



WORKMATTERS
The natural choice for human resources

NEWSMATTERS

January 2020



**WELCOME TO THE FIRST NEWSLETTER FOR 2020
AND THE FIRST ONE FOR THIS NEW DECADE**

In This Issue

Our newsletter is issued to you quarterly to ensure that you can be kept up to date with employment issues. We will offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support.

Firstly we look at the changes in national minimum wage which will affect your business during 2020 followed by a brief look at the legislation planned for 2020/21.

This month we have given you some information on Menopause in the Workplace.

We think you'll find the articles very interesting. Please call us on **01442 870742** to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources. Alternatively have a look at our website **www.workmattershr.co.uk** and email us from there or on **carolinebrode@gmail.com**.

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list – thank you.

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CHANGES TO NATIONAL MINIMUM WAGE IN 2020

NATIONAL MINIMUM WAGE RATES

This will increase from £8.21 to £8.72. In practical terms, this will mean a pay rise of 6.2% for a person over 25.

The other rates will increase as follows:

Workers aged 21-24: from £7.70 to £8.20 an hour

Workers aged 18-20: from £6.15 to £6.45 an hour

Workers aged 16-17: from £4.35 to £4.55 an hour

Apprentice rate: from £3.90 to £4.15 per hour

The government also said it will press ahead with recommendations by the Low Pay Commission to allow workers over 21 to receive the national living wage by 2024 when it is set to reach £10.50 an hour.



FORTHCOMING CHANGES

CEO Pay Ratio Reporting

From 1 January 2020, UK listed companies who have in a year, on average more than 250 employees are expected to compare their CEO's most recent remuneration against that of their full time-employees.

Statement of Main Terms (SMTs)

Several changes to the right to receive a written statement of main terms and conditions of employment will apply from 6th April 2020 in respect of new recruits from that date (existing employees may request an amended statement to incorporate the changes).

Employers currently have two months to provide it to a new employee. The grace period will be removed meaning employers will have to give the written statement of terms and conditions to the employee no later than the commencement date of employment.

In addition, more details will have to be included in the written statement of terms and conditions, as follows:

- Duration of and conditions attached to any probationary period.
- All paid leave entitlements (including for example, maternity and paternity pay entitlements).
- All benefits the employee receives (not just pay) including contributions in cash or kind e.g. vouchers and lunch.
- An employee's training entitlement, including whether any training is mandatory and/or must be paid for by the worker.
- The days of the week the employee is required to work on and whether normal working hours are variable or not. If they are variable, information must be included on how they vary or what determines the variation.

Significantly, employers will have to provide a written statement to their 'workers' including "zero hours' workers", as well as their employees. Currently, only employees are entitled to receive this document.

These changes have been implemented via new legislation, following the government's recognition in the "Good Work Plan" that too often issues arise during an employment relationship because both parties were not clear on their rights and obligations from the outset. These changes should be implemented in relation to any new recruit starting work on or after April 6 2020.

Extension of Holiday Pay Reference Period

The holiday pay reference period, which is used to calculate the average pay of those who work irregular hours, will be extended from 12 to 52 weeks from April 2020. It will be important for organisations to keep track of employees' working time throughout the year, including overtime, to ensure they are correctly remunerated whilst on annual leave.

End of Swedish Derogation Contracts

Organisations will no longer be able to make use of Swedish derogation contracts from 6 April 2020 as these contracts, which allow employers to avoid providing agency workers with equal pay after 12 weeks' of an assignment, will become unlawful.

Agency Workers

From 6 April 2020, agency work-seekers will have a right to receive a key information document to help them make informed choices about the work they accept. This document is required to clarify specific matters including the type of contract the worker is employed under and their minimum rate of pay.

Increase to Minimum Wage

As national minimum wage (NMW) rates are reviewed each year, it is reasonable to expect an increase to the existing rates in April 2020. The government has previously pledged to ensure those aged 25 and over will be entitled to a minimum of £10.50 per hour by 2024.

