

## What are migraines?

Migraine is the most common neurological condition in the developed world. It affects around 1 in 8 people in the UK. It costs the economy around £1 billion in lost production taking into account time taken off work, the cost of replacement staff and periods when employees are working under par during episodes. Despite these figures, migraine remains a misunderstood and under managed condition.

Migraine is more than just a headache. It can be a debilitating condition, which has a considerable impact on the quality of life of people with migraines and their families. Episodes can be completely disabling, forcing the person to abandon everyday activities for up to 3 days. Even in symptom-free periods, people may live in fear of the next episodes.

Although the impacts of migraines can be extremely debilitating many people are extremely effective in managing their condition and also may experience no ill effects between episodes. Experiencing migraines should not be a barrier to promotion and professional development at work and measures should be taken to ensure that people who experience migraines are not treated less favourably for a reason related to their disability in the recruitment or promotion process.

## Suggestions on reasonable adjustments

### Induction and environment

Induction is an important part of how any individual is welcomed to their new role, colleagues and organisation. Migraines affect people in different ways, and the severity of the migraines will fluctuate over time.

In order to fulfil your legal obligations to make reasonable adjustments you should discuss with the employee their needs and wishes. Many employees are extremely proactive in managing their own condition and may require few if any adjustments.

Adjustments that might be needed include:

- Installing and maintaining a good lighting system;
- Lighting which imitates natural daylight as closely as possible is best. An employee with migraines may prefer to have a fluorescent strip switched off and use a lamp with special "daylight" bulb on their desk;
- If it is not possible to switch off fluorescent lighting, ensure it is well maintained to minimise flickering;

- If the building has natural lighting, fit adjustable blinds so that any unwelcome glare can be excluded;
- Avoiding glare from plain white or very light coloured walls or highly polished surfaces (use matt finishes and break up plain walls with posters, pictures or plants);
- Positioning VDUs to avoid reflection from windows or fitting anti-glare screens;
- Adjusting and maintaining computer screens to eliminate flicker or glare (e.g. constant rather than pulsating cursors);
- Ensuring adequate ventilation;
- Keeping the workplace at a comfortable temperature suited to the work being carried out;
- Installing efficient extractors if fumes or strong smells are produced.

## **Workplace behaviour**

People who experience migraines may encounter different symptoms at different stages of the episode. Some migraineurs start to feel "strange" a day or so before the episode begins. These strange feelings, known as the prodrome, are the first signs of the episode and can include cravings for certain foods, excitability, hyperactivity, tiredness, yawning or a change of mood.

Migraine episodes normally last between 4 and 72 hours and people affected are usually symptom free between episodes.

Adjustments that might be needed include:

- Supply readily accessible clean drinking water (dehydration can be a trigger factor and drinking plenty of water at the onset of an episode can sometimes negate it);
- Make available a quiet room, which can be darkened if required, for people to retire to if an episode occurs. Sometimes medication accompanied by a short rest can enable them to carry on with their work;
- Design workstations as ergonomically as possible to avoid unnecessary twisting, stretching or bending;
- Supply adjustable seating if possible so that working positions can be comfortable. In some cases there is a direct link between posture, muscular skeletal problems and migraines.

## **Anxiety**

Stress and anxiety are major migraine triggers. Stress and pressure can manifest themselves in different ways for different jobs, for example through heavy workloads or where jobs involve traumatic situations. The employer should discuss with the individual how work can be managed in order to reduce stress and anxiety.

Adjustments that might be needed include:

- Take a proactive approach to managing stress within your organisation: ensure that workloads and deadlines are reasonable, set your employees clear objectives and ensure they have the resources that they need to be able to perform effectively;
- Offer employees training in time-management and stress management techniques;
- Allow regular breaks during which employees can move away from their workstations, especially if their work is repetitive;
- Do not ask employees to work through meal breaks (lack of food or long gaps between food are a major migraine trigger);
- Do not ask employees to work overtime without prior warning. Allow them to take a break before starting the extra time;
- Consider requests from employees who would like to work flexible hours for example to avoid the rush hour and requests to work from home on days when a migraine might be imminent.

## **Managing absences**

Making reasonable adjustments can help to improve attendance by addressing the causes of absence and also to ensure disabled people are not unjustifiably discriminated against for a reason related to their disability in the attendance management process.

