

## Make Work Pay enhanced dismissal protections for pregnant workers and new mothers Acas response

15 January 2026

This is the Acas Council response to the [DBT consultation on enhanced dismissal protections for pregnant women and new mothers](#).

### Question 7: In your view, how common are concerns or complaints related to unfair dismissal or treatment during pregnancy?

- A. Very common.
- B. Common.
- C. Occasional.
- D. Rare.
- E. Non-existent.
- F. Don't know.

If relevant, please provide any further detail that supports your answer. If you are aware of any direct evidence of discrimination and unfair treatment, please provide a summary of that evidence or a link to where it is published.

#### Acas response

F. Don't know.

Our data does not provide a definitive answer to this question. We can provide the below data on cases from Acas's conciliation service and calls to the Acas helpline relating to pregnancy and maternity. Constraints on inference potential from this data on the frequency of pregnancy or maternity-related complaints in the workplace are noted in the text.

#### Conciliation data

Acas provides a free conciliation service offering parties the opportunity to explore reaching a settlement in all potential and actual employment tribunal claims.

From April 2022 to March 2025, approximately 2.9% (around 7,100) of around 240,200 early conciliation (EC) cases were recorded as involving an element of detriment, dismissal or discrimination relating to pregnancy or maternity based on conciliator classification (i.e. were assigned a 'MAT' jurisdiction). For comparison, the most common jurisdiction reported in our [2024-25 annual report](#) was unfair dismissal at 28%, and the 10th most common was redundancy pay at 3% (note: cases may record more than one jurisdiction).

During this same period, approximately 3.8% (3,900) of around 104,200 employment tribunal (ET) conciliation cases were recorded as involving an element of detriment, dismissal or discrimination relating to pregnancy or maternity based on employment tribunal classification. For comparison, the most common jurisdiction reported in our [2024-25 annual report](#) was unfair dismissal at 48%, and the 10th most common was age discrimination at 7% (note: cases may record more than one jurisdiction).

The above indicates that MAT cases are more prevalent among ET cases than EC cases. The difference (approximately 0.9 percentage points) is statistically significant and suggests that MAT-recorded EC cases may be more likely to return to Acas as ET cases compared to some other jurisdictions. Various factors could explain this difference: some MAT cases will be discrimination cases, which are less likely to settle in early conciliation (see 'open track cases' at p.47 in our [2024-25 annual report](#)); while a further factor to note in interpreting this data is that the jurisdiction of EC cases is assigned by conciliators and it is therefore indicative only (as it predates any application to an employment tribunal) and can change over time during the lifetime of a case. For example, the jurisdictions recorded can change during or following early conciliation if an issue in dispute is resolved or new issues arise prior to the submission of the ET claim; jurisdictions can also be added or removed to proceedings following the submission of an ET claim.

Note the number of conciliation cases involving alleged unfair treatment or unfair dismissal connected to pregnancy or maternity may be higher than the above figures indicate. Some cases involving detriment, dismissal or discrimination relating to pregnancy or maternity may alternatively be recorded under the jurisdictions of sex discrimination or unfair dismissal. We cannot determine what portion of cases recorded as sex discrimination or unfair dismissal jurisdictions may have involved alleged unfair dismissal or unfair treatment relating to pregnancy or maternity. Note the above data uses a data cut date of 5 December 2025.

### Helpline data

Acas runs a national helpline which handled around 1,824,700 calls from April 2022 to March 2025. Over this period, around 1.0% (around 18,000) of helpline calls related to pregnancy and/or maternity discrimination as recorded by helpline advisers. In addition, around 0.2% (around 3,500) of helpline calls over this period related to 'pregnancy health and safety'.

Helpline calls often cover more than one issue and helpline advisers may record multiple call topics for the same call. From April 2022 to March 2025, redundancy procedure and dismissal were respectively the third and fourth most frequently cross-tagged topics for calls about pregnancy and maternity discrimination: approximately 10.6% (around 1,900) of calls about pregnancy and maternity discrimination were also about redundancy procedure and approximately 10.3% (around 1,900) of calls about pregnancy and maternity discrimination were also about dismissal. For context, grievance procedure and maternity were respectively the first and second most commonly cross-tagged topic for calls about pregnancy and maternity discrimination at 23.1% (4,200) and 18.9% (3,400) of calls.

It should be noted that helpline callers represent a small portion of workers who are pregnant in the labour force as a whole and only a subset of those who may be experiencing unfair treatment related to their pregnancy i.e. those who have taken the step of seeking external information and advice from Acas. The issues this subset face, as evidenced through helpline calls, therefore may not reflect the full range of experiences of unfair treatment pregnant women experience in the workplace. Some of these calls are information-gathering queries rather than discussing a problem. Around 95% of helpline calls have an associated data capture system record. A record can have more than one call topic/subtopic and therefore proportions may sum to more than 100%.

