

The Government confirms it has no plans to make menopause a protected characteristic

With menopause cases reaching Employment Tribunals at a record rate, there had been speculation about whether the Equality Act 2010 (EqA 2010) could be amended to include specific protection for menopause.

06 July 2022

With menopause cases reaching Employment Tribunals at a record rate, there had been speculation about whether the Equality Act 2010 (EqA 2010) could be amended to include specific protection for the menopause.

Baroness Stedman-Scott, the Minister for Work and Pensions and Minister for Women has recently however confirmed that the government is not currently planning to introduce menopause as a protected characteristic under the EqA 2010.

It was noted that the menopause is only relevant to Part 5 of the EqA 2010 covering discrimination in employment and it questioned whether the menopause would 'fit' as a protected characteristic.

Dual discrimination is where someone is discriminated against because of a combination of two protected characteristics. The government also has no plans to implement the dual discrimination provision in s.14 EqA 2010, as it believes protection under existing protected characteristics is adequate and enactment would "introduce unwelcome regulatory complexity and place new costly burdens on business".

Despite this outcome, the government has said they will consult with organisations such as the Equality and Human Rights Commission (EHRC) and the Advisory, Conciliation and Arbitration Service (ACAS) to assess whether current guidance on the menopause adequately reflects the growing body of tribunal caselaw and good practice.

With this in mind, it is important that employers assess the way they support and manage employees who are going through the menopause. If not conducted in a fair way, there may be risks of constructive and unfair dismissal claims as well as discrimination on the grounds of age, sex and/or disability.

Baroness Stedman-Scott stated: "Our key objective is to ensure that women going through the menopause are treated fairly at work by ensuring that employers are fully aware of the challenges faced by these women and their current legal obligations, including under the act."

Employers should therefore ensure that they have systems and support in place to help employees affected by the menopause. Engaging in open dialogue and allowing employees to speak about their health-related issues may help resolve issues early, rather than leading to grievances or costly legal claims. Not implementing positive change may also lead to the loss of talent, productivity of the workforce and reputational damage.

Contact

Mark Hickson

Head of Business Development

onlineteaminbox@brownejacobson.com

+44 (0)370 270 6000

Related expertise

Employment

Employment and pensions for public sector

Employment services for corporates

Employment services for financial services and insurance

Employment services for healthcare

HR services for schools and academies