Parental Bereavement Leave

The right to parental bereavement leave will also become effective in April 2020. Although no exact date has been confirmed, we know that qualifying parents will be entitled to two weeks of paid bereavement leave following the death of a child under the age of 18.



"Disguised Employees": The IR35 Reform to the Private Sector – April 2020

The new tax rules (known as the "off-payroll" working rules) are set to apply from 6 April 2020. These will apply to all public sector clients (regardless of size) and medium or large-sized private sector businesses (i.e. those who meet 2 or more of the following criteria: their annual turnover is more than £10.2 million, their balance sheet total is more than £5.1 million or they have more than 50 employees). This means that small businesses are exempt from the new rules. From that date, the business using the worker's services will be responsible for deciding their worker's employment status. Where the worker is employed for tax purposes after applying the IR35 test, the fee payer (client) will be responsible for deducting employment taxes. The new rules apply if a worker provides services to a client through an intermediary (which is usually the worker's own company i.e. personal service company), but would be classed as an employee if they were contracted directly. HMRC has published an updated Check Employment Status for Tax (CEST) tool online.

Government Pledges

Although there have been no fixed implementation dates, the government have pledged to improve redundancy protection for working mothers and alter existing legislation around the use of non-disclosure agreements. We are also expecting the results of separate

consultations on preventing sexual harassment as well as restructuring the availability of family friendly entitlements and statutory sick pay. However, it is worth remembering that much of this will depend on the new Conservative majority in government.

This year we can expect the following:

31 January 2020	Date the UK is expected to leave the European Union
April 2020	Paid parental bereavement leave expected to be introduced
6 April 2020	Changes to taxation of termination payments
6 April 2020	New law prohibiting use of Swedish derogation agency contracts takes effect
6 April 2020	New law lowering the threshold required for information and consultation requests takes effect
6 April 2020	New day-one right to a written statement of main terms and conditions for workers and employees comes into force
6 April 2020	Amendments to mandatory information required within a statement of main terms and conditions comes into force
6 April 2020	New law extending the holiday pay reference period to 52 weeks takes effect
6 April 2020	New law requiring employment businesses to provide all agency workers with a Key Information Document takes effect
6 April 2020	IR35 update: large and medium sized organisations in the private sector who engage contractors through intermediary companies will be responsible for assessing the employment status of those contractors.
30 April 2020	Deadline for agency workers on Swedish derogation agency contracts to be provided with an explanatory statement
30 December 2020	EU Settlement Scheme closes to applicants in the event of a no-deal Brexit.
1 January 2021	New immigration scheme comes into force for all applicants regardless of nationality
30 June 2021	EU Settlement Scheme closes to applicants in the event of a Brexit deal.
Mid-2020s	Reforms to automatic enrolment to be introduced
To be confirmed	New law prohibiting confidentiality clauses in contracts or settlement agreements from preventing disclosures to the police, regulated health and care or legal professionals to be introduced
To be confirmed	New law requiring confidentiality clauses to set out their limitations to be introduced
To be confirmed	Laws on criminal record disclosures to be amended, reducing the disclosure period for sentences lasting four years or less
To be confirmed	Redundancy protection for new parents to be extended
To be confirmed	New law introducing right for all workers to request a more predictable and stable contract after 26 weeks' service to be introduced
To be confirmed	New law to increase break in continuous employment from one week to four weeks to be introduced
To be confirmed	New law preventing deductions from 'tips' to be introduced
To be confirmed	New legislation to clarify employment status tests to be introduced
To be confirmed	New law introducing tribunal sanctions where organisations commit repeated breaches to be introduced
To be confirmed	Extension of shared parental leave to grandparents



NEW ACAS GUIDANCE ON MENOPAUSE

This once taboo topic has been high profile lately. Half of the population will go through the menopause and yet it has historically been off limits as a discussion topic. Menopause is more important now than ever with older workers expected to stay in work for longer. ACAS have produced some practical guidance on handling menopause in the workplace.

The guidance goes through what menopause is and the potentially debilitating symptoms it

can produce for women. It suggests potential adjustments, from providing desk fans and extra rest breaks to being flexible about start and finish times.

