



EMPLOYMENT  
LAWYERS  
ASSOCIATION

PO Box 1609  
High Wycombe  
HP11 9NG  
TELEPHONE 01895 256972  
E-MAIL [ela@elaweb.org.uk](mailto:ela@elaweb.org.uk)  
WEBSITE [www.elaweb.org.uk](http://www.elaweb.org.uk)

## **Menopause and the Workplace: Call for Evidence**

**Response from the Employment Lawyers Association**

**16 September 2021**

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#### INTRODUCTION

1. The Employment Lawyers Association (“**ELA**”) is an unaffiliated and non-political group of specialists in the field of employment law. We are made up of about 6,000 lawyers who practice in the field of employment law. We include those who represent Claimants and Respondents / Defendants in the Courts and Employment Tribunals and who advise both employees and employers. ELA’s role is not to comment on the political merits or otherwise of proposed legislation or calls for evidence. We make observations from a legal standpoint. ELA’s Legislative and Policy Committee is made up of both Barristers and Solicitors who meet regularly for a number of purposes, including to consider and respond to proposed new legislation and regulation or calls for evidence.
2. A working party, co-chaired by Louise Skinner and Eleanor Mannion was set up by the Legislative and Policy Committee of ELA to respond to the Menopause and the Workplace: Call for Evidence (the “**Working Party**”). Members of the Working Party are listed at the end of this paper.
3. References in this paper to the views of ELA are intended to be inclusive of the views of the minority as well as the majority of ELA members. Whilst not exhaustive of every possible viewpoint of every ELA member on the matters dealt with in this paper, the members of the Working Party have striven to reflect in a proportionate manner the diverse views of the ELA membership.

#### EXECUTIVE SUMMARY

4. As the law stands, in order to seek legal protection against dismissal or detriment, people experiencing menopause need to rely on disability, sex or age discrimination as routes to a claim, none of which are directly on point or straightforward. While many people are speaking out about challenges faced in the workplace during menopause, the number of claims is very low, suggesting that potential claimants are unaware of their rights or unwilling to put their heads above the parapet to challenge the treatment they are experiencing. The number of people who experience the menopause whilst working is increasing. If Parliament is of the view that these workers should have access to justice to

prevent them being treated less favourably because of the menopause then an appropriate path to challenge discrimination or unfair treatment experienced in connection with the menopause would be needed.

5. If Parliament takes the view that the menopause should be protected then the current law is unsatisfactory. If the policy decision is taken to protect menopausal women and people then tailored legislation should ensure that the specific difficulties caused by the menopause for workers is recognised. If the policy decision is made to protect those workers experiencing the menopause, then an additional protected characteristic so as to make direct and indirect discrimination and harassment of a menopausal women or person unlawful is required. The reason for this recommendation is because of the way that the current law operates. By way of example, before sexual orientation discrimination was created as a distinct protected characteristic, workers had to use the then existing protected characteristics such as sex or gender as proxies for their cases. This was unsatisfactory. It allowed discrimination to flourish. It did not provide workers claiming sexual orientation discrimination real protection, nor did it make clear to employers what their obligations were to their workers. So it is with menopausal women and menopausal people. These workers are using the proxies of, most frequently, gender and age, to make their claims for direct discrimination and harassment. This is unsatisfactory. If Parliament considers that the menopause should be protected then, as in the case of sexual orientation protection, a specific protected characteristic should be identified
6. Further, if Parliament considers that employers should make reasonable adjustments to accommodate women and people experiencing menopausal symptoms then an additional duty would be required. We suggest that the model of the disability protected characteristic making menopause-related discrimination unlawful and requiring employers to make reasonable adjustments to support people experiencing menopause would be helpful if this policy decision was taken. We note that the protected characteristic of disability requires an employer to make reasonable adjustments if an employee's condition fulfils a threshold requirement. Any duty of reasonable adjustments for menopausal women or people would sensibly require such a threshold criteria.
7. If a policy decision is taken to protect menopausal women or people then that would most effectively be achieved by making the menopause a stand-alone protected characteristic. in the same way that pregnancy and maternity is. Of course, the policy decision is one for Parliament and on which we do not comment but the ramifications for businesses such as cost, training and education for managers and staff, would need to be considered.

8. An alternative way forwards, if the policy decision is made, could be achieved by bringing into force the dual discrimination provisions in the Equality Act 2010, in order to allow a claimant to bring a claim, for example, on the basis that they are an older woman / disabled woman, again subject to consideration of the impact of such legislation on business.
9. A policy decision could be made by legislators to introduce, subject to considerations of efficacy and cost, a requirement that employers should undertake a risk assessment in particular circumstances, in a similar vein to the requirement with respect to pregnant workers subject to the impact on business.
10. In any event the issue of menopause in the workplace would benefit by Government supporting and promoting awareness raising campaigns, with organisations such as Acas and EHRC providing guidance, template policies, free training etc for employers.

## **LANGUAGE**

11. It is acknowledged by ELA that the issues and challenges referred to in this paper can affect all people experiencing menopause. Language is important. The Working Party has aimed for balance. However, as many Employment Tribunal decisions and research papers referred to in this paper reference women directly, those references have been replicated here. However, the working party is mindful, as the questions of the Committee recognise, that people who don't identify as women experience menopausal symptoms and impact in the workplace as well and these issues have been addressed as well in respect of menopausal people. We would also note that where menopause is referred to throughout this paper, it should be treated as including all related aspects of menopause including perimenopause and other related symptoms.

## **QUESTION 1**

**What is the nature and the extent of discrimination faced by women experiencing the menopause? How does this impact wider society?**

### **NATURE AND EXTENT OF DISCRIMINATION**

12. In answering this question, we have considered evidence from both the online register of Employment Tribunal disputes and national studies and surveys. We examine each in turn and discuss what they reveal about the nature and extent of discrimination faced by people experiencing menopause in the workplace.

