

Employment Advocacy Toolkit



Tools and guidance for migraine sufferers, their colleagues, managers, human resource departments and occupational health professionals

Introduction

There are approximately eight million migraine sufferers in the UK and, there are an estimated 190,000 migraine attacks every day. Migraine has a significant impact on a sufferer's quality of life and is a serious public health issue.

Despite the vast number of people affected by the condition awareness is low and just over a third (34.3%) of migraine sufferers face difficulties or discrimination at work because of their condition (The Migraine Trust, 2006).



Purpose of the pack

The purpose of this toolkit is to provide general information for migraine sufferers, their colleagues, managers, human resource (HR) departments and occupational health (OH) professionals about ways to manage migraine in the workplace. This pack also provides individuals with general tools and guidance on matters they may wish to raise in the workplace either on their own behalf or on behalf of a migraine sufferer at work.

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If you can't find the information or advice that you need in this pack please contact The Migraine Trust Advocacy Service on 020 7631 6973 or visit our website www.migrainetrust.org/advocacy and fill in the online referral form.

This pack is not a substitute for individual, detailed advice as to an individual's particular rights and circumstances from medical or legal professionals.

Migraine in the workplace

One in seven people experience migraine. Some sufferers may have migraine attacks only once or twice a year while others may have attacks two or three times a week. There is considerable stigma regarding the condition. Migraine is often trivialised or ridiculed; sufferers can be branded as malingerers or incompetent by colleagues. There is a lack of understanding from employers, the public and migraine sufferers themselves about the impact and complexity of the condition.


The impact of migraine and headache on the workplace presents a serious issue for employers as well as the individual sufferer. A recent CBI survey found that migraine/chronic headache was the second most frequently identified cause of short-term absence (47%) for non-manual employees. Migraine attacks can often be so disabling that people suffer at home out of sight from those with whom they work. Attacks typically last between four and 72 hours and symptoms cease in-between attacks which means employees are often able to return to work soon after an attack.

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. Headaches and migraine are a common excuse for taking sick leave at work. The notion of 'pulling a sickie' has done a great disservice to genuine sufferers and means that the impact of genuine absence due to migraine and headache, and the support an employer can provide, are not always appropriately addressed or considered. Sickness absence policies and sickness monitoring tools which focus on reducing frequent short-term sickness absence often unfairly penalise migraine sufferers who are unaware of their rights and the support that may be available to them in the workplace.

Despite the severe pain experienced during an attack many sufferers will not take sick leave when they experience a migraine and will continue to attend work despite their productivity levels being considerably impaired by their health. This is known as presenteeism, when an employee attends work despite being unwell, and is common amongst sufferers of migraines and headaches. Often migraine sufferers come to work when they are unwell because of fear of facing a disciplinary/capability hearing for sickness absence and concerns about being seen as unreliable or to be 'faking it'. The problem of presenteeism is difficult to monitor but it could end up costing an employer almost twice the amount as absenteeism.

Dame Carol Black's 2008 review of the health of Britain's working age population 'Working for a Healthier Tomorrow' details the benefits for employers and the economy by supporting and managing the health of employees with a long-term health condition 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 and profitability for the organisation. Failing to support the retention of staff with a long-term health condition can lead to significant costs to an employer such as loss of investment (in terms of cost and time devoted to training and development), redundancy or other termination costs (and possible litigation and Employment Tribunal awards) and recruitment costs as well as 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 both clinically and in the workplace to ensure that an individual with migraine can retain their employment and achieve their potential at work.



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Disclosure

Some sufferers may have migraine only once or twice a year while others may have it two or three times a week. If you only have migraine occasionally you may feel you don't need to talk about it as you are able to manage the condition well with medication and lifestyle changes.

More information about migraine as a 'disability' under the Equality Act 2010 (which replaced the Disability Discrimination Act 1995) is available in this toolkit.

Why should I disclose my migraine condition to my employer?

An employer is less able to provide support and understand the condition if you do not let them know that you experience migraine attacks. This can sometimes feel like



a daunting thing to do and you may be anxious about how your employer will react. Talking to your employer about your migraine will help them to understand how migraine affects you. This could result in your manager and colleagues being more supportive and positive changes made to help you at work.

Once a conditional job offer has been made an employer may then ask questions about any health conditions that are likely to impact on you at work

When should I disclose that I have migraine?