Handling menopause symptoms carefully is essential rather than good practice. Menopause symptoms have been accepted as a disability in tribunal proceedings. Handling things badly could also result in age and sex discrimination claims. Managing menopause effectively will

help you retain your best talent and reduce recruitment costs.

The main message from the guidance is the importance of openness about the subject and understanding of its effect. Key to this is creating an environment where employees feel confident to raise the subject. A policy is helpful in starting the conversation and educating staff at all levels. Read the guidance here:

MENOPAUSE AT WORK

Overview

Managing the impact of the menopause at work is important for both workers and employers. For the worker experiencing symptoms:

- it can be a difficult and stressful time
- a very sensitive and personal matter

For their employer:

- it is a worker health and wellbeing concern
- a matter needing particularly careful handling

What is the Menopause?

The menopause is a natural stage of life for women, usually in their late forties/early fifties. It can also happen earlier or later. For many women symptoms last about four years, but in some cases can last longer – up to 12 years. Part of the process includes what is termed the ‘perimenopause’ when a woman’s body is starting to change in the build up to the menopause. The perimenopause usually starts in the mid-forties, but can start earlier or later and last several years. The perimenopause is not the same as an early menopause.

Perimenopausal and menopausal symptoms already affect a substantial number of workers. That number is expected to grow considerably, with more older workers forecast to stay in or go back to work. Also, employers should be aware that certain surgery, rather than natural ageing, will trigger the menopause in a woman.

In addition, employers should be aware that a trans man – someone who proposes to go through, is going through or has gone through a process, or part of a process, to change their gender from woman to man – may go through perimenopausal and menopausal symptoms.

What Can Be the Symptoms?

The number of symptoms can vary from person to person, and range from very mild to severe. Some symptoms of perimenopause and menopause can be the same. They include:

- difficulty sleeping and night sweats
- feeling tired and lacking energy
- mood swings
- feeling anxious and panic attacks
- hot flushes
- struggling to remember things, concentrate and focus
- taking longer to recover from illness
- irregular periods which can become heavier
- aches and pains including muscle and joint stiffness
- urinary problems
- headaches including migraines
- putting on weight
- noticeable heartbeats
- skin irritation
- dry eyes

If a worker does not get the help and support they need, it is increasingly likely that the effects of the menopause can, for example, lead to them:

- feeling ill
- losing confidence to do their job
- suffering from mental health conditions such as stress, anxiety and depression
- leaving their job

The Early Menopause

As many as one in 20 women may go through an early menopause. It may happen for various reasons, including if a woman has had certain medical conditions and health treatment.

Employers, managers, supervisors and team leaders need to be aware that medically this can be a complicated area, and they should take this into account in supporting a worker through the menopause.

To find out more about early menopause, go to the National Health Service at www.nhs.uk/conditions/early-menopause.

Surgical Menopause

Surgical menopause is triggered by the removal of a woman's ovaries, even if she is young.

Menopause symptoms will start straight away after the surgery if the woman has had both ovaries removed. If the woman has lost only one ovary, there is a chance the symptoms will start within five years of the surgery. Ovaries are part of a woman's reproductive system.

Surgical menopause can increase the risks of cancer, heart disease, weaker bones, depression and anxiety.

To find out more about surgical menopause, go to the National Health Service at www.nhs.uk/conditions/hysterectomy/considerations/.

Why Many Workers Do Not Reveal Their Menopause Symptoms

Currently, many workers do not disclose their menopausal symptoms at work. In addition, many who take time off work because of the menopause do not tell their employer the real reasons for their absence. For example, this can be because the worker feels:

- their symptoms are a private and/or personal matter
- their symptoms might be embarrassing for them and/or the person they would be confiding in
- they do not know their line manager well enough
- wary because their line manager is a man, or younger or unsympathetic

Other worries include that:

- their symptoms will not be taken seriously
- if they do talk, their symptoms will become widely known at work
- they will be thought to be less capable
- their job security and/or chances of promotion will be harmed

Make Sure Health and Safety Checks Are Suitable

An employer must minimise, reduce or where possible remove workplace health and safety risks for workers. This includes:

- ensuring menopausal symptoms are not made worse by the workplace and/or its work practices

- making changes to help a worker manage their symptoms when doing their job

An employer must generally assess health and safety risks for workers. Regarding the perimenopause and menopause, an assessment should, for example, include:

- the temperature and ventilation in the workplace
- the materials used in an organisation's uniform, if there is one, and whether the uniform might make a worker going through the perimenopause or menopause feel too hot or worsen skin irritation
- somewhere suitable for the worker to rest
- whether toilet and washroom facilities are easily available
- whether cold drinking water is easily available

To find out how to carry out a health and safety risk assessment, go to the Health and Safety Executive at www.hse.gov.uk/risk.



Develop a Policy and Train Managers

It is advisable for an employer to develop a policy and train all managers, supervisors and team leaders to make sure they understand:

- how to have a conversation with a worker raising a perimenopause or menopause concern
- how the perimenopause and menopause can affect a worker
- what support and/or changes for the worker might be appropriate
- the law relating to the menopause

A worker knowing their organisation's managers are open and trained to talk and listen sensitively about the effects of the perimenopause and menopause, and consider support, should give them the confidence to approach their manager. Also, it is advisable for an employer to raise awareness among all staff that it will handle menopause in the workplace sensitively, and with dignity and respect.



Give a Worker the Option of Talking Initially to Someone Other Than Their Manager

If a worker feels unable to broach the subject with their line manager – for example, because they feel their symptoms are too personal – the

worker could be given the option of talking initially to someone else with the necessary knowledge and training. For example, options might include:

- a member of the human resources team, if the organisation has such a department
- a trade union representative, if there is one in the workplace
- a counsellor from the employer's employee assistance programme, if it has one
- a menopause or wellbeing champion, if the organisation has one.

Carefully Manage Sickness Absence or a Dip in Job Performance

Managing absence from work should be handled sympathetically because the menopause is a long-term and fluctuating health change. Further, employer and worker should be prepared to make changes to help the worker continue to work, and minimise, reduce or remove any dips in their job performance because of symptoms.

A worker should also be given a reasonable amount of time to adjust to changes.

In an employment tribunal, menopause symptoms have been accepted to be a disability. Consequently, it is advisable, as well as being good practice, for an employer to consider making changes for a worker experiencing perimenopausal or menopausal symptoms.

If a worker is off sick because of the menopause

or perimenopause, the employer should record these absences in a way that can be distinguished from other absences. This is because there may be times when it could be unfair or discriminatory to measure menopause-related absence as part of the worker's overall attendance record.

There are risks of disability discrimination and/or sex discrimination, and/or age discrimination if a worker is mismanaged because of their menopause or perimenopause symptoms.

Consider Having a Menopause or Wellbeing Champion in Your Workplace

This person could be a point of contact for both workers and managers who need advice, or initially someone to talk to. The champion, maybe working with human resources and/or occupational health, might also help:

- run workshops in their organisation to raise awareness among workers and managers
- let all staff know, through steps such as posters, that the employer will try to support workers having difficulties because of symptoms
- check that health and safety risk assessments are suitable regarding the perimenopause and menopause
- set up a support network for staff
- tell workers and managers where they can find more information

HOW THE EMPLOYER AND WORKER TOGETHER CAN FIND SOLUTIONS

Know How to Talk About the Menopause...

Both the employer and worker may find the menopause and perimenopause difficult topics to discuss as they are sensitive and personal. It is likely to be particularly difficult if the manager has not been trained how to have such a conversation. Also, the manager needs to be aware not to be discriminatory. The conversation should be confidential, friendly, honest, in private, and where both manager and worker feel as relaxed as they can in the circumstances, and where they will not be disturbed.