## **EVIDENCE FROM EMPLOYMENT TRIBUNAL DISPUTES**

### **EXTENT OF DISCRIMINATION**

13. We began by analysing the number of claims brought before an Employment Tribunal which mentioned the word “menopause” between February 2017 and August 2021. Over this period, 44 Employment Tribunal decisions were published which included the word “menopause”. However, in 17 of those decisions, menopause was mentioned only in passing as a background issue and was not pertinent to the application or claim before the Employment Tribunal. This leaves 27 relevant decisions over a four-and-a-half-year period. To put this in context, a total of 78,968 Employment Tribunal decisions were published over the same period.
14. Of the 27 decisions over this period, four concerned procedural applications to extend time and / or amend a claim. In those four cases, it was argued that menopause was relevant to the reason the particular application was being made. All four applications were unsuccessful.
15. A further ten of these 27 decisions concerned the preliminary issue of whether the menopausal claimant qualified as disabled under the Equality Act 2010. These were cases where the substantive claim was put as some form of disability discrimination. In order to proceed with such a claim, a claimant must show that they are disabled for the purposes of the Equality Act 2010 at the relevant time. This requires a claimant to show that:
  - 15.1. they suffer from a physical and / or mental impairment;
  - 15.2. that impairment has an adverse effect on their ability to carry out normal day-to-day activities;
  - 15.3. the effect is substantial; and
  - 15.4. the effect is also long-term (i.e. it has lasted, or is likely to last, for at least 12 months).
16. Seven of the ten claimants were found not to be disabled by reason of their menopausal symptoms (although two were found to be disabled for other reasons). In particular, early menopausal symptoms and perimenopausal fatigue were not considered sufficient to meet the disability test. Only three out of the ten claimants were held to be disabled by reason of their menopausal symptoms, or a combination of their menopausal symptoms combined with other conditions.

17. In *Donnachie v Telent Technology Services Ltd* [2020] it was decided that there is no reason in principle that “typical” menopausal symptoms cannot have a relevant disabling effect on an individual (discounting the remedial effect of Hormone Replacement Therapy (HRT) where used). Despite this helpful statement, the figures above give some indication of the challenge faced by claimants arguing that mistreatment in the workplace amounts to disability discrimination.
18. Discounting the procedural and preliminary decisions, this leaves 13 decisions where menopause was a pertinent issue in a substantive claim. Of those 13, ten claims were dismissed, one was partially upheld, and two were upheld.
19. There have been reports that menopause is at the centre of an increasing number of Employment Tribunal claims and that women are ever more empowered to challenge employers who fail to support them. However, the above analysis suggests that this is not the case. The headline figure of 44 Employment Tribunal decisions concerning menopause is misleading. Only 13 were full hearings of substantive claims concerning the menopause and only three were partially or fully successful. Only one of those 13 cases was appealed by the claimant to the Employment Appeal Tribunal and that appeal was unsuccessful.
20. These figures suggest either that mistreatment in the workplace by reason of the menopause is virtually non-existent, (which we consider unlikely) or that the victims of such mistreatment are not bringing claims before the Employment Tribunal. If the latter, this could be for a number of reasons, including:
  - 20.1. lack of knowledge of employment rights;
  - 20.2. an unwillingness to “rock the boat” with the employer;
  - 20.3. inability to access and / or fund legal advice;
  - 20.4. inability to identify a legal claim which has reasonable prospects of success; and / or
  - 20.5. an unwillingness to embark upon stressful, expensive and uncertain litigation.

Alternatively, such claims may be started but settled before reaching an Employment Tribunal hearing.

## **NATURE OF DISCRIMINATION**

21. In considering the nature of the treatment complained of by people experiencing the menopause, we have looked at the 27 Employment Tribunal decisions where menopause was relevant to the issue before the Employment Tribunal, whether or not it was a preliminary or substantive decision and whether or not the application or claim was dismissed or upheld. We have ignored the 17 decisions where menopause was mentioned only in passing as a background issue.
22. The complaints were most commonly characterised as a form of disability and / or sex discrimination. However, complaints of age discrimination, unfair dismissal and whistleblowing detriment were also raised. The type of mistreatment complained of is listed below underneath the type of claim.

### **Disability discrimination**

- 22.1. Failure to take into account the impact of menopausal symptoms when considering dismissal for timekeeping and absence issues.
- 22.2. Failure to take into account the impact of menopausal symptoms when considering dismissal for misconduct.
- 22.3. Comment made to menopausal employee that her early menopause meant she would not be able to conceive.
- 22.4. Comment made to menopausal employee that she was too young to be going through the menopause.
- 22.5. Stopping a menopausal employee from talking about menopause issues with a male manager and describing the same as “lady issues” and “girly stuff”.
- 22.6. Refusal to adjust the temperature of the workplace to help manage hot flushes.
- 22.7. Refusal to allow a phased return after a period of sickness absence.

### **Sex discrimination**

- 22.8. Failure to take into account the impact of menopausal symptoms when considering dismissal for poor performance.
- 22.9. Failure to take into account the impact of menopausal symptoms when considering dismissal for misconduct.
- 22.10. Stopping a menopausal employee from talking about menopause issues with a male manager, describing the same as “too much information” and directing her to speak to a female member of staff.
- 22.11. Causing a menopausal employee embarrassment by requiring her to discuss her menopausal symptoms in front of male members of staff at an internal hearing.
- 22.12. Requiring menopausal employees to wear uniform in a way which exacerbated hot flushes.
- 22.13. Requiring menopausal employees to work in an environment where the air quality was below the required standard.
- 22.14. Making fun of a menopausal employee and suggesting that she was struggling because she was menopausal.
- 22.15. Telling a menopausal employee that she was upset with a line of questioning because she was menopausal.
- 22.16. Telling a menopausal employee that she should go on HRT in order to make herself fit for work.
- 22.17. Sharing information about an employee’s menopausal symptoms with an occupational health provider without the employee’s consent.

### **Age discrimination**

- 22.18. Calling a menopausal employee a “dinosaur” and making fun of her when she struggled with using a tablet for her work.

### **Unfair dismissal**

- 22.19. Failure to take into account the impact of menopausal symptoms when considering dismissal for absence issues.
- 22.20. Failure to take into account the impact of menopausal symptoms when considering dismissal for misconduct and / or poor performance.

### **Whistleblowing detriment**

- 22.21. Causing embarrassment to a menopausal employee who had blown the whistle by asking her whether she was anxious because of the menopause.
23. The various forms of mistreatment complained of at 11.1 to 11.5 above can be broadly grouped into the following four categories:
- 23.1. Failure to give appropriate weight to the impact of menopausal symptoms when taking decisions regarding capability and / or conduct. This suggests a lack of knowledge by employers of the potentially debilitating symptoms of the menopause, how this may affect women in the workplace and the various employment rights which may be engaged.
  - 23.2. Poor behaviour from male managers in either refusing to speak to their menopausal employees about menopause issues or, conversely, forcing such conversations to take place. This suggests that employers are failing to train managers about managing menopausal employees. Information to support such training is now freely available. For example, in May 2021, the Chartered Institute for Personnel Development (CIPD) published A Guide to Managing Menopause at Work: Guidance for Line Managers, which includes guidance on how to conduct sensitive discussions.
  - 23.3. Inappropriate and harassing comments made to menopausal employees. This suggests that employees are failing to train managers and other employees on the menopause and dignity at work.
  - 23.4. Refusal to make adjustments to support menopausal employees. Again, this suggests a lack of knowledge by employers about the potentially debilitating symptoms of the menopause and how this may affect women in the workplace. It also suggests inadequate knowledge

of health and safety obligations, the duty to make reasonable adjustments for disabled employees and the obligation to not act in a way which breaches trust and confidence.

