



Pregnancy and maternity discrimination : Employee guide

Description

Introduction

Our equality laws protect women from **pregnancy and maternity discrimination**. Here is a brief guide.

Pregnancy and maternity discrimination and unfavourable treatment

It is unlawful for employers to discriminate by:

- a) treating a woman unfavourably from the beginning of **pregnancy** to the end of **maternity leave** (the protected period) because of her **pregnancy** or because of an illness she has suffered as a result of her **pregnancy**; or
- b) treating a woman unfavourably because she is on compulsory **maternity leave**; or
- c) treating a woman unfavourably because she is exercising or seeking to exercise or has exercised or tried to exercise the right to ordinary or additional **maternity leave**.

Unlike direct discrimination, there is no need to compare the woman's situation to a man's situation. All that is needed to show is that the woman was treated unfavourably because of pregnancy and maternity.

If a woman is being treated unfavourably because of her **pregnancy** or because of an illness she has suffered as a result of her **pregnancy** ((a) above) but the discrimination arises outside the protected period it could be possible to bring a [direct discrimination](#) claim. Legal advice though should be sought on the type of claim to be brought.



A man cannot claim that he has been subject to sex **discrimination** because he has not received the same treatment as a woman in connection with **pregnancy** or childbirth.

Examples

Examples of unfavourable treatment because of **pregnancy** and **maternity** could include, among other things:

- a) Failing to inform an employee about opportunities for jobs, promotion, transfers and training.
- b) Failing to consult with an employee.
- c) Failing to carry out a risk assessment in the workplace for new or expectant mothers.
- d) Changing an attitude towards an employee after being informed of a **pregnancy**.
- e) Dismissing an employee because of a **pregnancy**-related illness.



Antenatal appointments

Pregnant employees have a specific right to be paid for time off to attend antenatal appointments. A breach of this right would also likely amount to unfavourable treatment.

Redundancy

It is a common misunderstanding that it is illegal to make an employee redundant who is on **maternity leave**. If there is a genuine redundancy/restructuring provided that the employer does not treat the employee unfavourably because of **pregnancy** and **maternity leave** and follows correct procedures a redundancy could be legal.

However, from when an employee notifies their pregnancy up until 18 months after childbirth the employee is entitled to be offered any suitable employment vacancy with the employer or any associated company. The employee must have priority over other employees at risk of redundancy. The new employment legislation will provide greater protection covering other types of dismissal during pregnancy, maternity leave or after returning to work.

The terms and conditions under the new role must not be substantially less favourable than the terms and conditions under the previous role.

The government is proposing that it will be unlawful to dismiss a woman within six months of her return from maternity leave, though there will be some exceptions.



Victimisation

A job applicant or employee must not be victimised because they have alleged **pregnancy** and **maternity discrimination**, brought a **pregnancy** and **maternity discrimination** claim or given evidence or information in relation to proceedings.

Bringing a claim

Prior to bringing a claim for **pregnancy** and **maternity discrimination** the job applicant or employee would be required to follow the Advisory, Conciliation and Arbitration Service's ([Acas](#)) early conciliation process. In certain cases it may also have been appropriate to have raised a [grievance](#).

Any claims must usually be lodged within three months (less a day) from when the discriminatory act occurred. The time limit is subject though to the early conciliation rules for extending time.

This guide is intended for guidance only and should not be relied upon for specific advice.

If you need any advice on **pregnancy** and **maternity discrimination** or have queries on other employment law issues please do not hesitate to [contact](#) me on [020 3797 1264](#).