

Migraine in the workplace



the
migraine
trust

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The Migraine Trust helpline can be contacted on **0808 802 0066**, you can also contact us via our online contact form on our website which can be found here migrainetrust.org/contact-us/

For further information visit The Migraine Trust website migrainetrust.org

Summary

Migraine is most common among adults of working age. It can impact working life, but this impact can be significantly reduced if people with migraine are supported at work. People with migraine often need very little help from their employer, but this small amount of support can enable them to work effectively with migraine.

Not receiving appropriate support from their employer can have very serious consequences for people with migraine.

Our '*Migraine in the workplace*' toolkit provides information about migraine in the workplace, ways to manage migraine in the workplace and an employee's right to get support in work.

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What is migraine?

Migraine is a severe and painful long-term health condition. If you have migraine, you will have migraine attacks, which can be a whole-body experience.

Common symptoms of an attack can include:

- problems with your sight such as seeing flashing lights,
- head pain,
- being very sensitive to light, sounds and smells,
- fatigue,
- feeling nauseous and vomiting.

Different people get different symptoms. When you have a migraine attack, you may not be able to function normally.

Migraine attacks usually last for between four hours and three days. Some symptoms may start about 24 hours before you get head pain, and end about 24 hours after you stop having head pain. Most people don't have any symptoms in between migraine attacks.

Is migraine a disability?

The Equality Act 2010 (the Act) defines disability as having a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities. Migraine meets the physical impairment criteria, but you will need to prove that it has a substantial and long-term (for 12 months or more) negative effect on your ability to carry out normal day-to-day activities. Whilst migraine is likely to meet the criteria used in the Act, we encourage individuals to discuss the impact of their migraine with their employer to help them understand the impact and explore what support might be helpful.

The guidance notes on the Act say that normal day-to-day activities are things that people do on a regular or daily basis. These 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, using a computer, driving, carrying out interviews, preparing written documents, and keeping to a timetable or shift pattern.

Whether or not you have a disability will normally depend on the frequency and impact of your migraine attacks. If you experience an attack once a year, you are much less likely to be classified as disabled than someone who suffers from weekly attacks. The key is the impact of the attacks on your day-to-day activities.

Speak to your health care team (GP, specialist, occupational health etc) about the impact of your migraine on your work and for an assessment in relation to the Act.

Should I tell my employer about my migraine?

You may benefit from discussing your migraine with your employer when you are starting a new role as your employer is best able to support you if they are aware of your migraine. You can also choose to tell your employer during the course of your employment if your migraine is impacting on you, such as if the severity or frequency of migraine attacks have changed. You can speak to your employer if a specific role or the work environment is worsening your migraine or during a return-to-work meeting if you have been off work. During any of the meetings, you can ask for reasonable adjustments to be made for you. Examples of reasonable adjustments include flexitime, redeployment, reduced workload, frequent breaks, disregarding sickness absence, time off for hospital appointment, changing roles etc. Migraine symptoms can vary, and keeping your employer informed about this can help them to understand how they can provide appropriate support.



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What are my rights?

You are legally protected from discrimination under the Act. It is against the law for your employer to discriminate against you, harass or victimise you due to your disability, something arising from your disability or due to your association with someone who is disabled. Discrimination in the workplace can happen in the following ways:



- **Direct discrimination:** where your employer treats you less favourably than others, in this case because of your disability (or other protected characteristic such as age, gender reassignment, marriage or civil partnership, pregnancy or maternity leave, race (including colour, nationality, ethnic or national origin), religion or belief, sex, and sexual orientation).
- **Indirect discrimination:** where your employer puts a rule, policy or practice that applies to all employees but puts you and your colleagues with a protected characteristic (in this case disability) at a disadvantage when compared with others and which your employer has no objective justification for.
- **Discrimination by failing to make reasonable adjustments:** where your employer has a rule, policy or practice or a physical feature of your employer's premises and knows or ought reasonably to know that you are disabled and are likely to be placed at a substantial disadvantage in comparison with non-disabled colleagues as a result and your employer refuses to take reasonable steps to avoid that disadvantage.
- **Harassment:** unwanted conduct related to your disability (or other protected characteristic outline above) that has the purpose or effect of violating your dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for you in work.
- **Victimisation:** occurs when you are treated detrimentally because you have, intend to or are suspected of making a complaint about discrimination or harassment, bringing proceedings under the Act, giving evidence or information in connection with proceedings under the act or doing any other thing in connection with the Act.

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.

Is my job at risk due to migraine?

Under the Act it is unlawful for an employer to discipline a person due to something arising from their disability. An employer is required to be flexible and provide support that enables you to perform your role by way of making reasonable adjustments. Your employer is only allowed to initiate a capability procedure if your migraine is impacting on your ability to perform your role. If you become too unwell or physically unable to perform your job, your employer may be able to dismiss you, but they must follow a fair and reasonable procedure according to the law. More information on this is available in the ACAS Code of Practice at [acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures).