## **EVIDENCE FROM NATIONAL STUDIES AND SURVEYS**

24. To supplement the findings discussed at question 1, paragraphs 2 to 12 above, we reviewed the following studies and surveys:

- 24.1. Research report by the University of Leicester: The effects of menopause transition on women's economic participation in the UK (July 2017) (Leicester Report).<sup>1</sup>
- 24.2. Scottish Trades Union Congress Women's Committee survey of 3649 respondents, including many menopausal women (January 2018) (STUC Survey).<sup>2</sup>
- 24.3. CIPD / YouGov survey of 1409 menopausal women (March 2019) (CIPD Survey).<sup>3</sup>
- 24.4. Newson Health Menopause and Wellbeing Centre Menopause at Work survey of 1132 menopausal women (2019) (Newson Survey).<sup>4</sup>
- 24.5. Vodafone / Opinium survey of 5012 women who had gone through the menopause in the UK, Germany, Spain, Italy and South Africa (March 2021) (Vodafone Survey).<sup>5</sup>

### **General impact / lack of support**

- 24.6. The Leicester Report refers to a number of pieces of earlier research which had reported that somewhere between 10% to 53% of women were negatively affected by menopausal symptoms at work. The CIPD Survey, Newson Survey and Vodafone Survey all reported that a majority of women surveyed felt that the menopause had had a negative effect on them at work in some way. The CIPD Survey reported that 59% of women surveyed had been negatively affected. Similarly, the Vodafone Survey reported that 62% had been negatively

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<sup>1</sup> See [The effects of menopause transition on women's economic participation in the UK](#)

<sup>2</sup> See [Menopause & the Workplace STUC Womens' Committee: January 2018](#)

<sup>3</sup> See [Majority of working women experiencing the menopause say it has a negative impact on them at work](#)

<sup>4</sup> See [Menopause at Work: a survey to look at the impact of menopausal and perimenopausal symptoms upon women in the workplace](#)

<sup>5</sup> See [Vodafone announces new global employee commitment on menopause](#)

affected (although this figure rose to 79% for those aged between 18 and 44). However, the Newson Survey reported that the much higher figure of 94% had been negatively affected.

- 24.7. In terms of support from employers, the Leicester Report concludes that while pregnancy and returning to work are well understood, and advice and support is readily available for women and managers, the same is not true of the menopause. It refers to earlier research which suggested that employers tend to regard the menopause as a personal, private issue and that training for HR professionals and managers is the exception rather than the rule.
- 24.8. The Leicester Report also highlighted that nine separate pieces of research have reported on the reluctance of women to disclose menopause symptoms at work. A variety of reasons were given for this including gendered ageism, feeling invisible and devalued, a belief in the need to present an unproblematic front at work, concerns that a line manager might believe that work performance would be affected and finding disclosure embarrassing (particularly to male managers and younger managers).
- 24.9. The CIPD Survey reported that only 32% of women surveyed felt that their manager supported them with menopause issues at work. The STUC Survey reported that 32% of respondents felt that menopause was treated negatively in the workplace, and 99% either didn't have (or didn't know if they had) a workplace menopause policy. The Newson Survey reported that only 14.5% of women had received any advice or support from their workplace about the menopause (with a mere 4% reporting that their employers offered menopause training for staff). The Vodafone Survey reported that 33% of women had hidden their menopausal symptoms at work and 50% felt that there was a stigma around talking about the menopause at work. A further 43% said they were too embarrassed to ask for support in the workplace (rising to 63% for those aged between 18 and 44 in the UK).
- 24.10. Although the figures from these surveys vary to some degree, they tend to support the conclusions that the majority of women are negatively impacted by the menopause at work and that a minority of women feel supported by their employer in relation to the menopause. Relevant workplace policies and training are very much the exception.
- 24.11. The overall message appears to be that the menopause is still regarded as a taboo subject and one which is not understood by, or discussed

with, managers. The result is that many women are forced to try to hide the fact that they are menopausal, and, in turn, this may have potentially detrimental consequences for them. Employers won't be on notice of the issue and won't be able to proactively suggest adjustments and / or take account of the impact of the menopause when considering issues like poor performance or sickness absence levels.

### **Sickness absence**

- 24.12. The CIPD Survey reported that 30% of women surveyed had taken sick leave because of their symptoms. Disturbingly, only one quarter of those who had taken sick leave felt able to tell their manager the real reason for their absence. Of those who did not disclose the real reason to their manager, 34% said they did not do so due to feelings of embarrassment and another 32% said they did not do so because their manager was unsupportive.
- 24.13. The Newson Survey reported that 51% of women surveyed had taken time off work due to menopausal symptoms, with 19% being absent for eight weeks or more. Where women took sickness absence, 37% submitted a GP's sick note, however, these typically cited anxiety and stress as the reason for absence. Only 7% of sick notes stated menopause as the reason for the absence.
- 24.14. Again, there is some variation between the surveys as to the levels of sickness attributable to the menopause. However, it is a sizeable number. Once again, what comes across is that menopause is a taboo subject that employees feel unable to discuss with their line managers. It is also concerning that GP sick notes frequently do not cite the true reason for absence. Inevitably, this means that employers will not recognise the prevalence of menopausal symptoms as a cause for absence. In turn, this means they are unlikely to focus their attention on supporting menopausal employees (e.g. by offering wellbeing support measures and / or making workplace adjustments).

### **Performance issues**

- 24.15. The Leicester Report notes that the evidence supports the view that menopausal symptoms have the capacity to have a negative effect on women's performance at work (particularly where the symptoms are more frequent and severe). The negative impacts can include things like reduced engagement with work, reduced commitment, poor time

management, less emotional resilience and a reduced ability to complete tasks effectively.

- 24.16. The Newson Survey reported that 53% of women surveyed felt that their colleagues had noticed a deterioration in their work performance. Further, 9% were disciplined as a result of poor performance at work.
- 24.17. As discussed above, the unwillingness to disclose the impact of menopausal symptoms to managers and / or the lack of understanding of the same by managers, has detrimental consequences for people experiencing the menopause.

### **Inappropriate comments / harassment**

- 24.18. The Leicester Report discusses evidence of women being ridiculed, harassed and criticised by colleagues and managers as a result of their menopausal symptoms. Data suggests that visible symptoms (such as hot flushes and heavy menstrual bleeding) are more likely to lead to women being teased or mocked. It also suggests that negative treatment is more likely to arise in male-dominated workforces.
- 24.19. The STUC Survey reported that 63% of respondents felt that menopause had been treated as a joke at work. One respondent said: “The menopause sadly generates all the stereotypical jokes in the workplace, which is sad in this day and age”.

