

The UK Government Department for Business, Energy and Industrial Strategy

“Pregnancy and Maternity Discrimination: Consultation on Extending Redundancy Protection for Women and New Parents”

April 2019

Premise:

This consultation seeks views on extending redundancy protection for pregnant women and new parents. It also sets out more widely what the department is doing to tackle pregnancy and maternity discrimination, and explain the current law on redundancy protection.

This is a commitment in the government’s response to the Taylor Review, and had previously been raised by the Women and Equalities Select Committee (WESC). The consultation recommends extending the current protection afforded under the Maternity and Paternity Leave etc. Regulations 1999 (which apply to the period of maternity leave) to cover the period of pregnancy and a period after, an extension of 6 months. It asks how best to achieve that and who would be covered, for example, those taking Shared Parental Leave or Adoption Leave.

The Scottish Women’s Convention:

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women’s Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to the issues set out within this proposal relevant to women including employment and maternity rights. As an organisation that gathers women’s real contributions, the SWC stresses the need to underpin legislation with catalysts for societal and cultural change that taken together will ensure an approach to equality that eradicates discrimination against women in its many forms.

To what extent do you agree that protections against redundancy for a period following return to work should be aligned with those already in place during maternity leave?

Strongly agree

Please give reasons for your answer.

Pregnancy and maternity rights are basic reproductive and human rights for women and should be looked upon as such. Establishing a clear and succinct statutory framework with robust alignment from pregnancy to establishing oneself back within the workforce is not only beneficial for women and society as a whole but has clear advantages in terms of lessening child poverty.

Incorporating regulations to cover women throughout all these periods before, during and after pregnancy is an important step forward in terms of equality. Not only does this provide clear consistency and transparent governance in terms of regulations, it also allows a concurrent approach to flow singularly throughout the full period. Rather than being patchy pieces of legislation which may act as a deterrence for mothers in the exercise of their employment rights, alignment also has the added benefit of raising awareness for employers in terms of all information.

Promotion discrimination is a key hindrance for many women returning to work post-pregnancy with many citing a perceived decrease in productivity as a stereotypical trope that is routinely reported. The likes of missed incentives for training whilst on maternity leave which are linked to promotional opportunities was also cited.

The vast majority of women have experienced some form of discrimination relating to pregnancy or maternity within their workplace. Whilst it is helpful that the Government acknowledges this, extending protections to cover a period after returning to work should not be seen as the sole solution. Much of the intolerance faced within the workplace in terms of pregnancy and maternity is done in such a way as to limit a grievance raised. Often described as seemingly minor, these injustices build up until a woman feels marginalised and pushed out for being a mother. Women are aware they are being unfairly treated but are unable to take this further to a tribunal for a number of reasons including:

- Lack of trade union recognition within the workplace.
- Fear of being “pushed out” if a grievance is raised.
- Potential opportunity for further discrimination.
- Much of this discrimination is not only routine for women but also *“hard to quantify and use as evidence”* in terms of conciliatory processes.
- Performance reviews due to maternity related stress which have the potential for demotion or redundancy when returning to work are painted in terms of non-pregnancy related misconduct.

What benefits do you believe the extension would bring a) For individuals b) For businesses

Pregnancy discrimination does not affect solely women. It affects business, the economy and society overall. Whilst legislation alone cannot augment the stigma and discrimination placed upon women, it does go some way to illustrate that steps are being taken in the process of equality. Systematic oppression against women in regards to pregnancy and maternity propagates the gender pay gap, leads to labour market gender segregation and is conducive of gender discrimination overall at a societal level.

It is also noted that this strategy should be looked upon in terms of a systematic whole scale labour market proposal that benefits expectant and new mothers. Adopting this policy ensures a clear approach that has the potential to extoll the benefits of staying in work for many women and ensuring discrimination is not taking place.

Discrimination against mothers leads to many women simply leaving their job or being *“managed out”*. It also addresses economics in that by keeping women from quality work, the generating of employment and revenues is missed.

Women throughout the country and at all levels of employment are in agreement that having clear and cohesive discrimination practices securely in place in relation to the whole cycle of pregnancy and maternity allows for greater productivity and job satisfaction. Furthermore, in feeling secure within their workspace, this also allows businesses to illustrate their commitment to equality rights and family friendly opportunities.