## Question 8: In your view, how common are concerns or complaints related to unfair dismissal or treatment during new motherhood (i.e. on Maternity Leave or when recently returned to work)?

- A. Very common.
- B. Common.
- C. Occasional.
- D. Rare.
- E. Non-existent
- F. Don't know.

If relevant, please provide any further detail that supports your answer. If you are aware of any direct evidence of discrimination and unfair treatment, please provide a summary of that evidence or a link to where it is published.

## Acas response

F. Don't know.

## Conciliation data

See answer to question 7.

## Helpline data

Around 2.4% of calls ( around 42,300 out of approximately 1,824,700 calls) to the Acas helpline from April 2022 to March 2025 related to maternity.

Helpline calls often cover more than one issue and helpline advisers may record multiple call topics for the same call in our data capture system. From April 2022 to March 2025, of calls relating to maternity, the most common cross-tagged call topic was redundancy procedure at 9.2% (around 3,900) followed by pregnancy and maternity discrimination at 8% (around 3,400 calls). Dismissal was the 10th most commonly cross-tagged topic, at 2.0% (around 900).

See response to question 7 for helpline data on the call topic 'maternity and pregnancy discrimination.' See also response to question 7 for important notes on interpreting call data.

## Questions 9 to 10

No response.

## Question 11: What impact have the 2023/24 extended redundancy protections for pregnant women and new mothers had on how pregnant women and new mothers are treated in the workplace?

- A. Positive.
- B. Negative.
- C. Negligible.
- D. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

## Acas response

D. Don't know.

Data from our national helpline shows that the number of calls about maternity that relate to redundancy has increased since April 2024. From April 2022 to March 2024, roughly 7.1% of maternity calls also related to redundancy procedure. Between April 2024 and November 2025 roughly 14.2% of maternity calls also related to redundancy procedure.

However, this increase alone does not provide a detailed picture of the impact of extended redundancy protections on pregnant women and new mothers. For example, the extent to which the increase in calls could be explained by employers and workers seeking advice to understand the new rules, or might indicate the persistence or increase of alleged unfair treatment, is unknown.

Our conciliation data does not show any statistically significant change in cases since the new redundancy protections took effect in April 2024.

## Question 12: What kind of test should be used to decide whether a pregnant woman or new mother was fairly dismissed during the protected period?

- A. Replace the current 'range of reasonable responses' test for fairness with a new stricter standard that employers must meet, alongside proving a fair reason.
- B. Narrow the scope of the existing five fair reasons, and/or remove some of them altogether.
- C. Other
- D. Don't know.

If relevant, please explain your answer.

### Acas response

D. Don't know.

Acas strongly supports the policy intention to do more to tackle maternity and pregnancy discrimination and to prevent women leaving the workforce due to unfair treatment (as stated in the [Government's Factsheet](#) for this reform). There is a strong basis of evidence supporting the need for policy solutions on this issue, such as the Equality and Human Rights Commission (EHRC) research referenced in the consultation document.

The consultation sets out two options for strengthening dismissal protection which propose the same core change: strengthening the legal test for fairly dismissing pregnant workers or new mothers (PW/NMs). There is a range of benefits that both options A and B could bring.

These include:

- the potential to reduce the number of dismissal processes initiated in response to women becoming pregnant or in response to the time off that pregnancy and maternity entails
- the potential for wider improvements in workplace cultures and practices to ensure pregnant women and new mothers are better supported to remain in work
- reducing the loss of talent, skills and expertise along with heightened risk of discrimination against women that a failure to act could bring

However, more evidence is needed to understand the extent to which options A or B will help to achieve the government's policy objectives and the benefits above while not introducing potential unintended consequences as described below.

Both options, as currently outlined in the consultation document, carry a risk that they would apply lower standards of acceptable behaviour and performance to PW/NMs even where a behavioural or performance issue is unrelated to pregnancy, parenthood, or a protected characteristic. Both options could in this regard potentially create unintended adverse consequences for PW/NMs, employers and for workplace practices more generally. These include: confusion over how employers should handle a PW/NM's misconduct or poor performance, increasing workplace tensions and disputes, and deterring some employers from recruiting women of childbearing age – notwithstanding that any employer choosing not to hire a woman because she is of childbearing age would be acting unlawfully (and please see our response to Q37 on the need for greater awareness and enforcement of existing protections).

Option B carries additional risks. It may cause confusion by introducing multiple new legal tests for dismissal which, depending on individual circumstances, may sometimes need to be understood and applied by employers in a single given case – for example, it may be confusing for employers to have to apply two or more tests to reach a decision whether to dismiss in cases where there is

more than one potentially fair reason, and therefore more than one test, to dismiss. It could also risk creating a disproportionate burden for some organisations, particularly small and medium-sized enterprises (SMEs) (who may have less HR/legal resource or support) and those operating in sectors with high health and safety or security risks (who may find it particularly crucial to have clear and consistent disciplinary processes to uphold more stringent standards of performance and conduct).

