

MENOPAUSE DISCRIMINATION

As you may know October is Menopause Awareness Month as designated by the International Menopause Society to raise awareness about the menopause and the impact it can have on individuals going through it, as well as their family, friends and colleagues.



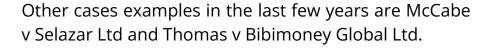
As menopause awareness grows we are seeing more menopause-related claims come through the Employment Tribunals. This is consistent with general employment claim trends as recent <u>Government statistics</u> show the number of claims Employment Tribunals receive is on the rise, with initial 2025 figures indicating an increase of 21% from last year. Moreover, with the Employment Rights Bill proposing to increase the Tribunal limitation period for making a claim from three months to six months, we anticipate the number of claims received by Tribunals are only set to rise in the future.

Menopause itself is not currently a protected characteristic under the Equality Act 2010, however certain protected characteristics like sex, age and disability are typically linked to the menopause and those experiencing menopause may be able to bring separate discriminations claims in relation to each existing protected characteristic as applicable.





Our <u>September 2023 Employment Law Newsletter</u> highlighted a case involving menopause-related discrimination, Lynskey v Direct Line Insurance Services Limited. In this case Mrs Lynskey successfully brought claims for Direct Line's failure to make reasonable adjustments and for discrimination arising from a disability when they disciplined her for performance issues directly linked to menopausal symptoms she was experiencing. She was awarded compensation of £64,645.07.





In McCabe v Selazar Ltd, Mrs McCabe's claim of direct age discrimination succeeded. During a conversation about workload and office-demand, Mrs McCabe was criticised by the CEO of Selazar Ltd who told her she needed to step up to the mark. Mrs McCabe responded to say that she only had one pair of hands, to which the CEO said "calm down... don't let the hormones get out of control".

The Tribunal deemed the CEO's comment as clear evidence he viewed Mrs McCabe as a menopausal woman, i.e. an older woman. The Tribunal also heard that the CEO instructed his recruiter to replace Mrs McCabe with a younger person who was more in tune with a tech start-up company. Both comments by the CEO were found to be age discrimination. The assumption that Mrs McCabe was menopausal due to her age, and the connotations the CEO attached to this in not being as tech-savvy, ultimately led to her claim being successful.







In the case of Thomas v Bibimoney Global Ltd Ms Thomas' claims of sex and age discrimination, along with age-related and sexual harassment, were successful. Ms Thomas was a Director and CFO of Bibimoney Global Ltd. When the company was experiencing financial concerns, Ms Thomas suggested a proposal to buy out the remaining shareholders. The Company's founding member and majority shareholder, Mr Jessa, told a colleague that Ms Thomas was acting this way because she was menopausal.

This had a profound impact on Ms Thomas who was very upset by the comment, and the Tribunal decided that Mr Jessa would not have made such a comment about a male or younger female comparator, hence her claims were successful.

Discrimination claims can be complex and very expensive to defend if one lands on your doorstep. Our top tips for avoiding menopause discrimination claims in the workplace are as follows:

- Implementing a robust menopause policy. The policy should include a summary of what the menopause is and confirmation that all staff are expected to be aware of this so they can support those experiencing or affected by it. The policy should also appoint designated members of staff who anyone affected by the menopause can speak to for support, and make provision for conducting risk assessments to consider any aspects of the working environment that may worsen menopausal symptoms;
- Training staff on the menopause. Training for managers is a must-have to ensure they can talk and listen sensitively, find ways to give support and have knowledge of the menopause and its impact, although best-practice is to offer training for all members of staff; and
- Early and proactive HR intervention. If issues arise then it will be important to deal with them quickly and effectively to prevent disputes or claims. With the launch of our new HR Support Service we are happy to guide on steps you can take to help diffuse the situation and reach resolution.



HOW CAN WE HELP?

Our employment team and associated HR service can support you in a variety of ways.

Specifically in relation to the content of this article our experienced employment team can also provide:

- Guidance and support on complying with legal obligations, resolving complaints of discrimination should they arise and defending any Employment Tribunal proceedings
- Alongside trusted external partners, we can assist with any internal staff training needs on the menopause

You should seek legal advice before relying on the content of this article as every situation is different and employment law is ever changing.



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