Do you agree that 6 months would be an adequate period of “return to work” for redundancy protection purposes?

Yes

Please give reasons for your answers

A major source of stress at an already augmentative time for women stems from insecurity in their work place. Discrimination against expectant and new mothers comes in a variety of forms, not all of which can be coherently legislated against with many women feeling systematically oppressed or *“managed out”* of workspaces due to their pregnancy. This has often been cited under the likes of being made to feel not as committed as other employees.

Another issue flagged up regarding current regulations is that an employer may simply wait until the current maternity period is over, then attempt to dismiss a woman when she returns. At least having a protected period in place would ensure best practice and augment sufficient time to highlight the valuable contributions made by women to the employer. However, placing pregnancy, maternity and returning to work on a similar statutory footing does signal a legislative incentive forward in terms of employers. It would also highlight that the government takes a zero tolerance stance on discrimination and thus encourage employers and women to know their rights.

Should pregnancy for redundancy protection purposes be defined as starting at the point a woman informs her employer that she is pregnant in writing?

Agree

If yes, please say what that should be and explain why

Allowing a woman to be protected from the point where she alerts her employer in writing to her condition is beneficial in terms of providing evidence if a potential grievance takes place. However, this still does not deter discrimination where an employer may *think* a woman is pregnant without being notified. Whilst this is covered under the Equality Act 2010 under the protected characteristic of sex, in reality, this is extremely tricky in terms of proving. It is thought best that this approach should be seen as going hand in hand with cultural change spearheaded by the government and laid out within this report.

Do you agree that the most direct equivalents to return to work from statutory maternity leave (on the basis that they are forms of leave that can potentially be taken by parent of either gender for longer periods) are:

a) Adoption leave Yes

b) Shared parental leave Yes

c) longer periods of parental leave Yes

Supposing that the additional redundancy protection afforded by the Maternity and Parental Leave etc. Regulations 1999 (MAPLE) is extended to mothers returning to work after maternity leave, to what extent do you agree that the same protection should be extended to those groups?

Strongly agree

Please explain the reasons for your answer:

There should be no disparities for any employee and their rights in terms of strengthening protections for their children. Failure to allocate standard regulations to cover for the likes of adoption leave and shared parental leave not only augments inequality and signals that childcare is a specifically female obligation but also means less regulatory alignment between already converging legislation which may be confusing for employers, employees and representatives.

How effective have these steps been in achieving their objective of informing pregnant women and new mothers of their employment rights?

Fairly effective

Please give your reasons.

Women provided mixed responses concerning the effectiveness of informing pregnant women and new mothers of their employment rights. Unsurprisingly, those in workplaces where trade union recognition and membership was high tend to be more informed of their rights.

Please outline any further steps which should be taken to provide advice and guidance to employees and employers about the employment rights of pregnant women and new mothers and employers' obligations towards them.

Other incentives could include:

- Mandatory information for women during pregnancy about their rights including a layout out of the process of discriminatory laws under MAPLE and the Equality Act 2010.
- Expansion of alternative working arrangements such as flexible working hours, job sharing and homeworking.
- Assurances that rights under the Pregnant Workers Directive will not be eroded upon leaving the European Union.
- Statutory legislation concerning the provision of breastfeeding areas in workplaces.
- Ensure any statutory legislation is thoroughly and robustly monitored including sectoral analysis.
- Business drives to abolish false narratives around mothers and their perceived lack of contribution/commitment to the workplace.
- Campaigns to increase knowledge of the skill sets mothers bring – e.g. delegation, time balance, and organisational skills.

Conclusion:

The SWC welcomes the opportunity to respond to the proposals embedded within this consultation relating to the extension of redundancy protection for women and new parents. Creating a fixed legislative strategy which ensures new and expectant mothers are put first is a clear step forward in terms of equality. In augmenting this process, it should always be kept at the forefront that cultural changes in attitudes in both the workplace and wider society towards working mothers and harmful stereotypes must be done away with if equality is to progress. Whilst underpinning legislation does not change everything, it is a clear indicative step forward and should be viewed as being beneficial for mothers, business and society as a whole.

For further information, please contact

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The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's equality.

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