Therefore, in Acas's view, there is a need for more evidence to balance the potential benefits and risks of the options alongside the risks of inaction which the evidence shows are significant for pregnant women and for the wider economy.

## Questions 13 to 18

No response.

### Question 19: When should employees be entitled to the enhanced dismissal protections?

- A. When the employment relationship begins (when they agree with an employer that they'll start work for them, e.g. when a contract is signed).
- B. From the day they start work.
- C. After an initial period of employment of between 3-9 months, aligned with a typical probation period.
- D. Other – please specify.

If relevant, please explain your answer.

#### Acas response

D. Other.

In general, Acas recommends aligning entitlement for enhanced dismissal protections with similar protections. This will help make the protections easier to understand and implement in practice, reducing the potential for misunderstandings and disputes.

Acas recognises a range of views bearing on the question of when entitlement to the enhanced dismissal protections should start.

On the one hand, there are strong reasons for option B, which would align the qualifying period of this protection with the extended redundancy protections and detriment and dismissal protections for pregnant employees and new parents, as well as with day one protection from pregnancy and maternity discrimination. This is arguably the simplest and most straightforward approach and would avoid the potential that any qualifying period for protection risks denying some women any protection, enabling widespread maternity and pregnancy discrimination to continue.

On the other hand, making this protection a day one right without effective mitigation against unintended consequences could potentially result in situations where employers have no period or only a very short period during which to test out an employee's performance, conduct and suitability for the role – for example where a newly hired employee discloses they are pregnant. Such an outcome could inadvertently risk exacerbating employer reluctance to hire women of childbearing age, contrary to the policy intention and with detrimental impacts for PW/NMs. We note that any employer choosing not to hire a woman because she is of childbearing age would be acting unlawfully, and please see our response to Q37 on suggested mitigations including greater awareness and enforcement of existing protections.

### Question 20: At what point should the enhanced dismissal protections start for pregnant women?

- A. When the employee becomes pregnant.
- B. When the employee becomes aware that she is pregnant.
- C. When an employee informs her employer that she is pregnant.
- D. Other - please specify.

If relevant, please explain your answer.

### Acas response

D. Other.

There are a number of important practical considerations that need to be balanced to ensure this protection works effectively for both workers and employers, and to achieve the policy objective to enhance protections for this group while minimising potential for unintended consequences.

On the one hand, there are strong evidenced reasons why the protections should apply from when the employee becomes pregnant. These include that, before an employee informs their employer they are pregnant, and even before the employee knows they are pregnant, there may be health impacts and a need for time off which can in turn become a basis for the initiation of dismissal proceedings. There is also strong evidence, for instance the EHRC's evidence as referenced in the consultation document, that many women choose not to tell their employer immediately they know they are pregnant, given both their knowledge of the discrimination they may face and also the risk of early miscarriage. It is therefore important to ensure that pregnant employees are not unfairly disadvantaged for reasons connected with a pregnancy that has not yet been disclosed to their employer.

At the same time, if enhanced protections start when the employee becomes pregnant, it will be important to ensure that this does not result in cases where an employer dismisses an employee who they did not know was pregnant and then is later found to be in breach of protections which they could not have reasonably known applied at the time of the decision to dismiss.

Therefore, the protections should be designed in a way that includes ensuring that if dismissal proceedings are started against a woman who subsequently notifies her employer she is pregnant, those proceedings should be paused and revisited in light of that new information.

### Question 21: When should the protection 'window' for new mothers entitled to maternity leave end?

- A. 18 months from the birth of the child – aligning with the 2023/24 redundancy protections.
- B. Six months from the return to work (the 'return to work' being the end of the Maternity Leave period).
- C. Don't know.

### Acas response

No response.

### Question 22: Should women who are not entitled to Maternity Leave have protection against dismissal for two weeks after the end of their pregnancy?

- A. Yes.
- B. No – please explain your answer.
- C. Other – please explain your answer.
- D. Don't know.

## Acas response

C. Other.

In general, Acas recommends aligning entitlement for enhanced dismissal protections with similar protections. This will help make the protections easier to understand and implement in practice, reducing the potential for misunderstandings and disputes.

Acas recognises a range of views pointing to two potential options for alignment of this protection with similar protections:

1. Align this protection with the existing extended redundancy protections for this group. This would mean that enhanced dismissal protections for PW/NMs would be available to those whose pregnancy has ended before 24 weeks and who are therefore not entitled to statutory maternity leave.
2. Align this protection with the protection for those women who are entitled to maternity leave. This would mean misalignment with the enhanced redundancy protection for this group and therefore some risk of confusion, however it would provide more robust protection to a uniquely situated group that may be at risk of pregnancy and maternity discrimination despite being no longer pregnant nor entitled to maternity leave. For example, if an employee discloses a miscarriage to an employer, some employers may assume that the employee will try to become pregnant again in the near future, making that employee vulnerable to potential unfair treatment.