### **Workplace adjustments**

- 24.20. The STUC Survey outlined the severe impact of menopausal symptoms on a number of their respondents and how a failure to make adjustments worsened the situation for them. Some suggestions for relevant workplace adjustments were made including:
- 24.20.1. Hot flushes: access to a fan or a cool workspace.
- 24.20.2. Heavy bleeding: access to a bathroom, regular rest breaks, shortening the length of meetings and / or working from home.
- 24.20.3. Insomnia and fatigue: flexible working arrangements.
- 24.20.4. Increased sickness absence: adjustments to sickness absence management thresholds.

24.20.5. Mood swings and fatigue: providing advice and training to employees and taking these factors into account when managing performance.

24.21. This represents just a small selection of possible adjustments that could be helpful to menopausal people – there will be many more. Where a menopausal person is disabled for the purposes of the Equality Act 2010, their employer will be obliged to make reasonable adjustments for them in certain circumstances. However, as discussed at paragraphs 4 to 6 above, qualifying as disabled is not straightforward, and many menopausal people will not do so. There is, in our view, a strong case for urging and / or requiring employers to make appropriate workplace adjustments for menopausal people, regardless of their disability status.

#### **HOW DOES THIS IMPACT WIDER SOCIETY?**

25. In addition to causing harm to the individual, the various forms of mistreatment discussed above have the potential to cause wider societal harm in a number of ways.
26. A lack of support and failure to make adjustments is likely to increase the chances of sickness absence. High levels of sickness absence result in loss of productivity and increased cost to the employer and also increased cost to the National Health Service. Long-term sickness absence may well also have a negative impact on the menopausal person's home life, for example, in terms of reduced income and disruption to normal routines.
27. In more extreme cases, mistreatment may cause menopausal people to leave the workplace altogether (voluntarily or otherwise). Bupa Health Clinics carried out research in 2019 which concluded that 900,000 women in the UK had left their jobs due to the menopause. The loss of a significant number of older women from the workplace is likely to contribute towards a representation gap at senior levels. In turn, this may increase an organisation's gender pay gap and / or inhibit a wider diversity and inclusion agenda.

## **QUESTION 2**

### **What is the economic impact of menopause discrimination?**

#### **LACK OF ECONOMIC DATA**

28. The majority of women affected by menopause (that being those aged 50 to 64) are the fastest-growing, economically active group in the UK. Of the 70% of women in employment in the UK, almost 4.5 million are in this age bracket
29. The biggest increases in employment rates over the last 30 years have been for women aged 60-64 (from 18% to 41%) and for women aged 55-59 (from 49% to 69%). Over the same time period the employment rate gap between women and men aged between 50 and 64 fell from just under 28% to 11% in 2015.
30. However, quantifying the economic impact of discrimination is complex and evidence of the actual costs of the effects of menopause transition on women's economic participation in the UK is unfortunately limited.
31. The Leicester Report (referenced in question 1, paragraph 13.1 above) distinguishes between the economic effects of women who leave their jobs earlier than they would have wanted to due to their menopausal symptoms; and those women who choose to 'cope' while remaining in employment.
32. To some extent the Working Party is, for the purposes of responding to this question, largely reliant on feedback gathered from surveys and studies including views expressed by women who participated in the surveys referenced at question 1, paragraphs 13.1-13.5 above.
33. It remains unclear how many employees leave employment due to the menopause, be that as a result of its effects or their employer's unwillingness to facilitate adjustments. Some data exists, yet it is not always consistent.
34. The Working Party, can, therefore only aim to summarise the areas of economic life affected by people in mid-life who have either had to leave employment or cope in employment, based on the limited research available. The economic effects are felt by the menopausal employees themselves, their employers and society at large.

## QUANTIFIABLE COSTS TO MID-LIFE PEOPLE

### Earning, earning potential and benefits

- 34.1. The immediate economic effects for those who leave employment or simply cope include:
  - 34.1.1. Loss of wages
  - 34.1.2. Loss of pension and employment benefits
  - 34.1.3. A reduction in wages due to reduced hours, sick leave, lateness or medical appointments
- 34.2. It remains unclear how many women leave employment as a consequence of menopausal symptoms aside from the limited data summarised in this paragraph 2.
- 34.3. A 2019 survey from Bupa and the Chartered Institute of Personnel and Development (CIPD) found that 59% of working women aged 45 to 55 who were experiencing the menopause reported that it had a negative impact on them at work. The same survey estimated that 900,000 women had so far left their jobs due to menopausal symptoms.
- 34.4. In 2017, Insight reported that the over 50 age group are more likely to be out of work than younger age groups, and once unemployed they struggle more than younger jobseekers to get back into employment. It follows that a woman who leaves employment because of menopausal symptoms is less likely, simply because of her age, and irrespective of the symptoms, to re-enter the workplace, resulting in a reduction of her earnings and earning potential.
- 34.5. The loss of wages has a knock-on effect on other members of a women's household. Costs experienced by women's partners and other family members include them having to earn more to make up for lost wages or adapt to a lower household income.
- 34.6. The economic costs associated with loss of work in this age group includes not only the individual's loss of income but also other employment benefits such as, for example, future employer pension contributions or private health insurance.

### **Loss of wages due to sick leave and leavism**

- 34.7. The Working Party are aware, from the CIPD's Health and Wellbeing at Work Survey for 2021, that "leavism" is becoming increasingly common generally and not only in relation to women experiencing the menopause. It includes the use of allocated time off, such as annual leave, for sickness or to catch up on work. 70% of Respondents reported some sort of leavism.
- 34.8. As referred to above at question 1, paragraph 15.1, the CIPD Survey reported that 30% of women surveyed had taken sick leave because of their symptoms.
- 34.9. The Menopause Survey 2018 which examined the experiences and awareness of the menopause amongst police officers and police staff at a national level in England and Wales found a higher number, 44%, of respondents who had taken sickness absence due to the menopause had not told their manager the real reason for their absence. 35% of respondents had taken annual leave or rest days to take time off because of their symptoms.

### **Reduction in working hours**

- 34.10. According to a 2019 survey compiled by Dr Louise Newson and Dr Rebecca Lewis, completed by 1132 women experiencing the menopause, as many as 31% of women had thought about reducing their hours.
- 34.11. Overall, in managing symptoms women have reported missing out on training and promotions, reducing hours and seeing their pay level drop which, as reported by Unison, is contributing to a widening of the gender pay gap.