Adjustments that might be needed include:

- Allow time off to attend medical appointments;
- Provide a secure and confidential space to store and administer medication;
- Inform employees of any private healthcare provision they may be entitled to access especially those offering therapeutic assessments and support;
- Ensure that you have a scheme in place that distinguishes between sickness absence taken for a reason relating to a disability and general

sickness absence<sup>1</sup>. Ensure that adjustments are made in processes to manage attendance and sickness absence so that disabled employees are not treated less favourably for a reason relating to their disability;

- Put in place provision for short notice cover for known employees with migraines.

## **Working as part of a team**

Noise can be a contributing factor to migraines. Managing workplace noise requires a collaborative effort from all individuals in the team, not just the specific employee.

Adjustments that might be needed include:

- Supply ear protection if noise is a problem;
- Restrict the volume and duration of background music;
- Maintain machinery so that noise levels are kept to a minimum;
- Provide disability awareness training for all staff and additional training for line managers so that they are confident and effective in managing disabled employees and making reasonable adjustments.

## **Legal position**

Disability discrimination under the Equality Act 2010.

### **Direct discrimination**

It is unlawful for an employer to treat a disabled job applicant, or employee, less favourably, simply because of their disability. This type of discrimination is known as direct discrimination. It is unlawful and cannot be justified.

### **Discrimination arising from disability**

The Equality Act replaced disability-related discrimination in the Disability Discrimination Act with discrimination arising from disability which occurs when:

- An employer knows or could reasonably be expected to know that the person is disabled;
- The disabled person experiences unfavourable treatment which arises as a consequence of their disability;

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<sup>1</sup> Further information on disability leave is available in our briefing paper “A practical guide to managing sickness absence”.

There is no requirement for a comparator i.e. the disabled person does not have to show that they have been treated or would have been treated less favourably than someone else.

An employer can justify detrimental treatment arising out of a disability if they can show that it is a proportionate means of achieving a legitimate aim.

## **Indirect discrimination**

The Equality Act has introduced the new concept of indirect disability discrimination.

Indirect discrimination occurs when a seemingly neutral provision, criterion or practice that applies to everyone places a group who share a characteristic e.g. a disability at a particular disadvantage.

Indirect discrimination may be justified if it can be shown that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

## **Reasonable adjustments**

An employer has a duty under the Equality Act to make reasonable adjustments (which includes providing auxiliary aids such as a support worker or information in alternative formats) to prevent a disabled employee from being placed at a substantial disadvantage by any physical feature of the premises, or by any provision, criteria or practice of the employer.

The duty applies to all aspects of employment, including recruitment and selection, training, transfer, career development and retention and redundancy. Failure to make a reasonable adjustment to a policy procedure or practice, or to a physical feature of the workplace where this is placing a disabled person at a substantial disadvantage, is unlawful and cannot be justified. Examples of reasonable adjustments for people with dyslexia are given throughout this briefing.

When deciding whether or not an adjustment is reasonable an employer should consider the following:

- Effectiveness of the adjustment in preventing the disadvantage;
- Practicality of the adjustment;
- Financial and other costs of the adjustment and the extent of any disruption caused;
- Extent of the employer's financial or other resources;
- Availability to the employer of financial or other assistance to help;
- make an adjustment, for example through the Access to Work scheme and the support of Jobcentre Plus.

## Equality Duty

Public authorities and those carrying out public functions are required by the Equality Act to promote equality of opportunity for disabled people.

This includes ensuring that third parties, such as recruitment agencies who provide services to the authority, do not discriminate against disabled people and that they positively encourage disabled candidates to apply for jobs within the authority. The duty also means that authorities need to think in advance about the needs of both disabled employees and potential disabled employees. Authorities should bear this in mind when reading this briefing. As well as the Equality Act, there is also a “statutory” Code of Practice on Employment and Occupation. “Statutory” means that it is produced under the legislation; it is admissible as evidence and must be taken into account by courts and tribunals where relevant. References are made in this briefing to the Code.

## Access to Work Scheme

Access to Work is a Government run scheme that offers disabled people financial support for reasonable adjustments in the workplace, such as a workplace assessment. For more information contact an Access to Work Adviser who will tell you more about the scheme and how it could help you. Contact details of the Access to Work business centre nearest to you can be found through Jobcentre Plus ([www.jobcentreplus.gov.uk](http://www.jobcentreplus.gov.uk)).

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