We recommend that decisions on the options for this aspect of the policy should be informed by evidence as to whether this group faces similar disadvantages to those who are entitled to maternity leave, such as the prospect of future unfair treatment for reasons connected with their having been pregnant.

## Questions 23 to 25

No response.

## Question 26: Do you think that parents who take long, family leave entitlements (i.e. Adoption Leave, Shared Parental Leave or Neonatal Care Leave) are vulnerable in a dismissal situation?

- A. Yes.
- B. No.
- C. Don't know.

If relevant, please explain your answer and provide any supportive data/evidence.

## Acas response

A. Yes.

Acas does not currently have data or insights from helpline calls or conciliation cases regarding Neonatal Care Leave due to it being a newly introduced protection.

We receive very few calls to the Acas helpline on the topics of adoption (less than 0.1% of calls from April 2022 to March 2025) or shared parental leave (less than 0.2% from April 2022 to March 2025). This low volume of calls does not enable us to draw out any meaningful trends about, for example, any relationship with dismissal and/or redundancy procedure or other call topics.

However, when adoption call numbers are set against the relatively small number of UK adoptions each year (around 3,000), the helpline receives calls equivalent to roughly 8% of annual adoptions. This is proportionally far higher than the call rate for maternity leave, where births number in the hundreds of thousands. In other words, while absolute volumes are low, the numbers of adoption leave calls may represent a meaningful signal of concern within this minority group, even if they cannot be used to identify reliable trends.

**Question 27: Do you think the enhanced dismissal protections should also cover employees taking these other types of long family leave? (Please select all that apply):**

- A. Adoption Leave.
- B. Shared Parental Leave.
- C. Neonatal Care Leave.
- D. Bereaved Partner's Paternity Leave.

If relevant, please explain your answer and provide any supportive data/evidence.

**Acas response**

A, B, C, D.

Acas notes challenges with the proposed policy options for strengthening dismissal protections for PW/NMs. Assuming these challenges are addressed, we would recommend aligning entitlement for enhanced dismissal protections with similar existing protections i.e. the extended redundancy protections. This would mean that the enhanced dismissal protections for PW/NMs should be available to those taking adoption leave, shared parental leave, neonatal care leave, and bereaved partner's paternity leave.

Alignment of similar protections would help make the protections easier to understand and implement in practice, reducing the potential for misunderstandings and disputes. While our own data in this area is limited (see response to question 26), we consider it a reasonable assumption that at least some of the factors driving unfair treatment of PW/NMs (e.g. concern about the impact of a prolonged absence on the business) also apply to other types of long family leave. On that basis, we recommend it would be sensible to extend similar protections to this group unless there is contrary evidence that this group does not face similar challenges.

Alignment of similar protections would also help make the protections easier to understand and implement in practice, reducing the potential for misunderstandings and disputes.

**Question 28: Thinking about your answer to question 27, should the protection against dismissal start from the first day of the leave?**

- A. Yes.
- B. No.
- C. Don't know.
- D. Other – please specify.

If relevant, please explain your answer.

**Acas response**

A. Yes.

Acas notes challenges with the proposed policy options for strengthening dismissal protections for PW/NMs as set out in the consultation. Assuming these challenges are addressed, we would recommend aligning the duration of enhanced dismissal protections with similar existing protections i.e. extended redundancy protections. This would mean that the enhanced dismissal protections for PW/NMs should commence from the first day of leave.

Alignment of similar protections would help make the protections easier to understand and implement in practice, reducing the potential for misunderstandings and disputes.

### **Question 29: Thinking about your answer to question 28, how long should the protection against dismissal last? (Please select all that apply)**

- A. For Adoption Leave, it should follow on from the approach of the enhanced redundancy protections for Adoption Leave (i.e. 18 months from the birth of the child/placement for adoption or entry into Great Britain).
- B. For Shared Parental Leave, Neonatal Care Leave and Bereaved Partner's Paternity Leave, it should follow on from the approach of the enhanced redundancy protections for Shared Parental Leave and Neonatal Care Leave (i.e. if the employee takes less than six weeks of continuous leave, the protection ends on the last day of the leave; if they take more than six weeks of continuous leave, the protection ends 18 months from the birth of the child/placement for adoption or entry into Great Britain).
- C. Other – please explain your answer.

#### **Acas response**

A, B.

Acas notes challenges with the proposed policy options for strengthening dismissal protections for PW/NMs. Assuming these challenges are addressed, we would recommend aligning the duration of enhanced dismissal protections with similar existing protections i.e. the extended redundancy protections. We therefore support both options A and B.