### **Less quantifiable costs to mid-life people**

- 34.12. While the loss of benefits, salary and wages may be easier to quantify, the negative cost of menopause discrimination impacting on psychological wellbeing and overall performance is not always easy to measure. Specifically, factors such as the physical and / or psychological discomfort at work or worsening symptoms due to work will have a negative impact on both the employer's business as well as the employees concerned. For this reason, the Working Party considers it necessary to summarise the emergent themes:

- 34.12.1. Evidence of psychological discomfort and dissatisfaction at work.
- 34.12.2. A more common theme than women leaving work is that of people who are considering leaving employment because of menopausal symptoms. Some recent reports and studies confirm that nearly half (45%) of working women with menopause consider retiring or taking a break from work.
- 34.12.3. According to research by employee experience platform Circle In, carried out in January and February 2021, with the support of the Victorian Women's Trust, (where more than 700 were asked about their experience of menopause in the workplace,) almost half said they considered retiring or taking a break from work when their menopausal symptoms were severe.
- 34.12.4. According to the CIPD survey, three out of five (59%) working women between the ages of 45 and 55 who are experiencing menopause symptoms say it has a negative impact on them at work.
- 34.12.5. Both the 2019 survey from Bupa and the CIPD found that:
  - 34.12.5.1. More than half of the participants (58%) said they experience more stress.
  - 34.12.5.2. More than half of the participants (52%) said they felt less patient with clients and colleagues.

The evidence clearly points to employee dissatisfaction and lack of engagement.

- 34.13. As is identified in the 2021 CIPD report on employee engagement, when employees are engaged, in other words when they are dedicated, absorbed and enthusiastic about their work, the results for both employee and employer are positive. Positive factors identified as a result of engagement include improved performance and improved wellbeing.

## **COSTS TO THE EMPLOYER**

### **Replacement costs**

- 34.14. Where employees leave work because of the menopause, their employer has to bear the costs of hiring. These costs are significant. Julie Dennis, a menopause coach, claims the following: 'Recruitment costs a lot of money if a woman leaves her job because she can't manage work because of debilitating symptoms. If she is earning £25k, the departure will cost her employer over £30,500. As well as recruitment this includes the cost of losing someone with knowledge and experience and getting someone else up to speed.'
- 34.15. Associated costs of a departure could include lost clients, particularly in service professions such as legal and finance, where longstanding relationships with a key client contact are forged over time.
- 34.16. The departure of an experienced worker would also include lost productivity due to the need to train a newly recruited replacement worker. In addition, employers should factor in the new worker's inexperience, which again impacts on productivity levels.
- 34.17. Finally, the employer loses all the tacit knowledge possessed – and in all probability built up over time – by their older workers.

### **Loss of productivity**

- 34.18. There are additional costs to employers in situations where people remain in employment and cope with the menopause. This is particularly so in situations where they feel unable to report it due to feelings of embarrassment. The impact is likely to be most keenly felt in relation to performance and productivity levels.
- 34.19. The 2019 survey compiled by Dr Louise Newson and Rebecca Lewis, found that over 90% of respondents felt that their menopausal or perimenopausal symptoms were having a negative impact on their work.
- 34.20. The more frequently people reported experiencing menopause-related symptoms, and the more bothersome the symptoms were, the less engaged they felt at work, the less satisfied they were with their job, the greater their intention to quit their job and the lower their commitment to their employment. Studies have shown that menopause symptoms can

have a significant impact on attendance and performance in the workplace, with some people being misdiagnosed as suffering from mental ill-health or other conditions, and the impact on their work can be wrongly identified as a performance issue.

### **Cost of absence**

- 34.21. It is apparent that a number of women who are experiencing menopausal symptoms take time off work (up to 51% according to the Newson Survey). Please refer to the response to question 1, paragraph 15 above for further details of the impact of menopause related sickness absence and difficulties some women have reporting it to their employers.
- 34.22. According to the Office of National Statistics, the groups who experienced the highest rates of sickness absence included older women and those working in large organisations.
- 34.23. Sickness absence is costly to employers. A new study by Westfield Health, a health insurance and wellbeing solutions provider, has revealed that absenteeism cost UK businesses £14 billion in 2020. This meant the cost of absenteeism rose by £1.3 billion from previous recorded figures in 2019.

### **Tribunal Claims**

- 34.24. Please refer to question 1 for details of Employment Tribunal claims referencing the word 'menopause' between February 2017 and August 2021.
- 34.25. Legal costs in defending an employment tribunal claim vary. Some reports suggest the average cost of defence is in the region of £8,500 according to the British Chamber of Commerce. However, this figure does not distinguish between differing types of claim. Defending claims of discrimination involve more complex issues than claims of ordinary unfair dismissal and are, generally speaking and in the experience of the Working Party participants, far more costly.
- 34.26. In addition to the legal costs of defence, according to statistics released by the Ministry of Justice in 2019/2020 the median award for successful cases of sex discrimination was £14,073 and for disability discrimination it was £13,000. The maximum award for cases of sex discrimination was £73,619 and £265,719 for disability discrimination.

## **IN CONCLUSION**

While difficult to quantify in precise terms, the Working Party considers that sufficient evidence of the actual and potential cost of menopause discrimination is significant. This is particularly so given the increase in employment rates for women aged 50-64.

These costs are borne by both the person experiencing the menopause themselves, their families and their employers as well as society at large, the latter of which has not been assessed by the ELA Working Party.

## **QUESTION 3**

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

### **MENOPAUSE KNOWLEDGE AND AWARENESS**

35. Workplaces need to provide training and increase awareness about the symptoms of menopause, how the menopause can affect people and what adjustments they might need in the workplace. Emphasis needs to be on the fact that one size does not fit all – the impact the perimenopause and menopause has can be completely different for different people and for the same person at different times.
36. Menopause in the workplace remains a taboo subject, especially, but not only, in traditionally male dominated sectors. Presently the limited discussions there are about the menopause result in awkwardness, stigma, embarrassment or, most commonly and even worse, they are not happening at all. This is often due to a lack of awareness, understanding, apathy or ignorance. The menopause can have a profound and detrimental effect on physical and mental health, which in the workplace can affect participation, productivity, and progression. Despite this, the voices of those experiencing the menopause are not being heard and they feel unable to talk about an issue that will affect all women at some point in their life. The negative impact this has is far reaching, including on their career and pay progression, mental health, and healthcare choices.

## **MAKE MENOPAUSE AN ORGANISATIONAL ISSUE**

37. The menopause needs to be considered as an organisational business critical issue, in the way that diversity and inclusion (D&I) are treated by those organisations who are tackling D&I most successfully, and not an individual worker issue. If recognised as a critical business issue capable of affecting business success, it will be taken seriously and considered at leadership level within organisations. Increasing knowledge and awareness in the workplace of the menopause will create a culture of support and openness. While this needs to be provided to staff at all levels, management must play an active role in understanding the issues faced, how they can best support their staff and what adjustments may be offered, to lead the way and set expectations. Training should include how to have conversations with staff on the menopause and good practice guidance.
38. This will assist those suffering with the menopause, often at the peak of their career or in a position of management, to cope, remain in the workplace and reach their full potential. This is also in the interests of businesses and the wider economy, as skills and experience are retained – having a positive effect on diversity at a senior level, the gender pay gap and disparity in pensions.

