

## Pregnancy and maternity discrimination : Employee guide

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

### 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;
- 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.

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, where an employee on ordinary or additional maternity leave is at risk of redundancy, she is entitled to be offered any suitable employment vacancy with the employer or any associated company. The employee should have priority over other employees at risk of redundancy.

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 currently considering extending this protection to new mothers who have recently returned to work. The Government's provisional view is that 6 months would be an appropriate length of time, on the basis that it is a long enough period to allow a new mother to re-establish herself in the workplace. The closing date for the consultation is 5 April 2019.](#)



## **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 [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 [0203 797 1264](tel:02037971264).