

Pregnancy and maternity: Pregnancy

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Summary of your key obligations

Recruitment

You must not refuse to consider, fail to shortlist or employ someone on less favourable conditions because of pregnancy, expected pregnancy or recent maternity leave.

Protection from dismissal and detrimental treatment during pregnancy

You must make sure that an employee is not treated unfavourably, dismissed or selected for redundancy because of pregnancy or reasons related to pregnancy including pregnancy related illness.

Paid time off for antenatal care

You must allow a pregnant employee to take reasonable paid time off for antenatal care. Fathers and partners are legally entitled to take unpaid time off for up to two antenatal appointments.

Sickness during pregnancy

You must record pregnancy-related sick leave separately to other types of sick leave.

Health and safety

You must carry out an individual risk assessment and take reasonable action to remove or reduce any risk that you identify.

Notice for maternity leave and pay

Your employee must give you notice of their intention to take maternity leave by the end of the 15th week before the due date or as soon as reasonably practicable.

You must confirm the expected date of return from maternity leave within 28 days of receiving your employee's notice. This must be in writing.

Unlawful pregnancy and maternity discrimination during pregnancy

Unfavourable treatment is when an employee is treated badly because of their pregnancy or pregnancy related sickness, or because they are seeking to take maternity leave. Unfavourably is the legal term.

It is unlawful pregnancy discrimination to treat an employee unfavourably:

- because of pregnancy
- because of sickness related to pregnancy, or
- for a reason relating to pregnancy.

It is unlawful maternity discrimination to treat a pregnant employee unfavourably because they are about to go on maternity leave.

A pregnant employee must be treated in the same way as other workers, except where the pregnant employee needs special treatment or protection because of pregnancy. This includes paid time off for antenatal care, protection from health and safety risks and protection from being dismissed or disciplined for absence caused by pregnancy-related sickness.

When is an employee protected from pregnancy discrimination?

The 'protected period' starts in the beginning of pregnancy, and ends:

- a) until the end of maternity leave, or upon return to work, for an employee entitled to statutory maternity leave. Statutory maternity leave is available to all staff who have the legal status of employees but does not extend to some other groups including casual workers, agency workers and self-employed workers.
- b) until two weeks after the end of pregnancy for those who are not entitled to maternity leave. This is four weeks if the employee works in a factory.

Any unfavourable treatment for reasons related to pregnancy during the protected period is likely to be pregnancy and maternity discrimination.

An employee is protected from pregnancy discrimination as soon as you know, believe or suspect that they are pregnant. They do not have to tell you they are pregnant until 15 weeks before the baby is due to be born. However, if an employee chooses not to tell you and you are not aware that they are pregnant, they will not be protected from pregnancy discrimination if they are treated unfavourably. This might include your employee being dismissed or disciplined if time is taken off for pregnancy-related sickness. Additionally, they will not be entitled to other rights, like paid time off for antenatal appointments, unless they have notified you of the pregnancy.

It is likely to be unlawful to treat an employee unfavourably for any of the following reasons:

- They are temporarily unable to do the job for which they employed, whether permanently or on a fixed-term contract, because of pregnancy.
- They are temporarily unable to work if it would result in a breach of health and safety regulations.

- They are absent due to pregnancy-related sickness.
- They are unable to attend a disciplinary hearing due to pregnancy-related sickness or conditions.
- Arranging cover for the employee on maternity leave is too expensive for the business.
- Poor performance which is linked to a pregnancy-related condition, like morning sickness.

Examples of unfavourable treatment may include:

- refusing to recruit a candidate who is pregnant, is on maternity leave, has just taken maternity leave, or is about to go on maternity leave
- refusing to allow pregnant employees to take reasonable paid time off to attend antenatal appointments, or criticising an employee for taking time off to attend antenatal appointments
- refusing a pregnant employee training opportunities that are offered to employees who are not pregnant
- refusing to consider a pregnant employee for promotion, not informing them of promotion opportunities or discouraging them from applying
- failing to carry out a health and safety risk assessment and protect a pregnant employee's health and safety, if there are risks identified
- dismissing a pregnant employee because of pregnancy
- changing or removing job responsibilities unless necessary for health and safety reasons, the employee agrees, or to arrange cover just before maternity leave
- disciplining a pregnant employee or subjecting them to performance or capability management procedures for reasons related to pregnancy including pregnancy-related sickness
- ignoring a pregnant employee or making hurtful comments about the pregnancy or maternity leave
- excluding a pregnant employee from business trips, or refusing travel, if it is still safe to attend, and
- denying a pregnant employee a pay rise or bonus.

Where an employee treats a pregnant colleague unfavourably in relation to pregnancy, you are legally responsible unless you have taken all reasonable steps to prevent the discrimination from happening in the first place. For further information, [read the Acas guidance on this topic](#).

