This document provides general information for people with migraine, their colleagues, managers, trade unions, human resource (HR) departments and occupational health (OH) professionals about ways to manage migraine in the workplace. This document provides general tools and guidance on matters they may wish to raise in the workplace either on their own behalf or on behalf of a person with migraine.

Contents

What is migraine?  3
Migraine in the workplace  4
Employers’ responsibilities and good practice  6
The Equality Act 2010  7
Dealing with issues that may occur  13
Further information and resources  14

For further information, visit The Migraine Trust website www.migrainetrust.org or email advocacy@migrainetrust.org

This document has been reviewed by David Cubitt, a Partner at Osborne Clarke, an international law firm. David is a Trustee of The Migraine Trust.
Migraine is a complex neurological condition with a wide variety of symptoms. For many people the main feature is a severe throbbing headache which can last from four to 72 hours. Other symptoms may include disturbed vision, sensitivity to light, sound and smells, feeling nauseous and vomiting.

The symptoms will vary from person to person and individuals may have different symptoms during different attacks. Migraine attacks may differ in length and frequency and most people are free from symptoms between attacks. Migraine can have an enormous impact on work, family and social lives.

The complex nature of migraine means that the treatments available are varied and differ from person to person. There is currently no cure for migraine.

Keeping a migraine diary

Keeping a migraine diary can help to get a diagnosis, identify trigger factors and attack warning signs, and monitor the effectiveness of treatments. More information about keeping a diary and a diary page template can be found via The Migraine Trust website www.migrainetrust.org

Additional support

See our other resources:
Help in further and higher education
Help with welfare benefit rights
at www.migrainetrust.org
One in seven people experience migraine. Some may have migraine attacks only once or twice a year while others may have attacks two or three times a week. There is still considerable stigma regarding the condition.

The impact of migraine on the workplace presents a serious issue for employers as well as the individual. Migraine headaches typically last between four to 72 hours and the associated symptoms may last a few days longer. Symptoms can cease in-between attacks which means employees are often able to return to work.

Employers are keen to monitor and manage short-term sickness which can be disruptive to staff, increase pressure on managers and affect deadlines and targets. Migraine is unfortunately used as a common excuse for taking sick leave at work. The notion of ‘pulling a sickie’ has done a great disservice to people who experience migraine which means that genuine absence due to migraine and the support an employer can provide, are not always appropriately addressed or considered. Sickness absence policies and monitoring tools which focus on reducing frequent short-term absence often unfairly penalise people with migraine who are unaware of their rights and the support that may be available to them.

Despite the severe pain experienced during an attack, many people will avoid taking sick leave and will continue to attend work. This is known as presenteeism, when an employee attends work despite being unwell. This is common amongst people living with migraine. A person may even attend work while having a migraine attack due to fear of facing a disciplinary hearing or a capability procedure for sickness absence. Concerns about being seen as unreliable or worries that others may consider they are faking it are also factors.

Dame Carol Black’s 2008 review ‘Working for a healthier tomorrow’, details the benefits for employers and the economy by supporting and managing the health of employees with long-term health conditions such as migraine. Promoting employees’ good health and well-being adds value to an organisation by increasing motivation and engagement of staff which has a positive impact on productivity. Failing to support the retention of staff with long-term health conditions can lead to significant costs in terms of training and development, redundancy or other termination costs (and possible litigation and employment tribunal awards) as well as recruitment costs and poor morale and productivity amongst the workforce. Employees and employers both have a role to play in ensuring that the right support is in place clinically and in the workplace so that an individual with migraine can retain their employment and achieve their full potential.

Information resource

Consider contacting The Migraine Trust Advocacy Service on 0203 9510 150 or visit www.migrainetrust.org

Further sources of external, general information are included at the end of this document.

Why should an employee tell an employer about a migraine condition?

An employer is less able to provide support and understand a condition if they are not informed that an employee experiences migraine. This can sometimes feel like a daunting prospect and an employee may be anxious about how their employer will react. Talking to an employer will help them to understand how migraine affects a person. This could result in a manager and colleagues being more supportive and introducing positive changes to help employees who experience migraine at work.
When should an employee make known their migraine condition?