When starting new employment:

An employer cannot ask questions about your health until after a job offer has been made (this came into force in October 2010). This aim of this is to try to prevent unlawful discrimination against people with a disability during the recruitment process. The only exception to this is if pre-employment questions need to be asked to establish whether applicants can fulfil a function intrinsic to the job role.

Employers are allowed to ask if you require any adjustments to the interview process to prevent 'disabled applicants' from being put at a substantial disadvantage due to their disability, eg. a migraine sufferer may ask for a glare filter screen to complete a computer-based test during the interview if this was needed.

Once a conditional job offer has been made an employer may then ask questions about any health conditions that are likely to impact on you at work. They may also ask you about your previous sickness records. Your new employer may need to consider whether there are any reasonable adjustments that are required to support you to fulfil your role. You may be asked to have an Occupational Health assessment at this point.

During employment:

You may choose to disclose to your employer during your employment if migraine has an effect on you at work. The severity or frequency of your migraine attacks may have changed, your job role or the work environment may be exacerbating your condition, or you may want to discuss the support that your employer can provide for you.

Your employer may want to talk to you about your migraine if you experience an attack at work or at a return to work meeting if you have taken sick leave. Alternatively, you can request a discussion yourself.

Before approaching your manager or HR about your migraine you may want to speak with occupational health or your GP/neurologist to consider any support that your employer could provide in order to assist you at work. You may also want to take external advice.

You can contact the Migraine Trust Advocacy Service on 020 7631 6973 or visit our website www.migrainetrust.org/advocacy Further sources of external, general information are included at the end of this toolkit, alternatively assistance may be available from your union or you can take legal advice.

If you discuss your health with your manager or HR it is a good idea to keep a note of what is said and of any agreed outcome of your discussion. Your employer may provide you with a written summary of the discussion or you can send your note to your manager or HR and ask them to confirm that your note accurately reflects what was said and agreed.

Following the discussion you may be asked to attend an Occupational Health meeting or provide a report from your GP or neurologist. This is to provide further information on how your migraine may impact on you at work and advice on adjustments that could support you.

Migraine symptoms vary between sufferers and there are many myths about migraine. Keeping your employer informed about how your condition affects you can help them to understand how to support you appropriately.

If you discuss your health with your manager or HR it is a good idea to keep a note of what is said and of any agreed outcome of your discussion



Employers' responsibilities and good practice

As well as making good business sense, employers have legal obligations for the health and safety of their staff.

Health and Safety at Work etc Act 1974: The Act 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: The intention behind the Act is the promotion of 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 toolkit.

You may also wish to seek assistance from your union or take professional advice if you are concerned about how your sickness absence is managed

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 migraine sufferers as they typically make specific provision for frequent short-term absences. This can result in migraine sufferers 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 the condition, sufferers are more likely than non-sufferers to require short-term sickness absences, eg. if a debilitating attack occurs during working hours.

If your sickness absence record becomes concerning to your employer, they may ask for information and advice from your GP/neurologist or they may ask you to visit occupational health (please see above, in relation to examinations and reports from medical professionals). Your manager or HR may ask to meet with you to discuss this information, how your migraine impacts on you at work and ways that they can support you.

Sources of general information and support are available at the end of this toolkit. You may also wish to seek assistance from your union or take professional advice if you are concerned about how your sickness absence is managed.

Return to work meetings: Your manager or HR may ask you 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 for you to discuss any concerns you have and for you and your employer to identify how migraine is impacting on you at work and how this can be managed. If you have been on long-term sickness absence your employer may discuss a return to work plan with you to support you to return to work over a period of time. Return to work meetings should be noted, both by you and your manager/HR. As detailed above it is a good idea to send a copy of your note to your manager/HR to confirm that your note accurately reflects your discussion. Where your manager/HR makes a note, it is a good idea to request a copy and to suggest changes to it where it does not reflect your recollection of your discussion, and you can request a copy for your records.

Occupational Health: Occupational health departments provide advice to employers about work-related health. Your employer can refer you to occupational health if migraine is impacting on your work or causing you to take sickness absence. An occupational health practitioner will conduct an assessment of your condition and provide a report to your employer. In advance of this appointment, occupational health may request that your GP/neurologist provides details of your relevant medical history. It may be helpful to meet with your GP/neurologist to discuss your support needs at work. If your employer does not have an occupational health department they may ask for your consent to contact your GP or neurologist directly. Where medical professionals, including occupational health are asked to provide a report to your employer, you have certain rights of access to those reports before they are sent. You should be advised of these rights when your employer/occupational health seek your consent for the assessment and report.