As a manager, you should find it easier to talk with a worker, if you:

- know them because you already have regular one-to-one contact with them in the course of their work, and trust and respect one another

- have been trained to understand what the range of menopause and perimenopause symptoms can be and their effects
- have been trained to have sensitive conversations
- know senior managers in your organisation will support workers experiencing menopause and perimenopause symptoms
- know that a worker's concerns will be taken seriously and dealt with fairly

Also, the manager should understand:

- the organisation's policy on the menopause and perimenopause at work, if it has one
- their individual role in the situation
- the range of support available in the organisation

- that effects of the menopause and perimenopause can vary widely from person to person
- consequently, that the changes required to help support a worker can vary from person to person



The manager must leave it to the worker to disclose their concern. A manager can ask general questions, such as 'How are you?', but the manager must not ask them if they want to talk about the menopause or perimenopause, or suggest they might be experiencing symptoms. And a manager should respect a worker's wish for privacy.

As a worker, if you are having difficulties at work because of symptoms, you could:

- speak to someone at work, possibly your line manager, about your concerns
- ask what support could be offered to help you manage your symptoms when doing your job

If you want some information about the effects of your symptoms to be shared, your manager should talk with you about:

- what you want and don't want your colleagues to know
- who will be told and who will do the telling

These must be the worker's decisions, without any pressure from the manager. Both employer and worker can find it helpful to keep a written record of what they have agreed about confidentiality or the sharing of information. Also, the worker could join a menopause support network at work, if there is one, for moral support and advice. Further, they may want the support of a trade union representative.

Agree Changes at Work

There should be steps towards agreeing changes at work to help a worker manage their symptoms when doing their job:

- **Step 1** – a worker with concerns about the menopause or perimenopause may already have talked to their GP and/or a medical specialist, and may have talked too to the organisation's menopause or wellbeing champion, if there is one.
- **Step 2** – the worker's line manager should be involved in confidential discussions with the worker, perhaps with the menopause or wellbeing champion or HR's support, about their menopause or perimenopause concerns, the effects they are having difficulties with and how they might need support.

Perhaps with the help of the champion, HR or an occupational health specialist, the line manager and worker should discuss changes which would help the worker manage their symptoms when doing their job.

If the line manager does not have access to a menopause or wellbeing champion, an

occupational health specialist, or HR support, they need to make sure they are objective and knowledgeable in discussing, considering and agreeing changes.

Remember, the worker may prefer to talk initially to someone other than their line manager. See this guidance's earlier section, **Give a worker the option of talking initially to someone other than their manager**. However, their manager will need to be involved in agreeing any changes.

- **Step 3** – agree changes in writing and to have follow-up discussions to make sure the changes are working for both worker and employer.
- **Step 4** – follow-up discussions need to be whenever necessary, as a worker's symptoms can fluctuate and/or alter. This means the adaptations at work may need to change.

Changes, for example, might be as simple as:

- providing a fan
- allowing the worker to take breaks when needed
- providing a private area where the worker can rest for a while to help manage their symptoms
- moving the worker's desk close to a window that opens
- being flexible where possible over the worker's start and finish times to help them manage their symptoms
- allowing them to work from home when practical
- allowing the worker time off if they cannot carry on working that day



Alternatively, both employer and worker might discuss and agree other changes which should be reviewed if the worker's symptoms alter. For example:

- changing certain duties in the worker's role
- the worker moving to a more suitable role in the circumstances
- the worker going part-time
- the worker switching to a job share

If an employer feels, or an employment tribunal decides, that the effects of an employee's menopause amount to a disability, see the section, [Disability discrimination](#), further into this guide. It is good practice for an employer to allow a worker to go to medical appointments, including about menopausal or perimenopausal symptoms. However, there is no right in law for time off, but the worker may have a right to paid or unpaid time off in their terms and conditions of employment.

Menopause and the Law

There are two main strands of law that may relate to the perimenopause and menopause:

- The Equality Act 2010 protects workers against discrimination. This includes because of their sex, a disability and their age
- The Health and Safety at Work Act 1974 says an employer must, where reasonably practical, ensure health, safety and welfare at work

Risks of Sex Discrimination, Disability Discrimination and Age Discrimination

Menopause and perimenopause are not specifically protected under the Equality Act. However, if a worker is treated unfairly because of the menopause and perimenopause, this may amount to discrimination because, for example, of their sex and/or a disability, and/or their age.

