

## Protected Characteristics: Pregnancy and maternity

Women who are pregnant or on maternity leave have an additional level of protection in the workplace, as pregnancy and maternity is a protected characteristic under the Equality Act. This means that employers are not allowed to discriminate against women because they are pregnant or on maternity leave.

Pregnant women, and women on maternity leave are entitled to the same training, promotion and recruitment opportunities as other employees, and the same holiday and sickness pay or contractual benefits as other employees.

As well as this a number of additional protections are offered. Pregnant women are entitled to:

- Take paid time off work to attend ante-natal classes and pregnancy related medical appointments.
- Ask for and take maternity leave. As an employee, a woman has the right to 26 weeks of 'Ordinary Maternity Leave' and 26 weeks of 'Additional Maternity Leave' - making one year in total. Provided you meet certain notification requirements, you can take this no matter how long you've been with your employer, how many hours you work or how much you're paid. Employees must take at least two weeks of maternity leave following the birth of their baby.
- Statutory maternity pay

There are also special rules around recording of sickness absence during pregnancy. Pregnant women are able to take time off sick due to illness resulting from pregnancy, such as high blood pressure, without it counting towards their sickness record at work. This includes any time taken off work because of a miscarriage.

This protection begins once your employer knows that you are pregnant. Whilst women do not have to inform their employer about their pregnancy until they have to give notice to make maternity leave – this is the 15<sup>th</sup> week before the baby is due – it is advisable to do so before then to enable the employer to undertake an appropriate risk assessment.

Some examples of scenarios which would be considered discriminatory would be if a woman was dismissed or disciplined because:

- She was unable to do her usual job during pregnancy for health and safety reasons. In such instances suitable alternative work should be found or the employee may be suspended from work on full pay.
- She was dismissed because the employer says they can't afford to pay statutory maternity pay.
- She had high levels of sickness absence relating to pregnancy.
- Her employer failed to carry out adequate health and safety risk assessments forcing her to resign.

## Pregnancy and Maternity discrimination and redundancy

There are some special rules in place to protect women who are pregnant or on maternity leave from being unfairly made redundant.

Sometimes employers must make difficult decisions to restructure the workplace and make employees redundant, and inevitably this will sometimes involve women who are pregnant or on maternity leave. However, it would be considered discrimination if:

- An employer chooses an employee for redundancy **because** she is pregnant
- If an employer decides to make people redundant and fails to adequately consult with employees on maternity leave.

This does not, however, mean that a woman cannot be made redundant whilst she is pregnant or on maternity leave, as long as a proper consultation process is followed and appropriate redundancy criteria are applied fairly.

## Returning to work after maternity leave

There are also a number of protections in place for women when they finish their maternity leave and return to the workplace.

- Employers must make an appropriate health and safety risk assessment for new and breastfeeding mothers.
- Employers must provide adequate rest and meal breaks, and suitable rest facilities for breastfeeding mother. Toilets are unlikely to be suitable.
- If an employee returns to work after Ordinary Maternity Leave, which is the first 26 weeks of Statutory Maternity leave, they have the right to return to the same job with the same terms and conditions they held before starting maternity leave.
- If an employee returns to work after Additional Maternity leave they will ideally be able to return to their old job. However, if that is not reasonably practical they must be offered a suitable alternative that has similar terms and conditions as their previous role (for example the same salary).
- All employees with a child under 17 years old have a right to request flexible working and employers must give proper consideration to granting this using the required statutory procedures.
- Some employers have parents' support networks to provide advice and support for new parents.

## Summary

It is illegal to discriminate against women who are pregnant or on maternity leave. A number of special conditions apply which aim to support women during this period, these include special rules about sickness reporting and redundancy arrangements.