



Do you employ staff?

Employment Law and HR Update - July 2022

In this HR Update we update you on a recent change to the documents you can use to conduct a manual 'right to work' check and confirm the deferment of the implementation of identify document validation technology, which will enable employers to conduct digital document checks in the future. We also discuss menopause in the workplace and what best practice steps employers can take.

Right to Work Checks

Right BRCs, BRPs and FWPs removed from List A and List B

From 6 April 2022, employers were unable to accept physical cards for the purposes of carrying out a right to work check, even if the card showed a later (than 6 April 2022) expiry date. Biometric Residence Cards (BRCs), Biometric Residence Permits (BRPs) and Frontier Worker Permits (FWPs) were removed from List A and List B (the lists of acceptable documents used to conduct a manual right to work check) and BRC, BRP and FWP holders must now evidence their right to work using the Home Office online service only. There is no need to carry out retrospective checks on card holders (employed before 6 April 2022) and employers will maintain a statutory excuse against any civil penalty if the initial checks were undertaken in line with the guidance that applied at the time the check was made.

Identification Document Validation Technology (IDVT) to be deferred until 1 October 2022

The temporary adjustments made during the Covid pandemic which allowed for right to work documents to be checked virtually rather than manually has led to the introduction of new Identification Document Validation Technology (IDVT) which will enable digital document checks for British and Irish Citizens with a valid passport (or

Irish passport card). The deferral of the IDVT implementation date (to 1 October 2022) will provide employers with time to research identity technology service providers and make the necessary internal changes to their pre-employment checking process or to revert to manually checking physical documents.

The options from 1 October 2022 will be as follows:

- Manual checks of physical documents.
- IDVT checks for British and Irish citizens documents.
- Home Office online right to work service. Checks using this service do not require a check of physical documents and can be carried out by video, as right to work information is provided in real time direct from Home Office systems.

A statutory defence against a civil penalty will be maintained if the check undertaken between 30 March and 30 September 2022 (inclusive) was done in the prescribed manner or as set out in the Covid-19 adjusted checks guidance. However, any individual identified with no lawful immigration status in the UK may be liable to enforcement action.

Menopause in the Workplace

The Legal Position

Whilst there is no current legal requirement to introduce a specific 'Menopause in the Workplace Policy', it is a subject which is now more openly discussed both in general terms, and how it relates to the workplace.

Whilst the menopause is not considered (and is unlikely to be considered) a disability under the Equality Act 2010, it is important to be aware that it may lead to the development of other conditions which could be considered disabilities, therefore the Act could provide protection from discrimination on the grounds of disability, as well as protection from discrimination on the grounds of age, sex and gender reassignment. Employers are also legally required to ensure they consider the health, safety and welfare of all employees at work under the Health and Safety at Work Act 1974.

Therefore, whilst there is no legal requirement to act, it is important that employers take a positive and proactive approach to understanding what the menopause is, how it may affect the health and wellbeing of their employees and what steps can be taken to support employees.

What is the menopause?

The menopause is a natural stage of life which affects most women and other people who have a menstrual cycle. This can include trans people (an umbrella term used to describe people whose gender is not the same as the sex they were assigned at birth) and people with 'variations/ differences of sex development' (DSD/VSD). It is important

for employers to be aware of all the people who might go through the menopause and menopause symptoms and to support them all equally. The menopause usually happens between 45 and 55 years of age but it can also happen earlier or later and for many people symptoms last about 4 years, but in some cases, symptoms can last a lot longer. There are 3 different stages to the menopause: the peri-menopause, the menopause, the post-menopause. Some people might also experience early menopause or go through medical menopause earlier in their lives. These types of menopause can be medically complicated, so employers should consider this when supporting their employees. All stages and types of the menopause are different, and symptoms can vary from person to person, and range from very mild to severe.

How it may affect the health and well-being of employees

Physical symptoms can include (but are not limited to) hot flushes, fatigue, insomnia and headaches and negative mental health symptoms can include (but are not limited to) mood swings, anxiety, and depression. For those experiencing symptoms it can be a difficult and stressful time. Everyone will experience the menopause differently and for some people, symptoms can be quite severe. The menopause can also have an indirect impact on those supporting someone going through the menopause, for example a relative, partner, colleague or carer.

What steps can be taken to support employees

Taking a positive and proactive approach to managing the menopause at work may help employers to retain valued staff and improve staff wellbeing. Supporting employees can involve simple steps including providing the ability to control the temperature in the work environment, allowing access to separate or accessible toilet facilities, avoiding tasks such as heavy lifting where employees are fatigued, allowing uniform alternatives where applicable, temporarily reducing working hours and making adjustments to absence management and performance management processes.

By creating a supportive and positive environment employers may prevent their employees from losing confidence in their skills and abilities, feeling as though they need to take time off work, having increased negative mental health symptoms, or leaving their employment altogether.

Developing a policy and updating risk assessments

To support employers, we have developed a 'Menopause at Work Policy' which can be introduced to communicate the Company's position, educate, and increase awareness and support the wellbeing of all impacted employees. It is also advisable, from a health and safety perspective, to review the Company's existing risk assessments to ensure they consider any risks associated with the menopause at work.

How Can We Help?

If you have any queries relating to the content of this newsletter, or any other HR related topic, please do not hesitate to contact us at hradvice@hasslefreehr.co.uk.