If your migraine has an impact on your work, it is important that you ask your employer to make reasonable workplace adjustments to support you. Your doctor or health care team can help provide advice on whether you are likely to be classed as a disabled person and recommend reasonable adjustments. Your trade union representative (if you are a member) or an advocate can support you with this if you need help.



Tips on how to approach your employer

If your migraine is impacting your work, you can ask your employer to support you by making reasonable adjustments for you. Before approaching your line manager or HR about your migraine, you should speak to your health care team or occupational health department, if your employer has one, to explore what support your employer may be able to provide. They can provide you with further information on how migraine affects your work and advise on adjustments that are suitable. If you are part of a union, they can also support you to get help in work.

It may be useful to make notes of conversations, agreed actions and timescales.

It is always a good idea to follow up a verbal request with one in writing to ensure that there is a paper trail. If you and your employer have agreed on suitable adjustments, you can ask that they are written down and kept in your file.

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

The type of adjustments that could support an employee to do their job varies. It may help to keep a migraine diary or use a migraine app to help you identify your migraine triggers in the workplace.

The following is a list of common adjustments that may be helpful for you in work:

- Your employer could disregard a reasonable amount of disability-related sickness absence: This can help to ensure that you are not put at a substantial disadvantage by any absence-management procedure.
- Flexible working: If your company supports flexible working this could help you manage your time and reduce stress.
- Work environment: Changes to your workspace e.g. ensuring your desk and chair support good posture, having your desk positioned away from window glare.



My employer has refused to implement recommendations, what should I do?

Employers have a duty to make reasonable adjustments within a realistic timescale once they know or could be reasonably expected to know that you have a disability. Your employer should consider the advice provided by your health care team and address the issues that put you at a significant disadvantage. Your employer does not have to make every recommended adjustment as your employer is only expected to put in place what is reasonable. What is reasonable is determined by factors such as size of the employer, job role, size of workforce, financial and logistical implications. This means that your employer will decide on what is reasonable for them to provide. It is useful for you to ask your employer for a meeting to discuss the report and get a confirmation on what steps they are taking to implement the recommendations. If you feel that these recommendations aren't being addressed, ask your employer for their complaints/grievance procedure for employees.

Migraine and working from home

If you are working from home, you may have to make changes to your living space to make it into a suitable working space. It is important to ensure that your workstation is set properly to allow you work safely. Your employer should provide you with appropriate equipment for work if you need adapted or special equipment.

Working longer hours and spending more time looking at a screen can trigger migraine attacks for some people. If you use screens for most of the day you may need to speak to your line manager or health and safety team for more information about how to work safely from home.

Useful tips to help you work from home safely include keeping a normal routine as much as possible including going to bed, getting up and eating at your usual times and taking regular breaks from the computer. It is also important to take time off work if you need to.

You can read up more information about working from home on our website migrainetrust.org/working-from-home/.



Raising a grievance

If you have raised a complaint informally but you are not happy with the outcome, you may need to make a formal complaint. Your employer should have a written grievance policy which you should familiarise yourself with. You should submit your formal grievance in writing. The grievance procedure should set out who the letter should go to. If the grievance is against your line manager, it may be more appropriate to pass this to another manager or HR. If you are a member of a union, your union representative may be able to advise you.

Your employer is then likely to arrange a grievance meeting to discuss your concerns and this should happen as soon as possible. You are entitled to be accompanied in this meeting. For more information on grievances and how to prepare for a grievance meeting, read 'The Advisory, Conciliation and Arbitration Service guide to disciplinaries and grievances' (acas.org.uk).

Useful organisations

ACAS

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

Access to work

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

Citizens Advice

Provides information on legal issues. 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. gov.uk

Employment tribunal

An employee can make a claim to an employment tribunal if they feel that they have been treated unlawfully. 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**. equalityadvisoryservice.com

Equality and Human Rights Commission

Provides expert information, advice and support on discrimination and human rights issues and the Equality Act 2010. equalityhumanrights.com

Equality Commission for Northern Ireland

Provides general information and advice about equality legislation in Northern Ireland. Tel: **028 90 500 58** equalityni.org

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** hse.gov.uk

Disability Rights UK

Provides high quality information provision developed by and for disabled people. disabilityrightsuk.org/

Mind

Provides advice and support to empower anyone experiencing a mental health problem. mind.org.uk/

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.



About The Migraine Trust

The Migraine Trust is dedicated to helping people affected by migraine. We are the only UK migraine charity providing information and support, campaigning for awareness and change, and funding and promoting research.

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.

 migrainetrust.org

 **Helpline 0808 802 0066**

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