The Equality Act 2010

The Equality Act is the legislation which aims to promote equality and to 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.

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

The Equality 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 dismissals 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.

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

A person is 'disabled' for the purposes of the act if they:

1. Have a physical or mental impairment and
2. 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.

The Equality Act
protects those
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Your GP,
neurologist,
headache nurse
or occupational
health practitioner
can advise you
and your employer
if it seems likely
that your migraine
condition may be
covered by the Act

Is migraine a disability under The Equality Act 2010?

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

1. Migraine is a physical impairment
2. The sufferer would then have to establish that the effect of the condition has a 'substantial' and 'long-term' adverse effect on the sufferer'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 sufferer'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.' Examples of 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, 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, eg. what is the effect of the person's migraine without their migraine Triptans.

Your GP, neurologist, headache nurse or occupational health practitioner can advise you and your employer if it seems likely that your migraine condition may be covered by the Act. As this is a legal, definition, and ultimately for an Employment Tribunal to determine, a medical practitioner can only provide advice.

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

The Equality Act 2010 makes it unlawful for an employer to discriminate against, harass or victimise a disabled person:

Direct discrimination – where an employer treats someone an employee less favourably than they would others because of the employee's disability (or other protected characteristic).

Indirect discrimination – where an employer has a rule, policy or practice 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 such steps as are reasonable 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 Equality Act 2010.

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 Equality Act 2010 and discrimination is available from the Equalities and Human Rights Commission. Contact details are available at the back of this toolkit.

Reasonable adjustments

Under the Equality Act 2010 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 allow a person with a disability 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 adjustments that are ‘reasonable’ is obligatory under The Equality Act for workers who have a disability; however it is good practice for employers to provide these to people with underlying health conditions to promote healthy workplaces and good 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 etc. Employers are only expected to put in place adjustments that are ‘reasonable’.



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

Your GP,
neurologist or
occupational
health practitioner
can write to your
employer to
advise them
of suitable
adjustments

What type of adjustments may be appropriate for migraine sufferers?

The type of adjustments that could support you to do your job will vary depending on your circumstances. It may be helpful to keep a migraine diary to identify migraine triggers in the workplace. Some examples of adjustments that can be useful for migraine sufferers are listed in this section. Your GP, neurologist or occupational health practitioner may be able to help you identify the sort of adjustments that could help you.

How can I discuss reasonable adjustments with my employer?

Your employer is only expected to implement adjustments if they know, or can reasonably be expected to know that you have a health condition that is likely to be covered by The Equality Act 2010, and if you are placed at a substantial disadvantage in relation to the relevant matter in comparison with non-disabled people.

If you feel that there are adjustments that could help you in work to manage your migraine you should let your employer know. It is always a good idea to follow a request up in writing so that you have a paper record. Your GP, neurologist or occupational health practitioner can write to your employer to advise them of suitable adjustments. If you agree reasonable adjustments with your employer you should request a written agreement of these adjustments for your records.

A template form is available in this toolkit.

What if the adjustments I need for my migraine change?

Reasonable adjustments may need to be reviewed if your circumstances change, eg. changes to your job description, the organisation or if your condition or treatment changes. An appointment with a GP, neurologist or occupational health practitioner can help identify any changes that would be helpful. You and your employer may wish to review an adjustment agreement annually or as appropriate.

What support is available to my employer?

The Government's Access to Work Scheme can provide advice and support, including financial assistance to cover incurred costs to workplaces. Contact details are available at the back of this toolkit.

The Migraine Trust can provide information for your employer about migraine. Visit www.migrainetrust.org or call our Information and Enquiry Service on 020 7631 6975.

Examples of reasonable adjustments for migraine sufferers

The following is a list of common reasonable adjustments that may be helpful for a migraine sufferer 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 your employer to disregard a reasonable amount of disability related sickness absence can help to ensure that you are not put at a substantial disadvantage by your employer's absence-management procedure.