When starting new employment:

- An employer cannot ask questions about a potential employee’s health until after a job offer has been made (this came into force in October 2010). This is to prevent unlawful discrimination against disabled people or those with health conditions during the recruitment process. The only exception to this is if pre-employment questions need to be asked to establish whether the applicant can fulfil a function intrinsic to the job role.

- Employers are allowed to ask applicants if they require any adjustments to the interview process to prevent disabled applicants from being put at a substantial disadvantage. For example, a person with migraine may ask for a glare filter screen to complete a computer-based test during the interview if required.

- Once a conditional job offer has been made an employer can ask questions about any health conditions that may impact on an employee’s workload. They may also ask for previous sickness records. A new employer must consider how to make reasonable adjustments to enable a new or existing employee to fulfil their role. A new or existing employee may be asked to have an OH assessment at this point. An employee is entitled to ask their employer to consider making reasonable workplace adjustments.

During employment

- An employee may choose to tell an employer during their employment if they have migraine issues. The severity or frequency of migraine attacks may have changed. A job role or the work environment may be exacerbating an employee’s condition, and they may want to discuss the support that an employer can provide for them.

- An employer may want to talk to an employee about their migraine issues if they experience an attack at work or at a return to work meeting if sick leave has been taken. An employee can also request a discussion.

- Before approaching a manager or HR about migraine issues, an employee may want to speak with an OH or their GP or neurologist to explore suggestions regarding the support an employer could provide.

- Assistance may be available from a trade union or via an employee seeking legal advice.

- If an employee discusses their health with their manager or HR it is a good idea to keep a note of what is said and of any agreed outcomes following the discussion. If an employer does not provide a written summary of the discussion, an employee or their representative can send a note to the relevant manager or HR asking them to confirm that their notes accurately reflects what was said and agreed.

- An employee may also be asked to attend an OH meeting or provide a report from their GP or neurologist to provide further information on how migraine will affect their work and advice on adjustments to improve the workplace.

- Migraine symptoms can vary and keeping an employer informed about this can help them to understand how to support colleagues appropriately.
Employers have legal obligations for the health and safety of their staff:

- The Health and Safety at Work etc. Act 1974 sets out employers' responsibilities for the health and safety of their employees. Employers should carry out risk assessments of the workplace and take reasonable steps to ensure that workplace factors do not cause or exacerbate poor health. This includes assessing and monitoring stress factors that may impact on individuals in the workplace.

- The Equality Act 2010 promotes equality and the prevention of unlawful discrimination in the workplace, including unlawful discrimination against those who are disabled within the meaning of the Act. More information about the Act is available in this document.

Managing sickness absence

Most employers will have policies and procedures in place to record, monitor and measure sickness absence amongst staff. Sickness absence procedures can be problematic for people with migraine as they typically make specific provision for frequent short-term absences. This can result in people with migraine being monitored or disciplined for unavoidable sickness absence as procedures often use frequent short-term absences as a trigger for an underlying problem which needs to be investigated.

Due to the nature of migraine, people with the condition are more likely to require short-term sickness absences for example if a debilitating attack occurs during working hours.

If a sickness absence record becomes concerning to an employer, they may ask for information from their employee's GP or neurologist. They may ask that person to visit OH (please see above, in relation to examinations and reports from medical professionals). The manager or HR may ask to meet with the employee to discuss this information, how the migraine impacts on their work and ways that they can support the employee affected by migraine issues.

An employee may also seek assistance from an employee’s union representative (if applicable) or that they take legal advice if they are concerned about how sickness absence is currently being managed by their employer.

An employee’s manager or HR may ask an employee to attend a return to work meeting following an episode of sickness from work due to migraine. Return to work meetings are a good opportunity to discuss any concerns and for an employer to identify how migraine issues can be managed. If an employee has been on a long-term sickness absence, an employer may discuss a return to work plan to support an employee to return to work over a period of time. Return to work meetings should be noted, by the employee, their manager or HR. As detailed above it is a good idea to send a copy of notes to the manager or HR involved to confirm that all notes taken accurately reflect any discussion. Where a manager or HR makes a note, it is a good idea to request a copy and to suggest changes to it, if the employee feels it does not reflect their recollection of the discussion. The employee can request a copy for their own records.