Pregnant employees are also legally protected from:

- **Direct sex discrimination:** this happens when someone treats you worse than another person in a similar situation because of your sex.
- **Indirect sex discrimination:** when an organisation has a policy or way of working that applies in the same way to both sexes, but puts an employee at a particular disadvantage because of their sex and cannot be justified. Indirect discrimination does not apply to pregnancy discrimination but policies and ways of working which disadvantage pregnant women may amount to indirect sex discrimination.
- **Victimisation:** when an employee is treated unfavourably because they have made a complaint of discrimination under the [Equality Act](#). It can also occur if they are supporting someone who has made a complaint of discrimination.
- **Detriment:** when an employee is subject to any kind of disadvantage because of pregnancy or maternity leave.
- **Automatic unfair dismissal:** when an employee is dismissed because of pregnancy, or any reason connected with pregnancy or maternity leave.

Recruitment

When recruiting new employees, it is unlawful to refuse to shortlist, consider or employ someone because they are:

- pregnant (which would be pregnancy discrimination), or
- likely to become pregnant (which would be sex discrimination).

The job must be offered to the best candidate on the basis of their skills, qualifications, merit and experience. Recruitment of new employees should focus on whether these criteria make the candidate suitable to do the job, not on whether a potential employee has or is likely to have children.

Wherever possible, you should offer all jobs on a flexible basis so that you are recruiting from the broadest possible range of candidates. For further information on flexible working, [read the Acas guidance on this topic](#).

If someone applies for a job when they are on or about to go on maternity leave, you must consider them. You must treat them the same way as any other job applicant. You can discuss when they might start, being aware that you may have to wait for them to start if they are on maternity leave.

It would be maternity discrimination if, because of a candidate's maternity leave, you:

- refused to interview them or did not appoint them to a job if they are the best candidate
- gave them a job for a limited period instead of permanent employment
- insisted they start work when they are on maternity leave unless they agree, or
- offered them a lower salary or other different, less favourable terms.

An employee does not have to tell you that they are pregnant during interview or selection procedures. It is up to the employee to decide when they wish to tell you of their pregnancy.

You should avoid asking job applicants whether they are pregnant or planning to have children, or about their families. If you ask questions about someone's intention to have a family at an interview or in a pre-employment health questionnaire, this could be interpreted as an intention to discriminate if they are pregnant, likely to become pregnant, or have family commitments. This could lead to a potential sex discrimination claim if someone is not offered a job.

You cannot withdraw a job offer because you find out that the candidate is pregnant. This would be pregnancy discrimination. You must not discriminate against a candidate who is pregnant, or might become pregnant, when making recruitment decisions. This is a legal requirement.

You cannot offer a pregnant employee a temporary job until they start their maternity leave if you would have offered them a permanent job had they not been pregnant. Only offering them a temporary job in those circumstances is treating them unfavourably because of their pregnancy. This is unlawful discrimination.

In Vitro Fertilisation (IVF)

We recommend that requests for time off for IVF are treated sympathetically as a matter of good practice.

There is no strict legal requirement to give an employee time off to have fertility treatment. However, the refusal of a request could be sex discrimination if a man would be treated more favourably for leave requested for similar reasons. Employers may wish to establish procedures for allowing time off for IVF and fertility treatment. These procedures may enable employees to tell named members of staff on a confidential basis that they are having treatment.

For further information on IVF, read the [Equality and Human Rights' Employment Statutory Code of Practice](#) on this topic (pages 108, 245 and 246).

Paid time off for antenatal care

Pregnant employees are legally entitled to reasonable paid time off for antenatal care if they have been advised to attend by a registered doctor, midwife or health visitor. You cannot unreasonably refuse a request to take time off for antenatal care and must pay pregnant employees their normal hourly rate of pay.

Antenatal care can include:

- medical examinations
- scans
- appointments with a doctor or midwife
- antenatal classes
- relaxation classes, and
- parent-craft classes.

You are legally entitled to request evidence of antenatal appointments (apart from the first appointment).

You are legally entitled to refuse time off for appointments (apart from the first appointment) if this information is not provided.

There are no specific rules about how much time an employee can take off for an appointment. The amount of time taken must be reasonable. This includes travel time and the length of the appointment.

Employees may have to wait some time during busy antenatal clinics. They must not be penalised for this. They will also have little flexibility over the timing of their appointments.

Part-time employees are still legally entitled to paid time off for their antenatal care. They will not necessarily be able to arrange appointments outside of their working hours.

You are legally entitled to ask employees to go into work before and / or after the appointment, if this is reasonable and within their normal working hours.