The Equality and Human Rights Commission has produced the Code of Practice on Employment. The main purpose of the Code is to provide detailed explanations of the provisions in the Act and to apply legal concepts in the Act to everyday situations and is helpful to employers to understand how to apply the law.


At page 242, para. 17.2, the Code says:

Disability-related absences

Employers are not automatically obliged to disregard all disability-related sickness absences, but they must disregard some or all of the absences by way of an adjustment if this is reasonable. If an employer takes action against a disabled worker for disability-related sickness absence, this may amount to discrimination arising from disability.

Working practices

- **Flexible working hours** – By not having rigid hours you can manage your time and not feel stressed if you have to juggle your hours to accommodate your migraine. For example, not always having to take sick leave or worrying about being late.
- **Flexible location** – By being able to work at home you can make up hours you may have missed without the stress of having to rush to work with a migraine.
- **Frequent breaks** – Breaks give you the time to stretch, relax muscles and manage trigger factors. They are particularly beneficial if you are working at a computer or managing machinery.
- **Rotation of tasks** – By being able to share or rotate tasks within a team you may still be able to work without doing prolonged activities that trigger your migraine.
- **Access to drinking water** – Dehydration is a major trigger for migraine.
- **Rest room** – If space allows, having access to a dark quiet room can help you to rest at the onset of an attack and may enable you to recover quicker.
- **Time off for medical appointments** – There may be times when you have to attend a medical appointment for your migraine in work time. It can be helpful to discuss and reach an agreement with your employer in advance so that you can both be flexible to accommodate this.
- **Redeployment** – Moving to a different site or team, a reduction of hours or a new role entirely may help you to remain in work if your migraine is affecting your current role.



It can be helpful to discuss and reach an agreement with your employer in advance so that you can both be flexible to accommodate this

Stress management

- **Stress risk assessments** – By working with your manager to identify and manage stress factors in your role you may be able to reduce your stress levels which can be a trigger for migraine.
- **Stress management training** – Workshops on time management and strategies for dealing with stress which can be a trigger and have a debilitating affect on all staff.
- **Regular supervisions** – Having regular one-to one meetings with your manager can mean that any work triggers or stress factors are identified and that you can discuss how they may be able to support you.
- **Health buddy** – Having a colleague who has an understanding or training about migraine who you can notify if an attack occurs or speak to for support can help ease your anxieties about attacks happening at work and the impact it has on you there.

By working with your manager to identify and manage stress factors in your role you may be able to reduce your stress levels

The physical work environment

- **Work stations** – The key problem areas to consider are organisation of your workspace or office, posture and furniture:
 - Correct posture is important if you are sitting at a desk, as for some a stiff back and neck can trigger a migraine.
 - Ensure that your desk is positioned in such a way that glare from the window can be managed adequately with a suitable light absorbing blind or curtain. It is important to prevent sunlight reflecting off the paper on your desk, in your eyes or onto your VDU screen.
 - Ensure that your desk is the right height for you and gives adequate clearance for your legs so that you are not forced into an uncomfortable position.
 - Check that your chair is properly adjusted so that you are not forced into awkward and uncomfortable postures.
 - When typing, a document holder is sometimes useful to avoid awkward eye or neck movements which could cause a headache or muscle tension in the head, neck or shoulders.
 - Moving to an alternative desk, eg. to a more ventilated area/away from window glare, you may be able to better manage your migraine triggers.
- **Lighting** – Most problems with lighting are related to glare.

Understanding and controlling glare where possible can be a great help in reducing the risks of migraine in the work environment. Unfortunately, the nature of your work environment may be such that you cannot make major changes to the lighting (for example, you may work in a department store or factory). However it is worth being aware of the ways which glare can be reduced.

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 is reflected 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.

Overhead lighting may cause direct and indirect glare and this can be controlled by 'parabolic louvres'. Modern day lighting often has these built into the system and in some cases the lights can be adapted.

The louvres cover the lighting to allow light to travel only straight down and not to disperse at an angle, providing sufficient light while minimising the reflection on computer screens.

You should also be able to control light from windows through the use of thick light absorbing curtains or blinds. Ensure that the curtain or blind is the correct size to block all the light if required, at certain times of the day.

If you work alone in your workspace it may be possible to limit the use of overhead lighting by using an indirect lighting system, eg. using standard lamps with uplighters which do not shine into the work area directly.