Alignment of similar protections would help make the protections easier to understand and implement in practice, reducing the potential for misunderstandings and disputes.

### **Question 30: How do we ensure women, including those from minority groups, are aware of the enhanced dismissal protections for pregnant women and new mothers? (Please select all that apply)**

- A. Through intermediaries / trade unions / advice organisations (e.g. Pregnant then Screwed, Maternity Action, Working Families).
- B. Clear information in onboarding and employee handbooks.
- C. Through government / regulatory / public bodies (e.g. Gov.uk, Acas, EHRC, Health & Safety Executive).
- D. Other - please specify.

Please explain your answer – we welcome separate detail on how women from minority groups can be made aware as part of your answer.

#### **Acas response**

A, B, C, D.

In addition to the options set out in the consultation document, Acas recommends working with healthcare systems to disseminate relevant information. As highlighted in the [government response](#) following the consultation regarding extending redundancy protection for women and new parents, pregnant women and mothers regularly come into contact with healthcare 'officialdom', where further detail on legal protections could be shared.

Within the NHS, this could include GP surgeries, midwife teams, and health visitors. Pregnant women and new mothers may also come into contact with other organisations providing antenatal sessions/training, including NCT or local family support organisations.

Charities such as Citizen's Advice, Barnardos and Gingerbread would be well-placed to ensure those using their services are aware of relevant legal protections.

Additionally, we suggest exploring how information on legal protections can best be communicated by Jobcentres, who people commonly contact when they have been dismissed/are no longer employed, and local authorities or housing associations, where people face housing challenges as a result of loss of employment.

Trade union representatives – including designated Equality Representatives – also play an important role in ensuring pregnant employees and parents in the workplace are aware of their rights and have access to the advice and support they may need.

### **Question 31: How do we ensure employers are aware of these changes? (Please select all that apply)**

- A. Through intermediaries / advice organisations (e.g. business groups).
- B. Through government / regulatory / public bodies (e.g. Gov.uk, Acas, EHRC, Health & Safety Executive).
- C. Other - please specify.

Please explain your answer.

#### **Acas response**

A, B, C.

Acas is committed to supporting employers to be aware of, understand and successfully implement the government's Make Work Pay reforms. We will do this through providing a range of services and products that will contribute to raising awareness of new rights and supporting businesses to understand and implement appropriate changes. This will include training products, website guidance, and communication campaigns on the reforms resulting from this consultation.

For previous legislative changes, Acas has worked with relevant government departments to develop and deliver specific products such as webinars to support in ensuring business understanding. Acas is keen to work with government to deliver similar products on this topic.

In terms of Option A, Acas suggests the government works with sectoral bodies; professional bodies (such as CIPD); trade associations; accountancy/employment law associations; and organisations/services that support small businesses both nationally (e.g. FSB) and locally (e.g. Chambers of Commerce, Growth Hubs).

Acas recommends that the government works in co-ordination with Acas and across departments on the communication of the Employment Rights Bill (both within DBT and with other departments, e.g. DWP and DHSC) to best reach employers and ensure awareness of relevant rights, obligations and good workplace practices.

## Question 32: How can we best support businesses, including smaller businesses, through this change and to avoid disputes escalating to the Employment Tribunal? (Please select all that apply)

- A. Clear guidance.
- B. Awareness raising campaign.
- C. Employer training / webinars / workshops.
- D. Templates / model policies / checklists.
- E. Free advice routes.
- F. More information about dispute resolution (e.g. Acas early conciliation).
- G. Other - please specify.

Please explain your answer.

### Acas response

A, B, C, D, E, F, G.

Acas is committed to supporting employers, including smaller businesses, to be aware of, understand and successfully implement the government's Make Work Pay reforms. This includes helping employers and workers avoid disputes escalating to an employment tribunal.

In addition to our free and impartial early conciliation service which we offer in all potential employment tribunal claims, we provide a range of services and products that will contribute to raising awareness of new rights and support businesses in understanding and implementing appropriate changes. These include training products, website guidance, and communication campaigns.

### Avoiding disputes escalating to an employment tribunal

In addition to the important role here for Acas's conciliation service, Acas's research identifies a risk from poor conflict management capability and systems in Great Britain and a need to build both collective industrial relations and individual conflict management and dispute resolution skills and systems.

As the government's [Invest 2035: the UK's modern industrial strategy consultation](#) has recognised, there are current weaknesses in management and leadership skills in Great Britain, and longstanding evidence that the quality of UK leadership and people management in the workplace lags behind international competitors (see for example, [HM Government \(2019\), Business Productivity Review, November](#) and [CIPD \(2023\) Improving UK management capability](#)).