Sex discrimination: Unfair treatment of a worker because of their sex could lead to a discrimination claim. For example, this is likely if an employer treats a woman's menopause or perimenopause symptoms less seriously than it would a male worker's health condition when considering a drop in job performance.

Also, for example, unwanted comments, jokes, banter or ridicule about a woman's menopause or perimenopause symptoms could amount to harassment, or sexual harassment depending on the nature of the unwanted behaviour.

To find out more about sex discrimination, see the Acas guide, **Sex discrimination: key points for the workplace** at www.acas.org.uk/sexdiscrim.

Disability discrimination: A worker's menopause or perimenopause could potentially be regarded as a disability by an employment tribunal. If a worker has a disability, an employer must consider making changes to reduce or remove any disadvantages the worker experiences because of it. Regarding disability, the law calls these 'reasonable adjustments'. An employer must make adjustments if they are reasonable. For example, this might include an employer agreeing to record a worker's absence because of the menopause or perimenopause separately from other illness absence. Also, disability law protects a worker against what is termed 'discrimination arising from disability'. This is where a worker is treated unfairly, not because of their disability, but because of something linked to it. For example, this could include a worker being dismissed because they forgot to do a task set by their employer. And this is when they have become forgetful and confused as a result of anxiety caused by their menopause. Their anxiety would have to meet the Equality Act definition of disability.

To find out more about disability discrimination, see the Acas guide, **Disability discrimination: key points for the workplace** at www.rg.uk/disability.

Employers may wish to bear in mind that the not-for-profit organisation, Business Disability Forum, advises employers against wrestling with whether the effects of a health condition amount to a disability under the Act. Instead, it encourages them to focus on making 'reasonable adjustments'.

Age discrimination: Workers are protected against unfair treatment because of their age. This may include unfair treatment of workers because they are going through the perimenopause or menopause which are usually in their mid-forties to early fifties.

Health, Safety and Welfare at Work

Managing the effects of the menopause and perimenopause includes making sure health and safety checks are already in place, are regularly carried out, and risks minimised, reduced or where possible removed.

Managing Colleagues of a Worker Being Supported Through the Menopause

A manager making changes to support a worker going through the menopause or perimenopause may find that some of their colleagues, particularly those not going through the menopause or perimenopause, may complain that the worker is being treated more favourably – for example, being allowed extra breaks, or flexibility over start and finish times on some days. Some may ask for similar flexibility. The manager should bear firmly in mind that they agreed the changes for the worker experiencing the menopause or perimenopause to support them through the health change. This does not mean the manager must or should then automatically make the same changes for other members of the team. The manager should deal delicately with such a circumstance and respect wishes for privacy of the worker experiencing the menopause or perimenopause. This means the manager should not be drawn into giving information or details they had agreed to keep confidential.

Business Reasons Why an Employer Should Handle the Menopause Sensitively

It is very much in the interests of an organisation to support workers with perimenopausal and menopausal symptoms in the workplace. As well as being an important health and wellbeing matter, managing menopause in the workplace sensitively and effectively will help an employer retain and recruit skills and experience.

An employer should bear in mind that currently around one in eight of the British workforce are women over 50. By 2022 it is forecast that around one in six will be women over 50.

Most women over 50 will have, or have had, perimenopausal or menopausal symptoms that affect their work. For one in three the symptoms will be severe. For one in four the symptoms will be mild.

Avoiding a Claim Being Made to an Employment Tribunal

This guidance may help an employer avoid a discrimination claim related to the menopause being made to an employment tribunal.

However, if a worker or job applicant feels they have been treated unfairly they may be able to make a claim to an employment tribunal. It's best they talk to their employer before doing this to try to sort out the matter informally, without going to a tribunal. Workers, though, need to be aware there is a time limit for making a claim.

REF – ACAS Guidelines for Menopause – <https://archive.acas.org.uk/index.aspx?articleid=6752>.



Thank you for taking the time to read our Newsletter which I hope you found informative An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in April 2020.

May you have a Happy and Prosperous New Year.