Fluorescent lighting can be a particular problem as it can flicker. However, with the newer generation of lighting there should only be a minimal flicker. If you and your employer have any queries about the quality of the light you should get an assessment from a lighting consultant.

- **Ventilation** – Dry airless work environments can create headaches and fatigue. If ventilation can be improved it may be beneficial for others too, alternatively it may help to relocate your workstation.

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 migraines.
 - When using your computer ensure that the screen is positioned well and that the height is not too high or too low for your vision and posture and that it is not too close or too far away. Adaptable stands can be purchased for this.
 - Ensure that your mouse is not too far away as uncomfortable positions can cause neck and shoulder pain. You should use the mouse with your wrist straight. An ergonomic mouse may be helpful.
 - Ensure that your keyboard is adjusted so that you can type easily, 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.

Dry airless work environments can create headaches and fatigue – if ventilation can be improved it may be beneficial for others too

It is always best to try to deal with a problem informally in the first instance – this may involve a discussion with another colleague, your manager or HR

- **Antiglare Screens** – Antiglare screens are available for most sizes of screens and can also help with VDU flicker. To help limit flickering on the screen ensure the correct screen frequency is set. It is generally agreed that a setting below 70Hz is not acceptable. A figure between 75-85Hz is best but not always possible on older machines. The newer flat panel screens do not tend to have this problem.

- **Limit screen flickering** – Ensure that you have the correct screen frequency setting. It is generally agreed that a setting below 70Hz is not acceptable. 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 have Cathode Ray Tubes (CRT) which cause the flickering.

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

1. Right click with your mouse on a blank part of your 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 you should get technical advice before changing it as it may affect your display settings.

- **Text display** – Text can be adjusted to ensure that it is easy enough to read on screen and printed documents. You may also benefit from colour contrasts that are easy on the eye and this should be adjusted on screen and print if required.

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

What to do if problems occur

At times migraine sufferers may experience problems in the workplace in relation to their condition. It may be that factors at work, eg. job duties, lighting etc exacerbate attacks, or concerns are raised regarding sickness absence. Sometimes a migraine sufferer may feel that they are put at a substantial disadvantage in the workplace or experience difficulties communicating with a colleague or manager regarding their health.

It is important to try to deal with issues as early as possible to prevent them from worsening. If you feel that you are being treated unfairly in some way it is advisable to keep a diary of events, including what happened, who was present etc.

Dealing with a problem informally

It is always best to try to deal with a problem informally in the first instance. This may involve a discussion with another colleague, your manager or HR depending on the nature of your problem. If you do not feel comfortable doing this alone you may wish to consider asking a colleague to accompany you. If you feel that your health is being affected by work you should consider visiting your GP, neurologist or occupational health. They may be able to provide further support or write to your employer on your behalf.

Raising a grievance

If you have tried to raise your complaint informally but you are unhappy with the outcome or the problem is continuing you may wish to register your complaint formally. Your organisation should have a written grievance policy and you should read this before proceeding to be sure that you are aware of your rights. A formal grievance should be submitted in writing. The grievance procedure should set out who to pass the letter to, it will normally be your line manager or HR. If your grievance is against your line manager it will be more appropriate to pass this to another manager or HR. If you are a member of a union they may be able to support your grievance.

Your employer will then arrange a grievance meeting to discuss your concerns. This should happen as soon as possible. You are entitled to be accompanied to the meeting by a trade union representative or colleague. Depending on your organisation's policy and their flexibility it may be possible for you to bring an external person in to accompany you. This may be a friend, family member or support worker/advocate. It may be necessary for you to request this as a reasonable adjustment if the need for this is related to your disability. For more information on grievances and how to prepare for a grievance meeting read 'The Acas Guide to Disciplinary and Grievances' www.acas.org.uk

Following the hearing the staff members hearing the grievance should decide on what action to take next. This should be communicated to you in writing. If you feel that the issue has not been resolved or the action taken is inadequate you may wish to appeal this decision in writing. Normally, once you appeal, a further hearing will be held which should be chaired by alternative staff members. Your employer's grievance procedure should explain the appeal process.

Sometimes an employer will have a specific procedure for complaints of discrimination, in which case, you may wish to register your complaint both under this and the normal grievance procedure.


