Employee claims concerning unequal treatment in the workplace, the Labour Court did issue a ruling in the case of Siobhan McNally v Rotunda Hospital in which the Employee's evidence included details of how she suffered from stress and other effects of the menopause. The Employer in this case took the decision to retire Ms McNally early from her employment on the basis of incapacity that it argued was based on medical evidence. Ms McNally argued that being retired early without any attempt to afford reasonable accommodation, amounted to direct discrimination on grounds of an 'imputed' disability. Disability was imputed as Ms McNally denied that she had a disability and was certified as fit for work by her GP. In failing to even consider possible reasonable accommodation, the Labour Court was satisfied that the Employer not only created a 'prima facie' case of discrimination but that this failure amounted to direct discrimination and awarded €10,000 in compensation.

Employers also have statutory duties to provide a safe place of work under the Safety, Health and Welfare at Work Act 2005. Some of the symptoms of menopause (i.e., brain fog, memory issues,

¹ <https://www.gov.ie/en/campaigns/menopause/>

fatigue, stress, anxiety, hot flashes menstrual disruption etc.) may impact workplace safety and should be considered in the assessment of workplace risks.

To support Employees experiencing menopause, Organisations should consider some fundamentals like the temperature and ventilation in the workplace as well as access to toilets and cool drinking water. Further practical steps could include the provision of training to managers around how to handle workplace menopause concerns and carrying out a general review of policies and procedures to identify what supports could be made available to Employees experiencing menopausal symptoms. Although there is no statutory duty to develop a dedicated policy, many Organisations have recently added menopause policies to their handbooks which clearly set out how Employees can avail of any supports needed.

Should Employers Put a Menopause Policy in Place?

As awareness around menopause in the workplace grows, Irish Employers are increasingly recognising the importance of implementing a menopause policy to support Employees going through this transition. There are multiple benefits associated with the implementation of a menopause policy including:

Employee Well-Being: A menopause policy demonstrates that an Employer values the health and well-being of their Employees. It can help alleviate symptoms by offering reasonable accommodations, such as flexible working hours, temperature control in the workplace, or access to support networks.

Absenteeism and Presenteeism: Symptoms of menopause can lead to increased absenteeism or presenteeism (being at work but not fully functioning). A supportive policy can help reduce these issues, maintain productivity and bolster Employee morale.

Inclusivity: A menopause policy promotes an inclusive work environment by acknowledging and addressing the specific needs of Employees going through menopause. This not only benefits those directly affected but also enhances the overall workplace culture.

Legal and Ethical Compliance: Having a menopause policy helps Employers meet their legal obligations under Irish employment law, ensuring that Employees are treated fairly and without discrimination.

Recruitment and Retention: With labour market conditions remaining tight, Employers may need to widen their search and make their operations more attractive to more experienced Employees and job applicants. A recent survey found that 99% of women² felt their perimenopausal or menopausal symptoms led to a negative impact on their careers, with more than a third describing the impact as significant. In the prevailing job market conditions, Employers who support female Employees impacted by the effects of menopause are more likely to attract new Employees and retain experienced talent.

Women's Health and Wellbeing in the Workplace

² <https://news.sky.com/story/menopause-forces-women-to-leave-their-jobs-or-pass-up-promotions-study-finds-12432837>

2024 has seen a more innovative approach to workplace wellbeing with an increase in new female-focused policies such as fertility, miscarriage, menstrual, menopause, maternity, and breastfeeding leave aimed at achieving gender equality. By proactively defining policies to support Employee wellbeing and encouraging gender inclusion, Organisations are setting themselves up for improved performance. These workplace supports promote a more inclusive work environment that not only fosters Employee well-being and productivity, but also helps Employers comply with employment equality legislation and ensure health and safety in the workplace.

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