OH departments provide advice to employers about work-related health matters. Employers can refer staff members to OH if their migraine issues impact on their work or cause an employee to take sickness absence. An OH practitioner will conduct an assessment and provide a report to the employer. In advance of this appointment, OH may request that the employee’s GP or neurologist provides details of any relevant medical history. It may be helpful for an employee to meet with their GP or neurologist to discuss support needs at work. If an employer does not have an OH department, they may ask for consent to contact the employees’ GP or neurologist directly. Where medical professionals, including OH are asked to provide a report to an employer, the employee has certain rights of access to those reports before it is sent. An employee should be advised of these rights when their employer or OH seeks consent regarding the assessment and report.
The Equality Act 2010

The Equality Act 2010 is legislation which aims to promote equality and prevent unlawful discrimination against specific groups (one of which is those who are disabled) in England, Scotland and Wales. The Act replaced previous discrimination legislation including the Disability Discrimination Act 1995.

The Act protects those whose medical condition satisfies the definition of disability from unlawful discrimination at all stages of the employment relationship including recruitment, employment conditions including salary and benefits, promotion, transfer and training opportunities and in relation to employment termination, including dismissal and redundancy.

Where a disabled employee is put at a substantial disadvantage by his or her working conditions or a feature of the workplace, the employer may have a duty to make reasonable adjustments for the employee under the Act.

For information about equality legislation in Northern Ireland contact the Equality Commission Northern Ireland www.equalityni.org

What is the definition of disability under the Equality Act 2010?

A person is disabled for the purposes of the Act if:

- They have a physical or mental impairment.
- The impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities.

Fluctuating and episodic conditions can be covered by the Act even if the effect temporarily ceases.

Whether an individual’s particular condition satisfies the requirements of being a disability for the purposes of the Act will depend on the effect of that condition as experienced by that individual.

Is migraine a disability under the Equality Act 2010?

Migraine may be considered as a disability under the Act in some cases. This will depend on the severity and frequency of the attacks and the impact the condition has on the person.

Using the criteria described above:

- Migraine is a physical impairment.
- The person affected by migraine would have to establish that the effect of the condition has a substantial and long-term adverse effect on the person’s ability to carry out normal day-to-day activities.
- Substantial means more than minor or trivial.
- Long-term means that the impairment has lasted or is likely to last for at least 12 months or the rest of the person’s life.
- Normal day-to-day activities are not defined in the Act. However the guidance says: ‘In general, day-to-day activities are activities that people do on a regular or daily basis. Such activities might include ‘shopping, reading and writing, holding a conversation or using the telephone, watching TV, carrying out household tasks, walking and travelling by various forms of transport and taking part in social activities’. It can also include general work-related activities such as interacting with colleagues, following instructions, and using a computer, driving, carrying out interviews, preparing written documents, and keeping to a timetable or shift pattern.

An assessment of the effect of the condition on the individual should ignore the effects of medical treatment. For example, the effect migraine has on an employee if they don’t take their triptans.

A GP, neurologist, headache nurse or OH practitioner can advise an employee and their employer if it seems likely that their migraine condition may be covered by the Act. This is a legal definition and ultimately for an employment tribunal to determine. A medical practitioner can only provide advice.
The Equality Act 2010

What rights do people with migraine have at work under the Equality Act 2010?

The Act makes it unlawful for an employer to discriminate against, harass or victimise a disabled person:

- **Direct discrimination:** where an employer treats an employee less favourably than they would others because of their disability (or other protected characteristic).

- **Indirect discrimination:** where an employer has a rule, policy or practices that applies to all employees but puts employee(s) with a particular protected characteristic (in this case disability) at a substantial disadvantage when compared with others and which the employer cannot justify.

- **Discrimination by failing to make reasonable adjustments:** where an employer has a rule, policy or practice that puts a disabled person at a substantial disadvantage in comparison with non-disabled people and the employer fails to take reasonable steps to avoid that disadvantage (special provision is made for reasonable adjustments to physical features of the workplace and in relation to auxiliary aids).

- **Harassment:** A harasses B where A engages in unwanted conduct related to B’s disability (or other protected characteristic) and the conduct has the effect of violating B’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

- **Victimisation:** occurs when an employee is treated badly because they have made or supported a complaint or grievance under the Act.

The law also provides protection against unlawful discrimination by association with a disabled person and by perception of disability.

In some circumstances, lack of knowledge of a disability may provide an employer with a defence to a claim of discrimination.