Employees must not be asked to make up any time missed or be asked to use their annual leave for an appointment.

Employees must not be dismissed or treated unfavourably when they request or take time off for antenatal care that they are entitled to. For example, any time off for antenatal care that they are entitled to should not be considered when taking disciplinary action or selecting employees for redundancy.

Fathers and partners are legally entitled to unpaid time off to attend up to two antenatal appointments.

An adoptive parent has the legal right to paid time off to attend five pre-adoption appointments.

Protection from dismissal and detrimental treatment during pregnancy

You must not deny training to an employee because they are pregnant or about to go on maternity leave. However, if the training is going to be out of date when they return from leave, it would be good practice to discuss this with them and postpone the training if they agree. If there is training during their maternity leave, it would be good practice to discuss using a keeping in touch (KIT) day to attend.

You can ask pregnant employees whether they are likely to want to change their working pattern and discuss the possibilities if they want to do so. However, you should assume that they will return to the same job on the same terms and conditions, including the same hours, unless they say otherwise. If they say that they do not know, it is best not to put pressure on them to make up their mind at this early stage as they may think you are making a discriminatory assumption that they will want to work part-time, which would not be made about an employee who is not pregnant.

To ensure that your employees do not bully or harass a pregnant colleague, you should provide regular training on managing pregnancy and maternity at work. This training should not only take place when one of your employees is pregnant. You should have a clear written policy on harassment and bullying. You should enforce it by taking disciplinary action against employees who do harass or bully.

If an employee is dismissed during pregnancy, they are legally entitled to written reasons for the dismissal. If the reason for the dismissal is their

pregnancy, a reason connected with pregnancy or maternity leave, the dismissal is automatically unfair. Pregnant employees must be treated the same as other employees when being considered for redundancy and have the additional right to be offered suitable alternative employment in priority to other employees who are not in a protected position. An employee cannot be selected for redundancy based on criteria relating to their pregnancy.

For more information, [read the Acas Code of Practice on disciplinary and grievance procedures](#).

Performance management

You can tackle poor performance of a pregnant employee if the issues you raise are not related to their pregnancy. Poor performance that is related to their pregnancy or pregnancy-related absence must not negatively impact your assessment of their overall performance at work. This would be pregnancy discrimination. You can take account of any poor performance that took place before they became pregnant.

If an employee is going to be on maternity leave at the time of your performance reviews, consider whether it is practical to have the review before they go on maternity leave. It is best if you can carry out a performance review before their maternity leave, if possible. If it is not possible, you must make sure that they are not disadvantaged because they do not have a performance review for that year, including in relation to any potential bonus or promotion.

Health and safety

You have a legal duty to protect the health and safety of employees during pregnancy, breastfeeding and for six months after childbirth. In practice this means:

- carrying out a general risk assessment on all your employee's workplaces and regularly reviewing it in case of significant changes at work
- carrying out an individual risk assessment for the pregnant employee and regularly reviewing it over the course of the pregnancy
- carrying out a display screen equipment (DSE) assessment for employees working at a workstation
- taking action to deal with health and safety issues relating to pregnancy or breastfeeding that may arise from the assessment(s) or specific issues

- identified by the pregnant or breastfeeding employee
- adjusting the employees' working conditions or hours to avoid the risk, if possible
 - offering the employee suitable alternative work on terms and conditions that are not substantially less favourable to those of the original job, if there are no reasonable changes you can make to avoid the risk, and
 - if there is no suitable alternative work, suspending the employee on full pay for as long as is necessary to avoid the risk.

If an employee does not provide written confirmation of pregnancy within a reasonable time, you do not have to continue any changes to working conditions. You are also not required to keep them suspended on full pay.

You must consider any advice provided by the employee's doctor and/or midwife.

The Health and Safety Executive (HSE) website sets out your legal obligations [for managing risks](#). It has specific guidance on [protecting pregnant workers and new mothers](#).



Example –

Susan works in a department store. The work involves standing up for most of the day. She provides written notification of her pregnancy. The employer's workplace risk assessment has identified that standing for long periods can pose a risk to the health and safety of a pregnant employee.

Her employer should make reasonable adjustments to her working conditions to avoid that risk. They provide a chair so that she is not standing for long periods. Susan is allowed to sit down to do her work whenever possible during her pregnancy, even where other colleagues are not provided with chairs. Her employer offers Susan other duties that do not involve standing all day.



Example –

Pamela is in the late stages of her pregnancy and has asked her employer if she can reduce the amount of driving she does in her job visiting clients. Her employer has had written notification of Pamela's pregnancy so must keep any risks under review and consider making reasonable adjustments to her working conditions and hours of work in order to avoid the risks.

Her employer considers other ways that Pamela can keep in touch with clients now that she is in the late stages of her pregnancy and is finding a lot of driving difficult.