## **IMPLEMENT A MENOPAUSE POLICY**

39. This educates staff about what the menopause is, who it affects and when, potential symptoms, how staff can help their colleagues and what they should do if they feel unsupported or discriminated against.
  - 39.1. Having a policy emphasises organisational support and that it's an issue taken seriously.
  - 39.2. It provides both those experiencing the menopause and people managers with guidance on what adjustments might be available / suitable and how requests can be made (with signposting to other relevant policies / guidance where necessary).
  - 39.3. It empowers staff and provides guidance and a framework from which they can raise the issues they are experiencing and seek necessary support.

## **ACCESS TO INFORMATION AND SUPPORT**

40. As people access workplace information differently, employers should be encouraged to use different mediums to communicate with as many people as possible. Creating either an informative intranet page or micro site can provide staff with information, guidance and signposting on how to manage and get support with their menopausal symptoms in the workplace. This could include workplace policies, ACAS Guidance, menopause experts, charity, wellbeing and medical links.
41. Positioning posters with the key menopause facts for people to be aware of in 'water cooler' and common stop points encourages awareness and discussion. Ideal spots being the back of toilet doors, in work kitchens / shared spaces and near photocopying / admin areas where people pause.

## **QUESTION 4**

**How can practices addressing workplace discrimination relating to menopause be implemented? For example, through guidance, advice, adjustments, or enforcement. What are examples of best or most inclusive practices?**

## **GUIDANCE / ADVICE**

42. Education is key. Workplaces need to have in place policies, guidance and / or training sessions to educate the workforce about what the menopause is and how it can affect people at work and to achieve a supportive environment for people suffering from the menopause and to achieve a diverse and inclusive workplace.
43. While a Menopause Policy (see above) is advisable, other policies which may be relevant include Absence, Flexible Working and Performance Management. Those experiencing the menopause can experience fluctuating symptoms, therefore flexibility will be key to supporting individuals. Symptoms may be so debilitating that an individual's performance may dip, they may require some additional time off and support. Absence and performance management policies should refer to the impact the menopause can have on performance and attendance and the need to consider adjustments to performance or absence triggers.
44. Having such policies, guidance and learning highlights the importance a workplace places on the menopause and its staff who may be affected. It sends a clear message that they take it seriously and recognise the impact it may have on staff and the wider workforce. This has a positive impact on staff

who may be experiencing menopausal symptoms, increasing their productivity, morale and mental / physical health.

## **EXAMPLES OF INCLUSIVE PRACTICES**

45. Setting up a working group or Menopause Café / team to invite people going through the menopause to share experiences in terms of how it has affected them / is affecting them at work. Creating a safe space is extremely powerful. It enables people to learn from each other, build the confidence to have necessary conversations with GP and medical services to get the medical support / treatment they need and to have conversations with managers and colleagues. Such groups have already benefitted many people at work in rebuilding their confidence, often damaged by their menopausal symptoms and helps to reduce anxiety.
46. Sharing lived experiences with the business through training, posters, workplace forums, Lunch & Learn sessions. This aids menopause discussions and normalises the issue.
47. Ensuring it is an issue which comes within a workplace Diversity & Inclusion strategy and is afforded the same importance as other areas of workplace inclusion and discrimination.
48. Offering professional counselling or other personalised support such as self-help / lifestyle advice (e.g. regular exercise which can help reduce flushes, improve sleep, bone strength and mood) or healthcare options.
49. Considering the overlap with other groups / protected characteristics – finding out how it may affect people in different groups (age, disability, ethnic background) to establish whether more specific support would be useful.
50. Appointing male allies who could act as a first port of call for men who are not sure how to find out what they need to know (signposting) and how to handle difficult conversations.

## **WORKPLACE ADJUSTMENTS**

51. Menopausal symptoms vary and can range from minor to very debilitating effects on an individual's ability to work. Symptoms often change over time, so the picture is not static. While some individuals may endure symptoms which fall within the definition of a 'disability' under s6 EqA 2010, and thus require an employer to consider whether reasonable adjustments are necessary, others may not, but still need support. It is also important to consider that people work

in many different locations and ways, with a significant move towards hybrid and remote working during and as a result of the pandemic. While such modified ways of working will no doubt have assisted some people in managing symptoms of menopause by providing greater flexibility, in some ways this will have made the challenges faced by such employees less visible, and as such awareness of the issues will remain low within organisations. It is important that employers consider the support needed by employees wherever and however they work, to assist in dealing with challenges presented by menopause.

52. The below adjustments are examples of what an employer could put in place to assist staff effected by the menopause regardless of whether they fall within s6 EqA 2010:
  - 52.1. Returning to work adjustments following a leave of absence in terms of commuting, hours of work and the types of tasks to be done, to mitigate against fatigue and anxiety / loss of confidence
  - 52.2. Ring fencing desks in hot desking areas for staff who may need to be close to bathrooms, rest rooms, lifts and kitchens, or who need desk fans and other support
  - 52.3. Easy / close access to bathroom facilities
  - 52.4. Rest room facilities (specifically, to allow staff to cool down, take a private break or short lie down to manage symptoms)
  - 52.5. Desk fans / adjusting air conditioning / heating
  - 52.6. Flexibility to work from home when symptoms are bad
  - 52.7. Offering a formal flexible working arrangement if appropriate
  - 52.8. Brain fog breaks
  - 52.9. Mental health leave days
  - 52.10. Alterations to uniforms / dress code to account for skin irritation and sweating
  - 52.11. Access to changing facilities
  - 52.12. Adjustments to performance reviews or disciplinary policies where appropriate

- 52.13. Adjustments to absence policies where appropriate
- 52.14. Training managers to address menopause related concerns and support affected staff both in the physical workplace and remotely
- 52.15. Providing virtual and in-person “safe spaces” for affected people to share concerns and seek support in relation to challenges presented by menopause

## **GOVERNMENT**

- 53. ACAS guidance needs to be updated. It is currently labelled as ‘archived content’. This should cover the mental health and physical impact of the menopause and consider whether there are additional support measures required in the workplace.
- 54. In addition, improved guidance is needed around when and under what circumstances the menopause can place an employer under duties contained in the Health and Safety at Work Act 1974 to undertake a risk assessment – particular symptoms which may trigger the duty include migraines, insomnia, dizziness which could, for example, have a significant impact on workers handling heavy machinery, driving or focusing on their work.
- 55. Although the HSE website currently states that a separate risk assessment is not required for older workers, the ‘Health and Safety for Older workers - Guidance for employers’ section should be updated to include, at the very least, reference to the menopause and the impact the symptoms may have. There should be consideration of separate HSE Guidance as the perimenopause commonly starts from age 40-45 (sometimes earlier) which wouldn’t be considered an old age.