More information about the Act and discrimination is available from the Equalities and Human Rights Commission. Contact details are available at the end of this document.

**Reasonable adjustments**

Under the Act employers have a duty to make reasonable changes for applicants and employees with a disability. These are known as reasonable adjustments.

**What is a reasonable adjustment?**

Reasonable adjustments can be changes to the work environment or to work practices and the way things are done which enable a disabled person to perform their job without being put at a substantial disadvantage in comparison with non-disabled people.

**Do employers have to put adjustments in place?**

Making reasonable adjustments is obligatory under the Act; however, it is good practice for employers to provide these to people with on-going health conditions to promote healthy workplaces and productivity.

**What does reasonable mean?**

What is deemed to be reasonable will be determined by factors such as, the size of the employer, the job role, the size of the workforce and the financial and logistical implications of the adjustment. Employers are only expected to put in place adjustments that are reasonable.

**What type of reasonable adjustments may be appropriate for people with migraine?**

The type of adjustments that could support an employee to do their job will vary depending on the circumstances. Keeping a migraine diary to identify migraine triggers in the workplace is recommended. Some examples of adjustments that can be useful for people with migraine are listed in this section. An employee’s GP, neurologist or OH practitioner may be able to help an employee identify the sort of adjustments that would help an employee.
Discussing reasonable adjustments with an employer

An employer is only expected to implement adjustments if they know, or can reasonably be expected to know that an employee has a health condition that is likely to be covered by the Equality Act 2010, and if an employee is placed at a substantial disadvantage in relation to the relevant matter in comparison with non-disabled colleagues.

If an employee feels there are adjustments that could be made to help them manage their migraine, they should make this known to their employer. It is always a good idea to follow a request up in writing so that it is evidence based via a paper record. An employee’s GP, neurologist or OH practitioner can also write to an employer to advise them of suitable adjustments.

If an employee agrees reasonable adjustments with an employer, request a written agreement for their records.

What if the adjustments I need for my migraine change?

Reasonable adjustments may need to be reviewed if circumstances change. For example, changes to an employee’s job description, the organisation or if an employee’s condition or treatment changes. An appointment with a GP, neurologist or OH practitioner can help identify any changes that would be helpful. Both parties may wish to review an adjustment agreement annually or as appropriate.

What support is available?

The Government’s Access to Work Scheme provides advice and support to disabled people, including financial assistance for reasonable adjustments in work. More information about this scheme is available at www.gov.uk

The Migraine Trust can provide an employee and their employer with information and supporting letters about migraine. Visit www.migrainetrust.org or telephone The Migraine Trust Advocacy Support Service on 0203 9510 150.

Some employers may have access to Health Assured’s Employee Assistance Programme that helps employees deal with personal problems that might adversely impact their work performance, health and well-being such as assessment, counselling and referral services. Visit www.healthassured.org
Examples of reasonable adjustments for people with migraine

The following is a list of common reasonable adjustments that may be helpful for people living with migraine in the workplace. This list is not exhaustive and should only be used as a guide.

**Sickness absence policies:**

- **Disregard disability related sickness absence:** asking an employer to disregard a reasonable amount of disability related sickness absence can help to ensure an employee is not put at a substantial disadvantage by any absence-management procedure.

**Working practices:**

- **Flexible working hours:** by not having rigid hours an employee can manage their time and reduce stress. For example, not always having to take sick leave or worry about being late.

- **Flexible location:** by being able to work at home, an employee can make up hours an employee may have missed without the stress of having to rush to work with migraine.

- **Flexible breaks:** breaks give an employee the time to stretch, relax muscles and manage trigger factors. They are particularly beneficial if an employee is working at a computer or managing machinery.

- **Rotation of tasks:** by being able to share or rotate tasks within a team, an employee may still be able to work without doing prolonged activities that trigger their migraine.

- **Access to drinking water:** dehydration is a major trigger for migraine.

- **Rest room:** if space allows, having access to a quiet room can help an employee to rest at the onset of an attack which may enable them to recover quicker.

**Stress management:**

- **Stress risk assessments:** by working with their manager to identify and manage stress factors an employee may be able to reduce stress levels which can be a trigger for migraine.

- **Stress management training:** workshops on time and stress management strategies can be beneficial for all staff.