It would be discrimination to fail to remove or avoid the risks identified to new mothers and expectant employees.

It would be discrimination to fail to remove or avoid the risks identified to new mothers and expectant employees.

Sickness during pregnancy

Pregnancy-related sickness must be recorded separately from other kinds of sickness. It must not count towards an employee's total sickness absence record or be used as a reason for disciplinary action or redundancy selection, even where that action is being taken after the employee has returned to work.



Example –

Jessie has morning sickness. If she is not well enough to work at certain times of the day, it would be good practice to discuss a temporary adjustment to her hours, for example starting later to avoid rush hour traffic or working from home. You are not legally required to do this, but the alternative might be for your employee to be absent from work for the whole day.

A pregnant employee should be treated the same way as other employees. If you have a policy that requires all employees to provide medical evidence after a period of sickness, you can ask for this from a pregnant employee. You should not put pressure on them to return before they are well enough to do so. This might be pregnancy discrimination.

You can recruit a temporary replacement if your pregnant employee is likely to be off sick for a long time, but you must not remove an employee's job from them just because they are off work with pregnancy-related illness. You can cover their absence in the short term in the same way you would with any employee. Remember that it is a good idea to discuss this with your employee to reassure them that their replacement is temporary until they are well enough to return to work.

Pregnancy-related sickness absence in the four weeks before expected week of childbirth

If an employee is off sick with pregnancy-related sickness at any time during the four weeks up to the start of the expected week of childbirth, maternity leave will start on the day after the first day of absence.

As soon as it's reasonably practicable, the employee must give you notice (in writing, if you request it) of absence from work because of pregnancy and give the date the absence began.

If the employee is eligible to receive statutory maternity pay, it will start from the day after the first day the employee is absent for a pregnancy-related sickness. Time off work for antenatal care does not count as absence due to pregnancy-related sickness. If you or your employee are unsure about whether sickness absence is pregnancy-related, the employee should talk to a registered healthcare professional.

Notice for maternity leave and pay

It is good practice to hold a pre-maternity leave meeting with your employee. You can ask them informally how much maternity leave they are currently planning to take. However, an employee is not legally obliged to confirm how much maternity leave they plan to take. Before the baby is born, they can only give a reasonable indication of plans.

You should not:

- put pressure on them to provide information about when they will return to work before they are required to
- tell them they will be disadvantaged if they do not return to work early, for example by saying that they will miss training or promotion opportunities
- treat them unfavourably if they do not come back to work earlier than they are required to return, or
- treat them unfavourably if they change their mind about when they will return to work.

Your employees must give notice for maternity leave by the end of the 15th week before their due date, or as soon as it is practical to do so. An employee must notify you (in writing, if requested):

- that they are pregnant
- the expected week of childbirth, and
- the date they would like to start their maternity leave.

You must write to the employee within 28 days of them giving you notice for maternity leave and pay, confirming the date their maternity leave will end.

Disability

If a disabled employee who has reasonable adjustments in place informs you that they are pregnant, it is good practice for you to discuss and review any reasonable adjustments with the employee and identify whether any changes need to be made during the different stages of their pregnancy and maternity leave. It is advisable for the review to consider any arrangements for training or KIT days.

Some disabled employees may not usually need reasonable adjustments. However, you may need to consider a temporary reasonable adjustment during pregnancy.

Good communication and forward planning

It is good practice to talk to an employee about their rights and entitlements during pregnancy. This could include time off for antenatal care, health and safety assessments, maternity leave, shared parental leave, pay, sickness

absence, flexible working, KIT days and annual leave. This will help to avoid confusion and misunderstandings.

Before your employee starts their leave, you should discuss:

- how much contact you will have
- what form the contacts will take. For example, you might get in touch by email, letter or phone call, or via your organisation's intranet.
- what the contacts should cover. For example, you might discuss staff leaving, new staff who have joined, training events and social activities.
- that there will be times when you are legally required to contact them. For example, to discuss a redundancy situation or where there are developments that affect their job, promotion possibilities, new job opportunities, reorganisation or potential redundancies.
- whether your employee wants to receive news bulletins
- when an appraisal will be held, if it is due during their maternity leave
- whether they want to attend training, and that you will provide details of any training taking place. They should say what training they can attend.
- KIT days, and the pay for these days, and
- any other information that the employee would like to receive.

Apart from times when you must contact the employee, you will provide as much or as little contact as you have agreed.

Page updates

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Maternity, paternity, adoption or shared parental leave and pay

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Freephone: 0300 123 1100 (8am to 6pm Monday to Friday)

Text Relay service: 18001 0300 123 1100.

Visit the [Acas website](#)

0300 123 1100