Further action

Depending on the outcome of your grievance/complaint you may wish to explore the following options:

Workplace mediation: Mediation involves the parties involved in a dispute sitting down and talking through the issues to reach a solution. This may involve you, your manager or another colleague depending on the nature of the issue. To be successful the mediation should be chaired by an independent and objective third party. If your employer is large they may already have a company which provides this service. The aim of mediation is to preserve the relationship between you and the other party and move forward. You or your employer may request mediation and it is your right to accept or refuse this.

Employment tribunal claim: Employment tribunals are an independent judicial body set up to resolve employment disputes. You are strongly advised to seek legal advice before proceeding with a claim. Strict time limits apply to the bringing of a tribunal complaint.

General information is available from www.employmenttribunals.gov.uk You are strongly advised to seek specialist legal advice as to your particular circumstances as soon as possible if you consider that you may have a claim.



If you have tried to raise your complaint informally but you are unhappy with the outcome or the problem is continuing you may wish to register your complaint formally

Advocacy tools

Open letter from The Migraine Trust



To whom it may concern,

The Migraine Trust is the health and medical research charity for migraine in the United Kingdom. We seek to empower, inform, and support those affected by migraine by providing evidence based information about migraine while educating health professionals and actively funding and disseminating research.

There are approximately eight million migraine sufferers in the UK and there are an estimated 190,000 migraine attacks every day. Despite the vast number of people affected by the condition awareness is low. Just over a third (34.3%) of migraine sufferers face difficulties at work because of their condition. A migraine sufferer may be 'disabled' for the purposes of the Equality Act 2010. A person can be 'disabled' if they have a physical or mental impairment and the impairment has a 'substantial' and 'long term' adverse effect on their ability to perform 'normal day-to-day activities'.

Employers can put adjustments in place to ensure that disabled migraine sufferers are not put at a significant disadvantage in the workplace when compared to non-disabled colleagues. Many of these adjustments are low cost and easy to implement, eg. flexible working, access to drinking water and disregarding disability related sickness absence. An employee's GP, neurologist, headache nurse, or with appropriate input from the patient, an employer's occupational health adviser will be able to provide information and advice based on the individual's circumstances. Further information about how to support employees with migraine can be found in our Workplace Pack. As migraine is a fluctuating and episodic condition The Migraine Trust recommends using The Employer's Forum on Disability Tailored Adjustment Agreement to assist employers to implement and review adjustments.

For further information about migraine please visit www.migrainetrust.org or you can contact our Employment Advocacy Service on 020 7631 6973.

Yours faithfully,

The Migraine Trust

Template form: Tailored adjustment agreement

Individually tailored reasonable adjustments

This 'tailored adjustment agreement' is a living record of reasonable adjustments agreed between an employee and their line manager. It is provided by The Migraine Trust as a good practice resource for an employer and an employee to manage the employee's health condition in the workplace.



The purpose of this agreement is to:

- Ensure that both parties, the individual and the employer, have an accurate record of what has been agreed.
- Minimise the need to re-negotiate reasonable adjustments every time the employee changes jobs, is re-located or assigned a new manager within the organisation.
- Provide employees and their line managers with the basis for discussions about reasonable adjustments at future meetings.

This is a live document and should be reviewed regularly by both the employee and manager and amended as appropriate. Remember, however, that expert advice from third parties, such as occupational health advisers, Access to Work or IT specialists may be needed before changes can be agreed and implemented. Managers who need help in deciding whether or not an adjustment is reasonable will find it helpful to use the Reasonable Adjustment Request Form available at:

<http://www.efd.org/publications/line-manager-guide>

Employee – This agreement allows you to:

- Explain the impact of your health condition on you at work.
- Suggest adjustments that will make it easier for you to do your job.
- Offer further information from your doctor, specialist or other expert.
- Request an assessment by occupational health, Access to Work or another expert.
- Review the effectiveness of the adjustments agreed.
- Explain any change in your circumstances.
- Be reassured that your manager knows what to do if you become unwell at work and who to contact if necessary.
- Know how and when your manager will keep in touch with you if you are absent from work because of illness or a disability related reason.

Line manager – This agreement allows you to:

- Understand how a particular employee's health condition affects them at work.
- Explain the needs of the business or organisation.
- Explain the organisation's attendance and reasonable adjustment policy.
- Recognise signs that an employee might be unwell and know what the employee wants you to do in these circumstances including who to contact for help.
- Know how and when to stay in touch if the employee is off sick.
- Consider whether or not the employee needs to be referred for an assessment by an occupational health or another adviser to help both parties understand what adjustments are needed.
- Review the effectiveness of the adjustments already agreed.
- Explain any change in the employer's circumstances.

