

In the Know....

Calls for more protections for mothers in the workplace



The Women and Equalities Committee has called for UK women to be given more protection at work when they are pregnant and after they have given birth. Here, we take a look at what they want.

Current protection

Employment rights already exist to offer entitlements and protection to women from the point they become pregnant and extending beyond their return to work. These include:

- The right to paid time off to attend ante-natal appointments
 - Protection from discrimination because they are pregnant/ on maternity leave
 - Right to up to one year's maternity leave and up to 39 weeks' statutory maternity pay
 - Right to be given alternative work or suspended on full pay if performing usual role would pose a health and safety risk
 - Extra protection in a redundancy situation when on maternity leave
3. The right to paid time off for ante-natal appointments should be extended to 'workers' who have served a short qualifying period. Currently, only those who fall into the category of employees have this right, along with agency workers who have served 12 weeks in one assignment. This extension would bring casual and zero hours workers into scope;
 4. Bringing the maternity rights of workers more in line with those that employees enjoy. Again, this focuses on casual and zero hours workers who are not, by law, entitled to a period of maternity leave N.B. The absence of the right to maternity leave does not mean that the individual cannot take time off when they have had a baby; it simply means that the time off is not recorded as 'maternity leave' nor the related rights e.g. keeping in touch days. The report asks for this to be done within two years;

Committee Findings

The Committee reported that 54,000 women were forced to leave their jobs because of concerns about the safety of their child, or because of pregnancy discrimination. Examples of pregnancy and maternity discrimination may be:

- Dismissing an employee during maternity leave because her maternity leave cover is 'better' than her;
- Not paying certain bonuses due to the employee during maternity leave;
- Refusing a flexible working request on return from maternity leave (will not always be but could be).

Committee Recommendations

The Committee set out several recommendations within their report that they urge the Government to consider. Some are outside the realm of employment law but those that will be of interest to employers are:

1. Employers should be required to undertake a risk assessment on a woman who is pregnant; has given birth within the last 6 months or is breastfeeding. The reports asks that the Health and Safety Executive reflect this requirement in its guidance by the end of 2016;
2. A formal mechanism, by 2017, for an employee to ask their doctor/midwife to confirm that specific risks at work need to be dealt with by the employer;
5. Greater protection for pregnant women and women on maternity leave against redundancy. Currently, women on maternity leave must be offered a suitable alternative role if there is one; there is no need for her to apply for it. However, the Committee wants the Government to go further and adopt a system similar to that used in Germany. There, the protected period runs from the start of pregnancy until 4 months after childbirth. During this period, employers can only dismiss the employee in extremely rare circumstances. The Committee would extend that protected period until 6 months after the birth.
6. Requiring large companies to report on retention rates for women 12 months after returning from maternity leave and 12 months after the lodging of an application for flexible working;
7. Extending the three month time limit for making a discrimination claim to employment tribunal to six months;
8. Substantially reducing the £1200 fee that currently applies to making a discrimination claim to employment tribunal.

The Government has confirmed that it will carefully consider the recommendations.

The content of this briefing is correct at the time of publishing.

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