- **Regular supervisions:** having regular one-to one meetings with a manager can help identify work triggers or stress factors and lead to discussions about how they may be able to support an employee.

- **Health buddy:** a colleague or representative who has an understanding of or training about migraine can provide support to an employee which can ease anxieties about attacks happening at work.

**Physical work environment:**

- **Work stations:** key areas to consider are the organisation of workspace or office, individual posture and furniture:

  - Correct posture is important if an employee is sitting at a desk. This is because a stiff back and neck can trigger migraine.

  - Ensure that an employee’s desk is positioned in such a way that glare from the window can be managed with a suitable light absorbing blind or curtain. It is important to prevent sunlight reflecting off the paper on an employee’s desk, into an employee’s eyes or onto an employee’s VDU screen.
Glare is caused by large differences in light levels within the visual field. Our eyes try to adapt to these differences and visual disturbance may occur and trigger migraine.

Glare can be direct, indirect or can mask images. Glare is usually most noticeable when working at a computer screen.

**Direct glare** often comes from windows and can shine directly on to the worker.

**Indirect glare** can occur when light from windows or overhead lighting is reflected off shiny surfaces in the field of vision.

**Light from sources directly overhead** can cause a masking or shading glare on the computer screen.
The Equality Act 2010

IT equipment:

Health and safety information and awareness:

- Information and training on healthy use of IT equipment can promote awareness of the physical impact of IT equipment use and can enable workers to manage the impact of this on their health including their migraine.

- When using a computer ensure that the screen is positioned well and that the height is not too high or too low for vision and posture and that it is not too close or too far away. Adaptable stands can be purchased for this.

- Ensure that the mouse is not too far away as this can cause neck and shoulder pain. Encourage the use of the mouse with wrists straight. An ergonomic mouse may be helpful.

- Ensure that the keyboard is adjusted for ease of typing, with a space or pad in front of the keyboard for resting the hands and wrists during typing.

- Wrist rests and other ergonomic equipment may be required.

- **Antiglare screens**: these are available for most sizes of screens and can also help with VDU flicker.

- **Limit screen flickering**: a figure between 75-85Hz is best but not always possible on older machines. The newer flat panel screens do not have this problem as they do not contain cathode ray tubes which cause the flickering.

- **Text display**: text can be adjusted to ensure that it is easy enough to read on both screen and printed documents. An employee may also benefit from colour contrasts which can be adjusted for both screen and print if required.

- **Limit laptop use**: if possible avoid using portable devices as their design features, such as small keyboards, can make prolonged use uncomfortable by creating muscle tension.

---

**How to check screen frequency setting (for most PCs):**

1. Right click with the mouse on a blank part of the desktop
2. Select - Properties - Settings - Advanced - Monitor
3. Check the value in the box marked ‘screen refresh rate’
4. If the value is too low seek technical advice before changing it as it may affect display settings.
Dealing with issues that may occur

At times people living with migraine may experience problems in the workplace in relation to their condition. It may be that job duties at work exacerbate attacks, or concerns are raised regarding sickness absence. Sometimes they may feel at a disadvantage in the workplace or experience difficulties communicating with a colleague or manager regarding their health. It is important to address issues as early as possible to find a workable solution. If an employee feel that they are being treated unfairly in some way, it is advisable to keep a diary of events, including what happened and who was present.

Dealing with a problem informally

It is often helpful to address a problem informally in the first instance. This may involve a discussion with another colleague, an employee's manager or HR depending on the nature of the problem. If an employee does not feel comfortable doing this alone, an employee may wish to consider asking a colleague to accompany them. If an employee feels that their health is being affected by work, an employee should consider visiting their GP, neurologist or OH. A health professional may be able to provide further support or write to an employer on an employee's behalf.

Raising a grievance

If an employee has raised a complaint informally but remains unhappy with the outcome or the problem is continuing, they may wish to register a complaint formally. Their organisation should have a written grievance policy and the employee should read this before proceeding to ensure they are aware of their rights. A formal grievance should be submitted to whom to pass the letter. It will normally be an employee's line manager or HR. If the grievance is against their line manager it may be more appropriate to pass this to another manager or HR. If an employee is a member of a union their union representative may be able to provide advice. An employer will likely arrange a grievance meeting to discuss an employee's concerns. This should happen as soon as possible. An employee is entitled to be accompanied to the meeting by a trade union representative or colleague.