## **ENFORCEMENT**

- 56. In an ideal world, the menopause, as with many diversity and inclusion issues would be managed in the workplace from a learning and collaborative angle. However, in reality, people are suffering at work because of poor understanding about the menopause and how it affects people and also because it is not considered as important as other diversity and inclusion issues.
- 57. If the policy decision was made to add a separate protected characteristic for the menopause to the EqA 2010, it would cement the importance of addressing it and would prevent the current difficulties faced by Claimant lawyers in having to shoehorn discrimination complaints into the other relevant protected

characteristics of disability, sex and / or age. For example, if the menopause is triggered at an early age as a result of undergoing other medical treatment it may mean that an individual cannot bring an age discrimination complaint. If the policy decision was taken to establish a separate protected characteristic further guidance will need to be produced by the EHRC. The impacts on businesses would need to be carefully considered through a legislative and consultative process.

58. EHRC guidance is presently lacking in this area. The EHRC should include guidance, FAQs for employers and employer toolkits to support employers and employees (like the ones in place for pregnancy and disability). Providing examples of best practice will help employers and employees when it comes to raising concerns, requesting workplace adjustments or enforcement.

## **QUESTION 5**

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

### **RESEARCH AND DATA**

59. Individuals from the non-binary, transgender and intersex communities may also experience menopausal symptoms. Supporting these individuals in the workplace can create challenges, particularly if employers are not aware of the individual's circumstances and / or make incorrect assumptions about their gender.
  - 59.1. The paragraphs below provide further information on the impact of the menopause on trans, non-binary and intersex individuals. The Trade Union Congress has published guidance on this matter in their report "The menopause in the workplace, a toolkit for trade unionists, Wales TUC Cymru". This notes that:
    - 59.1.1. "Trans men (those who identify as male, but were assigned female at birth) will experience a natural menopause if their ovaries remain in place and no hormone therapy is given. Trans men will also experience menopausal symptoms if the ovaries and uterus are surgically removed (this may happen at an earlier age than commonly happens with a natural menopause). Symptoms may be reduced or complicated if hormone therapy (such as the male hormone testosterone) therapy is in place".

- 59.1.2. “Trans women (those who identify as female, but were assigned male at birth) undertaking hormone therapy will usually remain on this for life, and should generally experience limited ‘pseudo’ menopausal (menopausal-like) symptoms - unless hormone therapy is interrupted or hormone levels are unstable. Such treatment interruptions however can be a common experience for trans women (and trans men).”
- 59.1.3. “Non-binary and intersex persons may also experience menopausal symptoms – unfortunately there is currently a lack of information about the experiences of these groups of the menopause.”
- 59.2. There is limited statistical data on the proportion of the workforce that may be impacted, though the data below suggests that a significant proportion of transgender employees are hiding their gender identity in the workplace, often citing safety concerns and fear of a negative reaction as their rationale for doing so.
- 59.3. Henpicked, an organisation of menopause in the workplace experts, published the following statistics in July 2020 under the title ‘How do hormonal changes affect the trans and non-binary community? - Menopause in the Workplace’:
- “650000+ people in the UK are estimated to experience some degree of gender non-conformity. This is equal to 1% of the UK population who are on the gender identity spectrum.”
- “53% of the community are hiding their gender identity in the workplace because they feel it is unsafe to be visible.”
- 59.4. Totaljobs, a UK recruitment company, conducted a survey of over 400 trans employees on their experiences in the workplace and compared this to their earlier findings in a similar study in 2016 ‘Trans employee experiences survey: Understanding the trans community in the workplace’ (2021) The survey found that “...in 2016, around half (52%) of trans people didn’t reveal their gender identity at work – in 2021, the number is closer to two-thirds (65%).”
- 59.5. The Government Equalities Office conducted a National LGBT Survey in 2017/18 which received over 100,000 responses. It found that “67% of trans respondents said they avoided being open about their gender

identity for fear of a negative reaction from others. Non-binary respondents were particularly likely to do so (76%)”.

## **SUPPORTING EMPLOYEES IN THESE GROUPS**

60. As this data demonstrates, there is a high likelihood that employers will not be aware of individual employee circumstances. This blind-spot means that there are limitations to the effectiveness of employers offering only tailored or individual employee support options to employees / workers who they know to be, or (from the employer’s assumption of their gender / status) expect them to be, experiencing the menopause. In addition, employers who address or extend support to women only (e.g. via targeted focus groups or menopause policies) may expose themselves to discrimination claims on the basis that they have excluded certain groups of employees / workers from the support options (e.g. trans individuals on the basis of the protected characteristic of gender reassignment, EqA 2010). For these reasons, it is suggested that employers consider a range of support options which:

- 60.1. are addressed broadly to the employee / worker population (in the National Education Union’s Report, Working Through the Menopause Working through the menopause | NEU it is noted that “[t]his is why whole workplace arrangements that do not single out individual workers provide a more effective solution to ensuring support for all workers experiencing the menopause”);
- 60.2. use gender neutral language; and
- 60.3. offer the ability for employees / workers to speak with someone privately (e.g. HR or a particular manager) if they do not feel comfortable discussing their identity as part of a larger group (e.g. an employee focus group or network).

## **QUESTION 6**

**How well does current legislation protect women from discrimination in the workplace associated with the menopause?**

**Should current legislation be amended?**

**What further legislation is required to enable employers to put in place a workplace menopause policy to protect people going through the menopause whilst at work?**