Tailored adjustment agreement

This is a record of the reasonable adjustments agreed between *employee's name* and *line manager name*.

This agreement may be reviewed and amended as necessary with the agreement of both parties:

- At any regular one-to-one meeting.
- At a return to work meeting following a period of sickness absence.
- At six monthly and/or annual appraisals.
- Before a change of job or duties or introduction of new technology or ways of working.
- Before or after any change in circumstances for either party.

Employee

My health condition/disability in the workplace

My health condition/disability has the following impact on me at work

I need the following agreed reasonable adjustments (refer to Access to Work agreement if relevant) to support me in my role:	Date budget holder contacted if relevant:	Date implemented:

Wellness at work – Employees who have fluctuating mental or physical health conditions

On a 'good day' my health condition has the following impact on me at work

When my health condition is affecting me. The following symptoms are indications that I need to adjust my practice or that I am not well enough to be at work

Emergency contacts

If I am not well enough to be at work I am happy for my line manager to contact any of the following emergency contacts in the order of preference indicated below.

Please add, amend or delete types of contacts as appropriate

GP (preference X)	Neurologist (preference X)
Name: Surgery: Telephone: Address:	Name: Telephone: Mobile: Address:
Relative (preference X)	Specialist (preference X)
Name: Relation to me: Telephone: Mobile: Address:	Name: Telephone: Mobile: Address:
Friend (preference X)	Other (preference X)
Name: Telephone: Mobile: Address:	Name: Telephone: Mobile: Address:

I will let you know if there are changes to my condition which have an effect on my work and/or if the agreed adjustments are not working. We will then meet privately to discuss any further reasonable adjustments or changes that should be made.

If you notice a change in my performance at work or feel these reasonable adjustments are not working I would be happy to meet you privately to discuss what needs to be done.

Line manager

Keeping in touch

If you are absent from work on sick leave or for a reason relating to your disability for more than **XX** days and have followed the usual procedures for notifying the organisation of your absence I will keep in contact with you in the following way:

Who will contact whom?
How will contact be made? (email, telephone, text, letter, minicom)
How often? (daily, weekly, monthly)
When? (preferred day, preferred time)

Conversations while you are on sick leave

<p>These are the topics we have agreed we will discuss while you are absent, for example;</p> <ul style="list-style-type: none">• How you are feeling,• What I can do to help,• Current work,• Planned phased return to work,• Return to work date etc, etc.
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Return to work

When you are ready to return to work after a period of sickness or disability related absence of more than **XX** days we will meet to review this agreement and make any necessary amendments.

At this return to work meeting we will also discuss:

For example:

- Current work issues,
- A phased return/back to work plan,
- What to tell the team (if necessary),
- Assessments to review existing reasonable adjustments (Access to Work, GP, occupational health) and identify new adjustments that might be needed etc.

Unauthorised absences from work

If you are absent from work and have not followed usual procedures for notifying us that you are sick or absent for a reason relating to your health condition or disability we have agreed that I will do the following:

For example;

- Try to contact you on your mobile and/or notify your emergency contact whose up to date details are as follows:

An up to date copy of this form will be retained by employee/line manager/HR.

A copy of this form may also be given to a new or prospective line manager with the prior consent of the employee.

Employee signature:

Date:

Employer signature:

Date:

Template letter: Request to disregard a reasonable amount of disability related sickness absence

Address

Date

Dear *Name*

Re: Reasonable Adjustment Request

I am writing with regards to my migraines which have resulted in me taking *XXX* days of sickness absence this year. My migraines have the following impact on me.
Outline symptoms and impact.

I would like to make a formal request under The Equality Act 2010 that my disability-related sickness absence is disregarded from the sickness absence management procedure as a reasonable adjustment. I am aware that the Equalities and Human Rights Commission Code of Practice on Employment, page 242 para 17.2, requires employers to 'disregard some or all of the absences by way of an adjustment if this is reasonable' for disabled employees.

The current absence management procedure currently puts me at a significant disadvantage due to my disability. Migraine is an episodic and fluctuating condition and as a result I am more likely to have unavoidable sickness incidences taken as a result of my disability which could impact on decisions made regarding my employment.