Depending on an organisation's policy and their flexibility it may be possible for an employee to bring an external person to accompany them. This may be a friend, family member or support worker or advocate. It may be necessary for an employee to request this as a reasonable adjustment if the need for this is related to an employee's disability. For more information on grievances and how to prepare for a grievance meeting, read ‘The Acas guide to disciplinaries and grievances’ www.acas.org.uk. The outcome of the hearing should be communicated to an employee in writing. If an employee feels that the issue has not been resolved or the action taken is inadequate, they may wish to appeal this decision in writing. Normally, once an employee appeals, a further hearing will be held which should be chaired by alternative staff members. The employer's grievance procedure should explain the appeal process. Sometimes an employer will have a specific procedure for complaints of discrimination, in which case, an employee may wish to register a complaint both under this and the normal grievance procedure.

Further action

Depending on the outcome the grievance/complaint an employee may wish to explore the following options:

- **Workplace mediation**: mediation involves the parties involved in a dispute talking through the issues to reach a solution. To be successful the mediation should be chaired by an independent and objective third party. If the employer is large they may already have a company which provides this service. The aim of mediation is to preserve the relationship between an employee and the other party and move forward. An employee or an employer may request mediation and it is an employee's right to accept or refuse this.

- **Employment tribunal claim**: employment tribunals are an independent judicial body set up to resolve employment disputes. An employee is strongly advised to seek specialist legal advice before proceeding with a claim. Strict time limits apply for filing a complaint before a tribunal. General information is available from www.gov.uk/employment-tribunals
Further information and resources

UK wide

**ACAS**
ACAS (Advisory, Conciliation and Arbitration Service) provides general information about employment legislation and good practice for employers and employees. ACAS can also advice and provide assistance to employers and employees to settle employment disputes.
Tel: 0300 123 1100
www.acas.org.uk

**Access to work**
Provides advice and support to help people with disability overcome work related problems.
www.gov.uk

**Business Disability Forum**
Business Disability Forum is a nationwide employers’ network focused on disability as it affects business. It can provide information, advice and support for UK employers to employ and retain disabled employees.
Tel: 020 7403 3020
www.businessdisabilityforum.org.uk

**Citizens Advice**
Provides information on legal issues.
www.adviceguide.org.uk

**Direct Gov**
Contains a wide range of general information about government services including disability rights information and handling employment disputes. It also provides general information about welfare benefits and the Access to Work scheme.
www.gov.uk

**Employment tribunal**
An employee can make a claim to an employment tribunal if they feel that they have been treated unlawfully.
www.gov.uk/employment-tribunals

**Equalities Advisory Support Services**
Provides advice and supports individuals on issues relating to equality and human rights, across England, Scotland and Wales.
Freephone 0808 800 0082
Text phone 0808 800 0084
www.equalityadvisoryservice.com

**Equality and Human Rights Commission**
Provides expert information, advice and support on discrimination and human rights issues and the Equality Act 2010.
www.equalityhumanrights.com

**Health and Safety Executive**
Provides general information and useful advice for employers and employees about health and safety regulations and good working practices.
Tel: 0300 003 1747
www.hse.gov.uk

**Northern Ireland**

**Equality Commission for Northern Ireland**
Provides general information and advice about equality legislation in Northern Ireland.
Tel: 028 90 500 589
www.equalityni.org

Please note that the inclusion of named agencies does not constitute a recommendation or endorsement by The Migraine Trust. We have provided these for informative purposes only and not as recommendations. If in doubt, seek legal advice.
The Migraine Trust is the largest charity dedicated to leading the fight against migraine in the UK. We exist to transform the lives of people who suffer from migraine, by sharing knowledge and preventing and finding a cure for migraine. We will do this by funding and promoting research, providing support and information, and campaigning for people affected by migraine. Visit our website to subscribe to email updates and news, access migraine information and to learn more about The Migraine Trust including our support services, research and events.

Web: www.migrainetrust.org
Tel: 0203 9510 150
Twitter: @MigraineTrust
Facebook: themigrainetrust
The Migraine Trust, 4th Floor Mitre House, 44-46 Fleet Street, London, EC4Y 1BN