Within leadership and management skills, Acas identifies a specific gap in terms of effective conflict management skills and systems. [Acas research on the costs of individual-level conflict for UK organisations](#) estimates the total cost to organisations at around £28.5 billion each year, equating to £1,000 for every employee and just under £3,000 for each person involved in conflict (see [Acas \(2021\) Estimating the costs of workplace conflict](#)).

A body of Acas research (see for example, [Acas research on Managing conflict at work \(2024\)](#), which explored managers' roles in handling formal disciplinary and grievance procedures; and more generally [Workplace conflict: Acas research and commentary](#)) highlights a clear shortfall in individual conflict management and dispute resolution skills among key actors in the workplace, in particular in the 'conflict competence' of line managers, which hampers the early resolution of conflict at work. Addressing this shortfall in skills and confidence would support employers to resolve disagreements at the earliest opportunity before they escalate to more costly formal stages and through to early conciliation (EC) cases and employment tribunal (ET) claims. See [Acas's response to the Government's consultation on Invest 2035: the UK's modern industrial strategy](#) and [Acas's response to the Government's consultation](#)

[on Making Work Pay: creating a modern framework for industrial relations](#), in which we recommend a suite of policy interventions to drive up investment in the skills and knowledge needed for good workforce management and organisational 'conflict competence'.

Towards these aims, we welcome the work of the Dispute Resolution System Taskforce currently being run by DBT and MOJ to examine the approach taken to resolving employment disputes in Great Britain and develop policy. In particular, we welcome its broad focus not only on the Employment Tribunal system itself but also on opportunities throughout the end-to-end dispute resolution journey, including Acas's role in resolving disputes at the earliest stage, interactions with the Fair Work Agency, and provision of policy and support to resolve disputes earlier within the workplace.

### Support for smaller businesses

There is a particular need for targeted support interventions for small businesses who may, for example, struggle with the retraining costs associated with finding maternity cover.

In addition to upskilling managers in smaller businesses in conflict management and early resolution in the workplace, our response to the consultation on Invest 2035 (see above) recommended reviewing options to provide subsidised or free HR advice to SMEs to ensure they have tailored skills and knowledge – material to their sector and organisation – targeted at specific pinch points, for example taking on their first employee, growing to the point of needing middle-management or encountering their first workplace issue.

As part of this, specific support could be targeted at helping smaller businesses in their management of PW/NMs. The new analysis commissioned by DBT to identify indicators of potential discrimination and unfair treatment of PW/NMs should be used to identify where particular support is needed in this regard.

We recommend such targeted support and communications would benefit from a joined-up approach between Skills England and relevant teams within DBT and DWP. In addition, DWP could support small businesses in promoting maternity cover vacancies.

### Question 33: What unintended consequences, if any, do you think could arise from the enhanced dismissal protections? (Please select all that apply)

- A. Increased discrimination – hesitancy in or avoiding hiring women of childbearing age.
- B. Negative perception of workplace fairness/culture.
- C. Employers delay dismissal decisions until after protection period lapses.
- D. Negative impact on hiring generally.
- E. Legal uncertainty - employers avoid fair dismissal due to risk.
- F. Administrative burden (e.g. additional documentation).
- G. Unsustainable or unrealistic asks on small businesses.
- H. Other - please specify.
- I. None.

Please explain your answer.

### Acas response

A, B, C, E, H.

As explained in our response to Q12, Acas strongly supports the policy intention to do more to tackle maternity and pregnancy discrimination and to prevent women leaving the workforce due to unfair treatment. We note the strong basis of evidence supporting the need for policy solutions on this issue and emphasise the range of benefits for women, employers and the wider economy that enhanced protections in this area can bring, including: fewer dismissal processes initiated in response to women becoming pregnant or taking maternity leave; improved workplace culture and practices conducive to PW/NMs remaining in work; and reduced loss of talent,

skills and expertise from organisations and the labour market.

However, as explained in our responses to previous questions, there are some risks of unintended consequences in relation to both options for enhanced dismissal protection as currently outlined in the consultation document. Please see our response to Q37 below for suggested mitigations against these:

- Cause confusion over how employers should handle a PW/NM's misconduct or poor performance. For example, employers may be uncertain as to whether the new protections prevent them from investigating misconduct, instigating a disciplinary procedure, or taking disciplinary action short of dismissal (e.g. issuing a first warning) for incidents involving PW/NMs during the protected period that would otherwise be investigated or managed through a formal disciplinary procedure.

There may also be legal uncertainty and scope for disputes as to whether an employer could fairly rely on such a disciplinary investigation or warning as part of a case to dismiss an employee at a later stage when the protections no longer apply.

These uncertainties could lead to employers feeling unable to manage some workplace issues in a reasonable way i.e. by taking prompt and non-discriminatory action to address misconduct or poor performance that is unrelated to an individual's status as a PW/NM. In some cases, this may lead to missed opportunities for early resolution and supporting the improvement of a PW/NM's conduct/performance for the benefit of both the employee and organisation.