I would be grateful if you could reply to this letter as soon as possible. I am happy to provide information from my GP if required.

Yours sincerely

Your name

Template letter: Grievance

Address

Date

Dear *Name*

I am writing to inform you that I wish to raise a grievance relating to *subject of grievance*.

I wish this to be investigated in line with the *employer name* grievance procedure.

I am raising my grievance with regards to the following:

- 1*
- 2*
- 3*
- 4*

Be specific, quote dates/events/people.

I think that this has led to me being discriminated against/treated less favourably on the grounds of my disability/health condition.

I would now like this to be investigated as per my entitlement outlined in the staff handbook/grievance procedure. I am aware that I am entitled to be accompanied at a grievance hearing.

I look forward to your response.

Yours sincerely

Your name

Further information and resources

Acas

(Advisory, Conciliation and Arbitration Service) provides general information about employment legislation and good practice for employers and employees. ACAS can also advice and assistance to employers and employees to settle employment disputes.

www.acas.org.uk

Tel: 08457 474747

Citizen's Advice Bureau

The Citizen's Advice Bureau provides information about individual's rights in the UK, including in employment. Local CABs may be able to provide further support and representation.

www.adviceguide.org.uk

Direct Gov

The Direct Gov website gives 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.direct.gov.uk

Employers Forum on Disability

This is the leading employers' organisation focused on disability as it affects business. It can provide information, advice and support for UK employers to employ and retain disabled employees.

www.efd.org.uk

Tel: 020 7403 3020

Email: enquiries@efd.org.uk

Equality and Human Rights Commission

Provides information and advice about The Equality Act and all types of discrimination in employment and public life.

www.equalityhumanrights.com

Tel: England 0845 604 6610

Scotland 0845 604 5510

Wales 0845 604 8810

Equality Commission for Northern Ireland

Provides general information and advice about equality legislation in Northern Ireland including advice about employment rights and legislation. Useful for employers and employees.

www.equalityni.org

Tel: 028 90 500 600

Enquiry Line: 028 90 890 890

Email: information@equalityni.org

Post: Equality House, 7-9 Shaftesbury Square, Belfast BT2 7DP

Health and Safety Executive

Provides general information and useful advice for employers and employees about Health and Safety Regulations and good working practices.

www.hse.gov.uk

Tel: 0845 345 0055

E-mail: hse.infoline@santia.co.uk

Post: HSE Infoline,

Caerphilly Business Park,

Caerphilly CF83 3GG

Worklife

Worklife is a website for people with chronic fluctuating health conditions. It provides advice for employees, employers and health professionals to enable work retention for people with long term health conditions.

www.yourworkhealth.com

the migraine trust

The Migraine Trust is the health and medical research charity for migraine in the United Kingdom.

The Migraine Trust is committed to supporting all those affected by migraine and disabling headache. We seek to raise awareness of migraine and headache as a serious public health problem. The Migraine Trust funds and promotes research into migraine and disabling headache for the purposes of better understanding, improved diagnosis and treatment and, ultimately, to find a cure for these debilitating conditions.

Information and Enquiry Service: We can help with questions you may have about migraine, other headaches and their management. All our information is based on the best available evidence.

Telephone: 020 7631 6975 please leave a message if necessary and we will get back to you or

Email: info@migrainetrust.org

Advocacy Service: We can provide advocacy support to empower migraine sufferers to assert their rights and claim their entitlements in the areas of healthcare, employment and education. (See website for further details and resources).

Telephone: 020 7631 6973

Email: advocacy@migrainetrust.org

Events: Throughout the year we organise a variety of educational events around the UK that cater for both health professionals and the public. (See website for details of upcoming events).

Website: Information about migraine and headache is available at our website including downloadable fact sheets and packs. You can also subscribe to The Migraine Trust's ebulletin.

The Migraine Trust is a registered charity funded entirely by voluntary donations from individuals, charitable trusts and corporate supporters. Without your support we would be unable to continue our work. Please give your support by making a donation or become a regular supporter and receive our journal Migraine News.

Find us on Facebook, Twitter and Justgiving.com

Telephone: 020 7631 6970 Fax: 020 7436 2886

Email: info@migrainetrust.org

Website: www.migrainetrust.org

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