61. The analysis of Employment Tribunal claims associated with the menopause as set out in our response to question 1 above shows the small number of these claims raised over the period 2017 – 2021. The figures suggest either that mistreatment in the workplace by reason of the menopause is virtually non-existent, or that the victims of such mistreatment are not bringing claims before the Employment Tribunal. The former explanation seems unlikely and runs contrary to the evidence reported by a number of different studies and surveys referred to above, and in particular in question 1, which show that mistreatment at work is experienced by a large number of menopausal women. Experience within the group is of an increasing number of women being subject to poor and unsympathetic treatment after the age of around 45. If this latter explanation is right, this could be for a number of possible reasons, including the inability to identify a potential legal claim which has reasonable prospects of success under the current structure of the law.
62. In order to bring a discrimination claim under the Equality Act 2010, the claimant must have a protected characteristic that they are relying on (save for claims of harassment but this still requires a link to a protected characteristic). The difficulty where the menopause appears to be the root of discriminatory behaviour is that there is no protected characteristic specifically covering it and as outlined in our response to question 1, claimants are therefore attempting to raise menopause claims under the established principles of disability, sex and age discrimination which are not necessarily a good fit for such claims. The protected characteristics of age, sex and disability are used as proxies for issues that arise directly from the menopause. This is unsatisfactory. If a policy decision is made to ensure that women and people are not treated less favourably because of the menopause then there is a need to align that policy aim by making the menopause a protected characteristic. Should such a policy be pursued the legislative consultation process would need to focus carefully on the definition of the menopause (including all related aspects of it, such as the perimenopause) as a protected characteristic.
63. Further, there is some support for the view that harassment is adequately protected either by the proxy of sex or age discrimination. Finally, whilst sex discrimination and the menopause may not perfectly align there is a protection and a degree of overlap that affords menopausal women protection and it should be considered whether transgender and non-binary people are adequately protected, and if not, how such protection can be improved.
64. Further, the majority of the existing claims being brought, again as outlined in question 1, rely on disability discrimination and so it is necessary for claimants to overcome the hurdle of whether the menopause or the menopausal symptoms come within the definition of disability which is proving difficult. If a

policy decision were made that some form of reasonable adjustment duty in respect of the menopause were to be imposed by employers the legislative consultation process would need carefully to address, amongst others, the following issues:

- 64.1. Whether the policy could be met by amending the definition of disability for menopausal women and people rather than creating another duty of reasonable adjustment?
  - 64.2. Why the menopause should qualify for different protection above other conditions which do not meet the threshold criteria of the disability such as, say, some mental health issues?
  - 64.3. Whether there would in any event be a need for some threshold criteria to be met before any duty to make adjustments should arise? The duty would not arise in all menopause cases.
  - 64.4. The duty of reasonable adjustment is a burdensome one on businesses and therefore the impact on business of such a duty should be considered.
  - 64.5. The effect on the employability of particular sectors of the workforce if these sectors of the workforce are given enhanced protections.
65. As we set out above if a policy decision was made to create a new protected characteristic would simplify the process for making claims in relation to menopause. However, we would note that some commentators take the view that where the menopause does have substantial day to day impact on a worker that worker would qualify for disability protection in any event.
  66. With direct discrimination claims, there is further difficulty faced by the need for a comparator. In *C Merchant v British Telecommunications Plc* ET/140135/11, a discrimination claim with menopause as the root cause, the correct comparator was a "hypothetical man who had significant performance concerns and an underlying health problem which was understood to be able to effect his concentration at times and be relevant to his poor performance". Not only did that, but for the claimant to succeed, she was required to prove that she was "suffering from a health condition specific to women which was handled differently to other sorts of health conditions that were not female specific."
  67. The overall view is that there is a lack of clarity over how a claim should be brought (age, sex, disability discrimination or health and safety claim) and as a

result people facing menopause related workplace issues do not feel confident that they have the law to protect them and are reticent to raise a claim.

68. Specific legislation making menopause related discrimination unlawful and requiring employers to make reasonable adjustments would make claims technically more simple. If the policy decision was made to make the menopause a stand-alone protected characteristic, in the same way that pregnancy and maternity is that would simplify claims. However, the consultative legislative process would need to consider the impacts of such a policy carefully. The menopause is a life change which every single women, as well as some transgender and non-binary people, may go through although the effects that it may have, which can include seriously debilitating health consequences, are not necessarily the same for everyone who experiences it.
69. If the policy decision was made to simplify the protection of menopausal women and people another alternative would be to bring into force the dual discrimination provisions in the Equality Act 2010, in order to allow a claimant to bring a claim, for example, on the basis that they are an older woman / disabled woman.
70. From our analysis of the Employment Tribunal claims to date, the nub of the issue was lack of understanding by managers of the impact of menopausal symptoms and a failure to make appropriate adjustments. However, a legislative requirement to have particular employment policies and training would be out of kilter with substantive employment law. Instead, there is on any analysis, a benefit to Government supported awareness raising campaigns, with organisations such as Acas and EHRC providing guidance, template policies, free training etc for employers. Such a policy would be good for employers and good for employees.
71. If the policy decision was taken to require employers to do more generally to consider the impact of the menopause on those in the workplace, a requirement for employers to undertake a risk assessment in particular circumstances in a similar vein to the requirement with pregnant workers could be imposed. Again, this would need careful legislative consideration.

## **QUESTION 7**

**How effective has Government action been at addressing workplace discrimination related to the menopause, and what more can the Government do to address this issue?**

72. ELA is an apolitical organisation and so we do not comment on the Government's effectiveness or otherwise in dealing with policy issues.
73. As we have outlined in question 6, legislative changes alongside education and awareness raising will begin to address, with more vigour, discrimination related to the menopause in the workplace.
74. The educational literature available is currently quite limited, so too are supporting guidance documents to assist employers to understand the menopause, its symptoms and their obligations in respect of these employees. This type of best-practice advice is helpful in improving understanding and ensuring a workplace can reduce instances free of discrimination. Acas helpfully published some guidance in 2019 but this is relatively high level. Government papers to date have focused on health aspects save for a research paper in 2017 on the effect of the menopause on women's economic participation. This 2017 paper, 'Menopause transition: effects on women's economic participation', sets out many of the negative effects we highlight here and while it makes recommendations, it is not a guidance document that employers or employees can use.

## **QUESTION 8**

**How effectively is the Government Equalities Office working across Government to embed a strategic approach to addressing the impact of the menopause in the workplace?**

75. ELA is an apolitical organisation and so we do not comment on the effectiveness or otherwise of a Government office's approach to a policy issue.

### **Members of the ELA Working Party**

<b>Name</b>	<b>Surname</b>	<b>Organisation</b>	<b>Chair</b>
Louise	Skinner	Morgan Lewis & Bockius UK LLP	Co-Chair
Eleanor	Mannion	MacRoberts LLP	Co-Chair
Amanda	Okill	Furley Page LLP	

<b>Name</b>	<b>Surname</b>	<b>Organisation</b>	<b>Chair</b>
Emma	Clark	Keystone Law	
Amanda	Steadman	Brahams Dutt Badrick French LLP	
Polly	Rodway	Brahams Dutt Badrick French LLP	
Jenny	Arrowsmith	Irwin Mitchell LLP	
Kirsty	Rogers	DWF LLP	
Alison	Sneddon	GQ Littler	
Vivienne	Reeve	Gowling WLG (UK) LLP	
Neha	Lugg	Freeths LLP	
Lara	Kennedy	Leigh Day	
Anne-Marie	Boyle	Menzies Law	
Anne	Mannix	Spencer West	
Joanne	Owers	DAC Beachcroft LLP	
Victoria	Othen	RPC LLP	
Nikki	Sharpe	Employment Issues Limited	