Acas's research on [Estimating the costs of workplace conflict](#) shows that where workplace issues are not resolved at an early stage there are costs involved for both organisations and employees which increase significantly as conflict escalates to and through formal procedures. In Acas's view, it is therefore important that new protections should be designed in a way that does not inadvertently prevent employers from taking reasonable, non-discriminatory actions towards early resolution of workplace issues.

- Increase workplace tensions and disputes. If employers are prevented (or believe they are prevented) from investigating or taking reasonable, non-discriminatory disciplinary action short of dismissal in response to conduct and/or performance issues during the protected period, there is a risk that some colleagues and managers may perceive PW/NMs as benefiting from preferential treatment unrelated to pregnancy, parenthood or a protected characteristic. In Acas's view, this perception may have potential to increase workplace tensions and could unintentionally drive discriminatory views towards PW/NMs as individuals or as a group. In public sector organisations, in some cases this may present complications which could risk the employer breaching the public sector equality duty to foster good relations between people who have a protected characteristic and those who do not. For example, a perception that PW/NMs "get away" with misconduct that would otherwise typically attract disciplinary investigation or action could in some cases lead to inter-employee tensions and resentment towards the protected group rather than promoting inclusion of this group.
- Hesitancy among some employers in recruiting women of childbearing age. If the new protections are perceived to create heavy burdens on or cause complications for employers, this perception could potentially contribute to a reluctance to hire women of childbearing age – notwithstanding that any employer choosing not to hire a woman because she is of childbearing age would be acting unlawfully (and please see our response to Q37 on the need for greater awareness and enforcement of existing protections). This could potentially happen if, for example, enhanced dismissal protections give rise to a belief that PW/NMs either cannot be fairly dismissed or that it is very difficult to fairly dismiss them. Such an outcome could adversely impact the government's objective, noted in the impact assessment for this reform, to "improve employment rates and outcomes for pregnant women and mothers".

In addition to the above risks, we note further unintended consequences associated with the policy option to narrow or remove some of the five fair reasons (option B in Q12):

- As this option could result in different legal tests for some or all of the five fair grounds for dismissal, it carries a heightened risk of creating confusion and uncertainty for both employees and employers who may struggle to understand their rights and responsibilities, particularly in cases where there is more than one potentially fair reason to dismiss. This risk would apply especially for the majority of employers without ready access to HR or legal advice notably smaller businesses. There is a

consequent risk of more cases escalating to employment tribunal claims.

- Additionally, removing or narrowing dismissal grounds would affect organisations differently and may create disproportionate challenges for some. The consultation document gives an example where dismissing a PW/NM on conduct grounds is only permitted for gross misconduct while dismissal for “minor issues like lateness or poor attitude” would not meet the required standard. However, persistent lateness or poor attitude (unconnected to pregnancy or maternity), despite falling short of gross misconduct, could have a substantial negative impact on, for example, SMEs with relatively few employees or employers operating in sectors with high health and safety or security risks. It is therefore important that enhanced dismissal protections are designed to be sufficiently flexible to take account of the different operational realities of employers of different sizes and across sectors.

Therefore, as noted in our response to Q12, while Acas strongly supports the aim of improving employment rates for PW/NMs, there is a need for more evidence to balance the potential benefits and risks of the options for protections alongside the risks of inaction which the evidence shows are significant for pregnant women and also for the wider economy. Achieving the policy objective is likely to require, for example, associated measures aimed at facilitating work-life balance and addressing the reasons why PW/NMs feel forced to leave roles (as per EHRC’s 2016 research report).

See further our response to question 37 on suggested mitigations against the risks of the unintended consequences identified here.

### **Question 34: What unintended consequences, if any, do you think could arise if the policy were to exclude capability and SOSR as fair reasons to dismiss a pregnant woman or new mother (paragraph 36)? Please explain your answer.**

#### **Acas response**

As explained in our responses to questions 12 and 33, Acas strongly supports the policy intention to do more to tackle maternity and pregnancy discrimination and to prevent women leaving the workforce due to unfair treatment. This includes protecting employees from risks of having dismissal proceedings initiated against them because of pregnancy, which are then presented as issues of capability or SOSR.

The exclusion of capability and SOSR may protect against this kind of discriminatory behaviour. However, there are some risks of unintended consequences with this option, as outlined in our response to question 33. For example, an inability to dismiss a persistently poor performing employee whose poor performance is unconnected to a protected characteristic and which has not improved with appropriate support has some potential to drive hesitancy among some employers to hire women of childbearing age. Likewise, removing these two grounds could present operational challenges for employers in sectors with a high health and safety or security risks.

### **Question 35: What action(s) could be taken to mitigate against any unintended consequences? (Please select all that apply)**

- A. Clear guidance.
- B. Training and support for employers.
- C. Other - please specify.
- D. None

#### **Acas response**

A, B, C.

Acas supports the value of clear guidance along with training and support in relation to all changes in employment law. We agree these can help minimise unintended consequences arising from lack of awareness and/or misunderstandings about changes.

We also recommend the government should undertake further research to better understand the real and perceived impacts of the proposals on organisations, especially SMEs. Research into the potential effect on hiring practices is particularly important to ensure the reform does not undermine the stated policy objective of increasing employment rates of PW/NMs.

Given the public sector equality duty to foster good relations between people who have a protected characteristic and those who do not, it is important to execute the new right in a way that minimises the potential to foster disharmony between employees.

We recommend a communication strategy aimed at educating both employers and employees on (i) the rationale for these enhanced protections (ii) the social and economic benefits they are intended to achieve, and (iii) the mutual benefits they are intended to bring to the workplace. A reform of this nature, which significantly strengthens an important employment right for one group of employees, needs appropriate accompanying communication and education to help promote understanding and support implementation.

The EHRC's 2016 report, as referenced in the consultation document, paints a clear picture of the challenges that PW/NMs face at work and while on maternity leave. However, these challenges may not be understood by the wider public. Such understanding is important to ensure the reform's rationale is well understood and to pre-empt the risk of perceived undue preferential treatment and associated unintended consequences. We recommend user-testing communication strategies to ensure the policy rationale and benefits are well understood.

## Question 36

No response.

## Question 37: What other changes should the government prioritise to tackle pregnancy and maternity discrimination? Please explain your answer and provide any supportive data/evidence.

### Acas response

In Acas's view there remains a need to understand better why such a high proportion of PW/NMs feel forced to leave their job (9% of new mothers – EHRC report 2016) and what further policy interventions may be helpful to address this.

We recommend the following wider measures to help tackle pregnancy and maternity discrimination.

1. Driving up investment in the skills and knowledge needed for organisational 'conflict competence' and early resolution in the workplace

See our response to question 32.

2. Improving awareness and enforcement of existing protections for PW/NMs along with wider dispute resolution system reform

There is a range of existing legal protections and responsibilities which are intended to prevent discrimination, detriment or dismissal in connection with pregnancy or maternity and enhanced protection in redundancy situations. These include: existing legal obligations under the Equality Act 2010 in regards sex discrimination and pregnancy and maternity discrimination; and legal duties of public sector employers to advance equality and foster good relations between different groups under the Public Sector Equality Duty. In scope employers also have to publish their gender pay gaps and will soon be required to publish action plans.

Given EHRC's reporting of the high proportion of new mothers who felt forced out of their jobs, we recommend that the government explores whether enforcement of the existing protections for PW/NMs is adequate, if there are specific barriers to enforcement facing this group (e.g. if someone dismissed with a newborn is less likely than other potential claimants to make a tribunal claim due to the time, stress and/or challenge involved), and how such barriers can be addressed. For example, whether the Fair work Agency (FWA) could play a role in seeking or bringing cases on behalf of parents, fines could be introduced as a deterrent, and HMRC could play a part in providing information triggered by claims for maternity pay.

Government should consider the potential for improving enforcement of these protections as one element of a whole system review of the approach taken to resolving employment disputes in Great Britain, from the Employment Tribunal system through to the provision of policy and support to resolve disputes earlier within the workplace. In this regard, we welcome the joint task force being run by DBT and MOJ. See further our response to question 32.

### 3. Wider action to improve workplace cultures

The 2016 EHRC report cited in the consultation document found that approximately a third of mothers did not feel that their needs were willingly supported by their employer either at some stage during their pregnancy or return to work. The discriminatory treatment identified in that report takes many different forms e.g. missing out on promotion or training opportunities; removal of duties or changes to terms and conditions; experience of financial loss e.g. denial of bonus. It is these varied forms of discrimination that can leave women feeling forced to leave their job. Tackling this kind of unfair treatment and ensuring improved workforce participation of this group will require a range of interventions beyond enhancing dismissal protections.

Flexible work is a particularly important area where interventions should be targeted given the importance of the availability of flexible work to many PW/NMs. Acas's data shows that approximately 4.6% (around 1,900) of calls to our Helpline on the topic of maternity (from April 2022 to March 2025) were also cross-tagged with flexible working, which is higher than, for example, the proportion of maternity calls that were cross-tagged with dismissal: 2.0% (around 900) not including calls on redundancy.

Forthcoming changes to flexible working entitlements planned as part of Make Work Pay reforms will provide an opportunity to promote mutual benefits of flexible work for employers and employees. We recommend that an associated campaign on understanding flexible working rights should include a specific focus on PW/NMs.

See also our response to question 32 on the need for targeted interventions to support small businesses in their management of PW/NMs, which we recommend should include a focus on flexible work.